



Department of Political and Social Sciences

**Still Elected Dictators?
A Study of Executive Accountability to the
Legislature in Multi-Party Democracies
Across Time: Italy (1947-2006), Argentina
(1982-2006) and Romania (1992-2007)**

Laurentiu G. Stinga

Thesis submitted for assessment with a view to obtaining the degree of
Doctor of Political and Social Sciences of the European University Institute

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EUROPEAN UNIVERSITY INSTITUTE
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ABSTRACT

This thesis 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 by normal procedure legislative initiatives (NPL).

The major questions the thesis 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 of Legislatures to hold the Executive to account by amending or rejecting the Executive decrees that infringe 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 the Legislature, while the level of Executive accountability to the Legislature in terms of amending and rejecting 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 the Executive to prevail over the Legislature, the former will issue them excessively, namely at a rate that is higher than that required by the bargaining problems that it confronts in the Legislature.

The thesis offers an alternative explanation to the assumption that new democracies are ruled by Executive decree as an outcome of a specific “dictatorial” culture which perpetuates after the collapse of their authoritarian regime. The disciplined comparison of three study cases with three different political systems and radically different experiences with democracy explores the role of institutional and partisan structures in generating a peculiar style of governance and the Legislatures’ capacity to keep it under control.

I. INTRODUCTION: DEMOCRACY AND GOVERNANCE BY EXECUTIVE EMERGENCY DECREES

This thesis explores the causes of excessive issuing of emergency Executive decrees and the treatment of these acts in the Legislature across political systems. The issue of governance by emergency Executive decrees has been explored by the literature on democratic transition and consolidation mainly from the perspective of the democratic consolidation of countries emerging from authoritarianism and dictatorship (O'Donnell, 1994, 1996, 1999; Carey and Shugart, 1998; Mainwaring, 1990, 1991, 1992-1993; Jones, 1997; Mainwaring and Shugart, 1997). An excessive number of emergency Executive decrees have been considered an indicator of the institutional weakness of Legislatures and the capacity of the Executive branch of government to prevail over other State institutions so that it undermines their proper functioning. The particular type of Decree that the literature on democratic transition and consolidation focused on is a legislative act of the Executive that gains the force of law without the prior assent of the legislators (Shugart, 1998: 4), bypassing the Legislature in the process of policy-making, under the constitutionally defined pretence of urgency and necessity. Simply formulated, the Executive legislates directly, without the assent of the Legislature, under the justification of a situation of emergency and necessity, the determination of which is an Executive prerogative.

This thesis builds on the insights of the 1990s literature on democratic transition and consolidation, but attempts to further the understanding of the topic by bringing in perspectives from the literature on how political actors and institutions interact in determining policy outcomes (Tsebelis, 1995, 2000, 2002; Carey and Shugart, 1998; Strøm, Müller and Bergman, 2003; Müller and Strøm, 2000).

The topic of governance by emergency Executive decrees has provoked significant scholarly debate on the theoretical claims regarding the nature and/or quality of democracy in those countries where the Executive branch of government issues a large number of these acts. A legitimate question arises: why should we care about an Executive that issues a large number of emergency Decrees even when the policy promoted using this legislative resource does not address an emergency? After all, the Executive branch of government is constantly using Executive decrees to promote its policy views in many established democracies, in different

political systems exhibiting different configurations of Executive-Legislature relations of power (Carey and Shugart, 1998).

Executive decrees as policy-bargaining resources are of many types, depending on their constitutional definition. The particular type of Decree on which this thesis focuses (the Decree issued under the constitutionally defined pretence of urgency and necessity) is a legislative act issued by the Executive, which bypasses the Legislature in the process of policy-making¹. As I will show later with the case of Argentina, there are countries where the constitutional provisions define this type of Executive decree as an outright policy-imposition resource, granting the Executive branch of government excessive power when using it, while offering the Legislature a diminished power of amending or rejection.

The Executive decree of urgency and necessity differs from the normal procedure of legislation initiated by the Executive (NPL) in one fundamental aspect. The Decree is a *de facto* law, and not a simple legislative proposal: it only need be forwarded to the Legislature in order to have legal effect, under the constitutionally defined pretence of necessity and urgency, before it enters the legislative debate. The Executive need not consult the Legislature about its policy options promoted through this type of Decree, as it need not wait for the outcome of legislative deliberations. The Decrees are eventually discussed in the Legislature, but the policy scrutiny takes place *ex post*, after these unilateral policy acts are in place, generating legal effects for a specific period, sometimes years.

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

Precisely this difference explains the scholarly attention given to Executive decrees used in constitutionally defined situations 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 State². The ideals of democracy and democratic

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.

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.

In some new democracies, the large number of this type of Executive decree had been associated with the practices of the previous undemocratic regimes, and therefore considered antithetical to the ideal of democratic consolidation (O'Donnell, 1994, 1996; Linz and Stepan, 1996)³. Some attempts to explain causality have emphasized political culture, claiming that an Executive that weakens other State institutions is indicative of a new type of democracy that needs theoretical elaboration (O'Donnell, 1994, 1996). The simple notice of a large number of Executive decrees had led to the strong theoretical claims that Legislatures are rubberstamps for Executive-initiated policy. 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).

However, I argue that a large volume of Executive decrees does not necessarily entail the usurpation of the legislative function of the Legislature, as it does not automatically translate into a low Executive accountability to the Legislature. Taking notice of a large number of Executive decrees bypassing the Legislature does not preclude a low success-rate of these acts or at least a high amending rate. A high amending rate and a low success-rate of Executive decrees translates into high Executive accountability to the Legislature even in situations of excessive Decree issuing, as I will argue more extensively in the chapter focusing on conceptual definition.

Furthermore, claiming that Executive rule by emergency Decree is a paramount feature of politics in some new democracies (O'Donnell, 1994, 1996, 1999) implies that most of the legislation in place in these countries is initiated by the Executive branch of government through Executive decrees. That is hardly the case, as I will show later. A large volume of Executive decrees does not prevent these acts making up a low percentage of total Executive-initiated legislation, while the NPL constitutes the majority of Executive legislative initiatives.

Nevertheless, the literature concerned with the excessive use of Executive decrees is a legitimate one. Indeed, the excessive issuing of Executive decrees leads to a policy-making

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

process in which Legislatures tend to be bypassed, lowering the quality of democracy in any country, be it a new or an established democracy. Italy 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 Kreppel, 1998; Della Sala, 1988).

According to the view of the democratic consolidation literature that notes a large number of Executive decrees, Italy would be considered a democracy that confronts the same problem as 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 amended or rejected in the Italian Parliament, questioning the assumption that a large volume of issued Executive decrees automatically turn the Legislature into a rubber-stamp institution. This is not to say that an excessive number of Executive decrees are without any negative consequences for the nature and/or quality of any democracy. This thesis only cautions against the strong theoretical claims derived by some of the democratic consolidation literature based only on the large number of Executive decrees.

The effects of issuing a large number of Executive decrees are quite deleterious for the quality of democracy in countries such as Argentina and Romania. Many of these acts enriched the political clientele of the head of the Executive power by offering privileged access to state resources through the privatization process (McGuire, 1997); the Executive issued decrees that allowed it to increase its powers beyond the constitutional provisions and some “tailor-made” decrees had been issued specifically in favour of business interest groups connected to the Executive (McGuire, 1999: 252). However, the use of Executive decrees for illegal, corrupt purposes in some new democracies had been possible in the context of a malfunctioning Justice system. The issue of governing through Executive decrees and the problems encountered by the Justice system in many new or established democracies that make possible the use of Executive decrees for corrupt purposes are different research topics.

Given the legitimate scholarly concern with the effects of the Executive-Legislature

configuration of power⁴ on the quality and/or the nature of the new democracies, this thesis attempts to further the understanding of the dynamic interaction between the two branches of government in different countries, each with its own institutional setting and party system.

The concern with democratic consolidation or democratic quality is only the larger literature context of which this thesis is part. The specific focus on Executive decrees attempts to compensate for the shortcomings of existing literature, which does not explain the causes of excessive Executive decree issuing, as I will argue more extensively later.

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 to account⁵.

The study cases cover the whole continuum of political systems, ranging from presidential (Argentina), semi-presidential (Romania) to parliamentary (Italy)⁶. Furthermore, their experience with democracy is radically different: Romania had experienced different undemocratic 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 selection of case studies highlights that the use of Executive decrees is a characteristic of neither of the new democracies across the world, nor specific to presidential regimes, as previously claimed (O'Donnell, 1994, 1996, 1999). This two-fold diversity in the selection of case studies (different political systems and different past experience with democracy) expands the theoretical relevance of this thesis from the field of democracy theory to the field of institutional studies focusing on policy-making across political systems.

⁴ By configuration of power, I understand not only the formal, *de jure*, constitutional arrangement, but also the informal, *de facto*, dynamic of power that ensues from the interaction between the constitutional arrangements and the actual political system (party system, electoral system, role of judiciary in arbitrating Executive-Legislature disputes).

⁵ 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).

⁶ I consider Italy to have 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).

As I will explain more extensively in the literature review chapter, the low explanatory power of the democratic transition and consolidation literature from a causal standpoint is the outcome of a low conceptual definition of accountability, the lack of concern with measurement and operationalization of Executive accountability to the Legislature's function of Decree issuing and treatment, the neglect of the dynamic interaction between institutional structures and political actors across time within the same study case and across countries.

This thesis attempts to overcome all these shortcomings: inspired by the important issue raised by the literature on democratic transition and consolidation, but critically regarding its excessive theoretical claims based on a large number of Executive decrees, it attempts to perform a systematic exploration of a complex interaction between institutions and actors across political systems that are fundamentally different in nature, each with its own institutional and partisan configurations, each with its own democratic legacies. This endeavour presents significant theoretical, conceptual and methodological challenges that I will address in the next chapters.

This thesis is structured according to the arguments that it raises in relation to other literature that explored the same topic. Therefore, the next chapter of the thesis will focus on concept formation.

I will conceptualize accountability in a disciplined manner, arguing that it has a specific internal structure that requires a different strategy of conceptualization to the classic ladder of abstraction strategy defined by Sartori (1970) and used by the literature on democratic transition and consolidation to define accountability. Conceptualizing accountability according to its radial structure prevents conceptual stretching. The immediate outcome is the elimination of theoretical confusion and allowing for systematic operationalization across political systems.

In the concept formation chapter I argue that Executive accountability is a legitimate form of political accountability, equal to other forms of political accountability, given the presence of different types of legislative resources that can be used to hold the Executive to account. The process of disciplined conceptualization has important consequences for the operationalization of the concept: the choice of indicators has to be appropriate, in order to eliminate the conceptual confusion surrounding accountability.

I will argue that accountability implies "punishment" on the part of the Agent of accountability imposed upon the Subject of accountability. The capacity of the Legislature to impose some kind of punishment on the Executive, according to its constitutional resources,

must be explained. In the particular case of Decrees, the “punishment” dimension of an act of Executive accountability is the rejection or amending of the Decree.

It should be highlighted here that some literature employing the concept of accountability (O’Donnell, 1994, 1996) did not dedicate much attention to its definition. The immediate consequence had been the choice of an indicator (a large number of Executive decrees) that is not relevant for causality. This had immediate and direct consequences on the theoretical claims according to which the level of Executive accountability is caused by a culture-specific understanding of politics. The incapacity of some of the democratic transition and consolidation literature to analyse Executive-Legislature relations of accountability function of Executive decree issuing and treatment is primarily caused by a flawed conceptualization of accountability. The chapter focusing on conceptual definition will highlight the importance of conceptualization for theory and theoretical claims.

Once I have offered an appropriate conceptualization of accountability and argue for appropriate indicators, I will address the difficult task of explaining two important dimensions of the phenomenon under observation. The first dimension is the cause of an excessive issuing of Decrees. Although this is not a measure of Executive accountability to the Legislature, it is instrumental to understanding why Legislatures have different capacities to reject or amend the Decrees. I will argue that the excessive issuing of Executive decrees is not a matter of democratic or authoritarian political culture, but a matter both of bargaining problems between the Executive and the Legislature and the use of Decrees as bargaining resources. However, the Executive will issue Decrees excessively (more than necessary given its bargaining problems in the Legislature) when the constitutional definition of these acts makes their legislative rejection and amending difficult or impossible.

The second dimension is the success-rate of Executive decrees, namely the legislative rejection and amending rates. This is a measure of Executive accountability to the Legislature, as I will explain more extensively in the chapter dedicated to the conceptualization of accountability. I will argue that the distribution of institutional power between the Legislature and the Executive through the definition of the Executive decree of urgency and necessity largely determines its success-rate. As a logical consequence, the capacity of rejecting or amending Executive decrees (particularly when issued excessively) is not a matter of acquiescence to an Executive dictatorial behaviour, but a matter of formal institutional resources that define the

legal status of the Executive decrees. More specifically, the capacity of the Legislature to hold the Executive to account by rejecting or amending the Decrees is determined by how the Constitution defines the legal status of the Decree, how it regulates the conditions on which the Executive can issue decrees, how the Decrees can be treated in the Legislature and possible Executive veto power on the decision of the Legislature.

Besides a better conceptualization of accountability, I will argue that the shortcomings of some of the democratic transition and consolidation literature can be overcome through sharing with other strands of literature that provide a more appropriate theoretical framework for understanding the dynamic relation Executive-Legislature across political systems. The concerns that drive each strand of literature that I will review largely determine their conceptual definition, the subsequent methodological options and consequently their explanatory power.

I will highlight my own contribution to the literature on transition and democratization, by linking it to literature on institutions and actors focusing on how political actors make use of their constitutionally allocated resources in order to pursue their policy goals.

I argue that the literature exploring how legislative coalitions form, function and relate to the Executive provides a more appropriate explanation for the issuing of Executive decrees. The literature on partisan veto-players (Tsebelis, 1995, 2000, 2002) is particularly instrumental in understanding how the bargaining problems influence the tendency of the Executive to issue a large volume of Decrees in any kind of political system. The fragmented and polarized legislative coalitions (a large number of partisan veto-players that make impossible the policy negotiation among partners) lead to legislative deadlock, which translates into Executive incapacity to promote legislative initiatives through normal procedure (NPL). The recourse to Executive decree becomes a rational policy promotion strategy.

However, even this literature does not explain why Executives supported by legislative coalitions with a low level of fragmentation and polarization (a low number of partisan veto-players) still choose to issue a large number of Decrees, despite the high success-rate of their NPL. I will improve the explanatory power of the partisan veto-players literature by bringing in insights from literature that explains negotiation in different coalition configurations (Peleg, 1981).

The same literature on veto-players (Tsebelis, 1995, 2000, 2002) provides a particularly useful framework for exploring the capacity of Legislatures to amend or reject Executive decrees

by mapping-out the distribution of legislative resources between the Executive and the Legislature. The capacity of Legislatures to reject or at least amend the Executive decrees with their own policy views is determined by their constitutional resources. The Executive accountability to the Legislature measured in terms of success and amending rates of Decrees is exclusively determined by how political parties disperse the institutional veto-player power between the two branches of government through the specific constitutional definition of Decree power. The legal status of the Executive decree, the definition of its treatment in Legislature and the Executive veto power on the decision of Legislature indicate how political parties set-up inter-institutional relations according to their specific interests.

I will then apply the theoretical and methodological contribution of this thesis to each study case. Firstly, I will explain the recourse to Executive decree rather than NPL by describing how the political party systems present in each country leads to specific configurations of legislative coalitions, which in turn generate specific bargaining problems the Executive has to confront. Here I will provide empirical information on the volume of issued Executive decrees and compare it to the volume of Executive-initiated NPL, in order to establish if a country is ruled by Executive decree. Most importantly, I will provide empirical information documenting the trends of this ratio (issued Decrees/issued NPL) across time in each country case. This will indicate with precision if a specific country is indeed ruled by Executive decree or by NPL and will reveal the causes behind Decree issuing across time.

Secondly, I will explain the capacity of Legislatures to hold the Executive to account by rejecting and amending the Decrees showing how the constitutional resources of the two institutions influence their power in dealing with Decrees in each country. As a reference deemed to have theoretical relevance, I will explore the constitutional reforms that took place in the three country cases and their effect on both the tendency of the Executive to issue an excessive number of Decrees and on the success-rate of the Decree (amending and rejection rate). I will compare the indicators of Executive accountability before and after the constitutional reform in order to establish any possible effect.

Thirdly, I will compare the ratio of issued Decrees/issued NPL to the ratio of approved Decrees/approved Executive-initiated NPL. The first ratio reveals the policy-making intentions of the Executive, more precisely the extent of its need to undermine the legislative function of the Legislature through the issuing of Decrees, given the specific bargaining problems that it

confronts in the Legislature. The second ratio is, however, the most appropriate one for establishing the acquiescence of the Legislature to the Executive tendency to rule unaccountable (approved Decrees/approved Executive-initiated NPL).

The conclusion of the thesis is that the issuing of Executive decrees is the outcome of specific bargaining problems the Executive branch of government faces in the Legislature, while the success-rate of Decrees is determined by the constitutional definition of this act and its treatment in the Legislature. However, the excessive issuing of Decrees is explained by the constitutional definition of this legislative resource of the Executive: the stronger the institutional veto-player power of the Executive when issuing Decrees, the more excessive the issuing.

The bargaining problems arise out of the nature of legislative coalitions that form in a specific party system, while the constitutional definition of Executive decree power disperses the institutional veto-player power in favour of either one of the two branches of government, according to how political parties organize the power within the State.

The theoretical significance of these findings highlights that the qualities of any democracy are the result of a specific form of interaction between the formal institutional arrangement of power between the Executive and the Legislature set in the Constitution and the legislative rules of procedure, on the one hand, and the political party system, on the other hand. The political party system determines what type of legislative coalitions form in the Legislature, and more specifically, their level of fragmentation and polarization, as well as the influence of party leaders on the behaviour of legislators. These two elements in turn determine the capacity of the legislators to use the constitutional resources allocated to the Legislature and hold the Executive accountable by rejecting or at least amending the Executive decrees that undermine its primary function.

The interaction between the institutional and party systems and its effects on the process of policy-making are more relevant to the theoretical claims that can be made about democratic institutional functioning than simple observation of recurrent political practices and proposing ad hoc definitions and explanations strictly derived from empirical observation.

II. THE CONCEPTUAL DEFINITION OF ACCOUNTABILITY

“If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself”.

(James Madison, The Federalist No. 51)

1. Introduction

The literature that I will review in this chapter considers political accountability a relevant marker of any democracy. Given its importance, a political regime hardly meets the criteria of democracy if its rulers cannot be held accountable in the public realm for their political actions (Schmitter and Karl, 1991).

In what follows, I attempt a disciplined exercise in conceptualizing political accountability. The literature on democracy and democratic consolidation in newly democratized countries is fraught with definitions of political accountability based on specific empirical cases, leading to theoretical confusion and drawn-out arguments about what accountability is and what it is not. These arguments serve as a theoretical basis for defining the more sensitive concept of “democracy”, all revolving around the presence or absence of systemic accountability of the political power. A regime cannot be considered a democracy if it lacks formally institutionalized and practically functional systems of accountability that would constrain the abuse of political power.

A variety of empirical cases had been used to support one definition of accountability or another. The act of defining itself had mostly been an undisciplined one, through what literature calls “conceptual stretching” (Sartori, 1970; Collier and Mahon 1993), a process of adding conceptual labels to the root concept, only to force it to fit new empirical circumstances.

Firstly, I offer a tentative definition of political accountability that eliminates the labels specific to conceptual stretching, leaving it until later in this chapter to demonstrate how I came to this definition.

Secondly, I explain the two strategies of conceptualization (the ladder of abstraction model and the radial structure model), highlighting their logic, the differences between them and how useful the two strategies are when conceptualizing accountability.

Thirdly, I argue that literature using political accountability as a core concept of its theoretical claims on the nature and/or quality of democracy (or the merits of different political systems in sustaining democracy through their inherent capacity to uphold political accountability) has subordinated the concept to specific research concerns⁷. The outcome has been an interchangeable use of meanings associated with political accountability that led to low methodological discipline and theoretical confusion. I will offer a series of examples of conceptual stretching of accountability through labelling, as they had been used in the literature on democratic transition and consolidation. These examples will highlight how the search for definitions to fit new empirical cases has obscured the fact that the concept of political accountability has a radial structure. According to the radial structure conceptualization strategy, instances of a concept that belong to the same category do not share all of its defining attributes (Collier and Mahon, 1993; Lakoff, 1990). More specifically, different acts of political accountability that belong to the same category will not necessarily possess all the theoretically relevant attributes that define the category.

I will also explore the semantic meanings of accountability, in each of its constituting dimensions, in order to show that it has a radial structure. Applying the ladder of abstraction strategy of conceptualization to a concept with a radial structure leads to the selection of inappropriate empirical indicators and therefore to misplaced theoretical claims. The ladder of abstraction model is based on a taxonomic hierarchy of categories that share a theoretically relevant element. When forced on concepts with a radial structure (in which the categories of

⁷The literature that has widely used the concept of political accountability focuses on democracy in general, or on its defining features in the newly democratizing countries, in particular. The purpose of the current chapter is not a critique of a long and reputed strand of scholarly work dealing with the faulty lines of democracy in the newly democratizing countries placing political accountability at the core of its theoretical assumptions (Carey and Shugart, 1992; O'Donnell, 1994, 1996, 1999, 2003; Schmitter and Karl, 1991; Schmitter, 2003; Smulovitz and Perruzotti, 2000; Stark and Bruszt, 1998), but rather a review of how this literature has used an under-defined concept to fit its specific research purposes, mainly through conceptual stretching.

objects do not share one single constituting element) the ladder of abstraction inevitably leads to conceptual stretching through label-adding, which is counter-productive on theoretical grounds.

I will conceptualize political accountability according to its internal radial structure, illustrating how I came to the definition offered in the first section of the chapter. I will do so by contrasting the conceptualization of accountability according to the ladder of abstraction model to the conceptualization according to the radial structure model. Such an exercise will support my argument that conceptualizing accountability using the ladder of abstraction conceptualization strategy induces theoretical confusion.

Finally, I will offer a bounded definition of accountability, making it more amenable to empirical measurement by offering indicators that are appropriate to the specific form of accountability this thesis explores: Executive accountability to the Legislature. I will define Executive accountability in the conceptual framework put forth in the first sections of this chapter, showing that political accountability can, and indeed takes place, outside the Principal-Agent framework (Strøm et al., 2003), such as Congress-President relations in presidential systems. I will build on the claim that political accountability takes place as an outcome of an act of delegation of power between a Principal and an Agent (Lupia, 2003: 33-35) by showing that two different Agents can hold each other accountable when acting for the same Principal, who directly entrusted them with power and granted them the necessary legitimacy to make policy on its behalf.

2. Defining accountability

Concepts are not simple elements of a theoretical system. They are also data containers possessing analytically discriminating power: the lower the discriminating power, the more empirical facts are misgathered, increasing misinformation and misunderstanding (Sartori, 1970).

Accountability is one of the concepts that generated significant scholarly debate about its origin, meanings and structure. Due to its relative novelty, it is considered an under-explored concept with an evasive meaning, fuzzy boundaries and confusing internal structure (Schedler, 1999). The concept had been employed by scholars who selected some of its defining features

while completely disregarding others (O'Donnell, 1994, 1996, 2003; Przeworski, Stokes and Manin, 1999). Accountability, as other cognate concepts such as “corporate social accountability”, “communitarian responsiveness” and “individual moral responsibility”, has a structure that contains ambiguous, even contradictory, elements (Schmitter, 2003: 3-4). To make matters worse, accountability is a concept that lies at the heart of one of the most widely used definitions of democracy (Schmitter and Karl, 1991).

Such observations highlight the importance of defining the elusive concept of accountability in a systematic and theoretically relevant fashion, which will avoid giving the concept a “low discriminating power” leading to a low capacity to discern among empirical information and interpret it (Sartori, 1970: 1039). Turning accountability into an efficient fact-finding container appears to be a difficult endeavour from the outset of any scholarly effort to apply it to politics.

Next, I will offer a definition of accountability that is the outcome of a disciplined exercise in conceptualization, based on the radial structure of this concept. I will demonstrate how I came to such a definition, stripped of any labels that refer to empirical cases, in the latter sections of this chapter. The merit of this type of disciplined conceptualization is that it eliminates labels reflecting empirical circumstances. This is the reason it can be applied equally to any field of literature dealing with problems of accountability.

Accountability represents the use of legal, societal and/or political resources for demanding information and explanation (both prospectively and retrospectively) from elected and/or non-elected State officials, to punish the incumbents through legal or non-legal sanctions. When using non-legal sanctions, accountability implies also the capacity to demand the activation of agents of accountability who can impose punishment of a legal nature.

Such a definition is not accompanied by various labels, such as “electoral” accountability, “institutional” accountability, “vertical” or “horizontal” accountability. Any action that corresponds to the afore-mentioned criteria can be considered an act of accountability, without the need for reference to specific circumstances, mechanism of imposition, or stage in the policy-making process when an act of accountability takes place between the Agent of accountability (be it a state institution, a civil society actor or a political party) and the Subject of accountability (be it a political institution, an elected or non-elected state official or any other political actor).

Next, I will proceed with a general presentation of the two strategies of conceptualization, the ladder of abstraction and the radial structure, in order to highlight their respective merits and demerits, the differences between them, and which is most useful when defining political accountability.

Sartori's (1970) ladder of abstraction strategy of conceptualization functions on the principle that all instances of a concept contain a unifying element placed at the top of the ladder, at the highest level of extension and lowest of intension (see Table 1 below).

Table 1: conceptualization according to the ladder of abstraction model following the logic of a unifying element present in all instances of the concept.

	Categories of the same concept organized taxonomic hierarchy	Number of objects contained in each category
Highest level of abstraction (Highest extension/Lowest intension)	X	120
High intermediate level of abstraction	X + A	100
Medium level of abstraction	X + A + B	80
Lower intermediate level of abstraction	X + A + B + C	60
Lowest level of abstraction (Lowest extension/Highest intension)	X + A + B + C + D	20

A brief description of the ladder of abstraction model of conceptualization would start with defining the central relationship between the extension (or denotation) and the intension (or connotation) of a concept. The first describes the set of objects to which the concept refers, while the second defines the set of meanings (attributes) that define the category and determine the membership. The researcher can go up and down the ladder of abstraction by adding or

subtracting attributes to or from the concept. Subtracting attributes leads to a more general, and therefore more inclusive category (high extension, low intension) that applies to a large number of corresponding objects. The larger the class of objects, the lesser the differences, but those differences that remain are precise (Sartori, 1970: 1041).

One should emphasize that adding or subtracting attributes is not the same as adding labels, specific to conceptual stretching: the same concept, without any additional labels, is defined by a variety of elements, which are present or absent in the subcategories of the concept. Adding labels within the subcategories in the ladder of abstraction can serve specific research purposes, but does not substitute the actual act of going up and down the ladder.

In a taxonomic hierarchy, the categories occupy positions of subordination to each other: the more specific categories (low extension and high intension) are subordinate to the more general categories (high extension and low intension), with their accompanying class of objects being contained in the class of objects of the super-ordinate category. The super-ordinate categories (also called more general) are positioned at the high and more abstract level of the ladder of abstraction, while the subordinate categories are positioned at the lower (less abstract) level of the ladder of abstraction. The super-ordinate categories contain all the subordinate categories. The elements that are chosen when a category is defined are theoretically relevant (X, A, B, etc.) and it follows logically that the objects contained in a specific category belong to it because of possessing the theoretically relevant elements (although the objects might as well possess a multitude of other elements, which are theoretically irrelevant and therefore not mentioned in the taxonomy).

For the purpose of this stage of the chapter, this brief description of the ladder of abstraction suffices. I will conceptualize democracy according to the ladder of abstraction model later in this chapter, as an exercise meant to highlight why the concept of accountability cannot be defined following the same strategy. The difference lies within the structure of the concept: democracy can be conceptualized according to the ladder of abstraction strategy given that its internal structure presents a single unifying element (X) present in all instances of the concept (free and regularly organized elections) (Dahl, 1971; Schmitter and Karl, 1991), while accountability does not possess such an element, given its internal radial structure.

Radial structure concepts help to define categories in which two members will not share all of what may be seen as the defining attributes (see Table 2 below). The overall meaning of a

category is anchored in a central subcategory, whereas the non-central subcategories do not necessarily share defining attributes with each other, but only with the central subcategory (Collier and Mahon, 1993: 845; Lakkoff, 1990: 91-115; Schedler, 1999: 17).

Table 2: radial structure concepts ordered according to the relationship between central/non-central subcategories.

	Concept	Number of objects in each category
Highest level of abstraction	(?)	
	A+B	10 instances
	D+G	80 instances
	A+G	60 instances
	B+E	3 instances
	D+F	1 instances
	A+B+C	27 instances
	A+C+G	83 instances
	B+D+F	17 instances
	Central subcategory: A+B+C+D+G	40 instances
Lowest level of abstraction	A + B + C + D + E + F + G	Hypothetical instance of a radial structure concept

The non-central subcategories are formed when the component elements are taken alone or in sets of two or more. The theoretically relevant elements of the non-central categories are contained within the central subcategory (Collier and Mahon, 1993: 848-849).

Furthermore, the central subcategory that contains the largest number of defining features (but not necessarily all possible defining features) shares features with the non-central subcategories, but these non-central subcategories do not necessarily share features with each other. Subcategories D+G and B+F share theoretically relevant elements with the central subcategory A+B+C+D, but do not share any element inter se (see Table 2 above).

The central sub-categories are “central” because they contain the largest number of theoretically relevant elements, and their “sub-category” status is justified by the fact that it does not contain all imaginable features of a hypothetical instance of the concept (A + B + + G as shown at the lowest level of abstraction). Following the same logic, the non-central subcategories are “non-central” because they contain a smaller number of features than the central subcategory.

I argue that conceptualizing accountability taking into account the radial structure of this concept induces a higher discriminating power, retaining all instances of institutional accountability, while introducing new, equally legitimate instances. One example would be the exposure of a piece of legislation to extensive policy scrutiny and deliberation by political parties in different institutional arenas. Given that political parties represent the link between society and politics, this strategy of conceptualization turns accountability from an institutionally embedded concept into a socially embedded one, linking politics back to society. I will expand on these relevant distinctions between the ladder of abstraction and the radial structure models in the next sections of this chapter.

I will next illustrate how accountability has been subordinated to specific research concerns, without any concern for a disciplined act of conceptualization.

3. The conceptual stretching of accountability

The interest in political accountability has burgeoned since the early 1990s. However, some scholarly work dedicated to rigorous definition and categorization, aiming to explore the concept's boundaries and internal structure (Schedler, 1999), emerged only after a decade of little conceptual discipline.

Literature employed the concept of accountability mainly in order to explore already established topics in social science, only from a new, different perspective (Schmitter, 2003: 3-4). Elections have more recently been presented as a mechanism of accountability, while formal constitutional relations of power between the Executive and the Legislature are now presented as mechanisms of institutional accountability, and so on. For almost a decade, the usage of the term could be described as being driven by a "make your own" approach, where all authors using the concept of political accountability picked and chose whatever defining element had been deemed necessary for the purpose of their research. The theoretical and empirical concerns of different

strands of literature had been significantly reflected in the meanings that had been associated with accountability⁸.

The concept 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”. This interpretation of accountability as a qualifier for democracy has not been followed by much elaboration on the actual concept, despite the fact that it seemed to provide a vital link between the State and the society, between the rulers and the citizens.

More recently, Schmitter (2003) attempted to develop a model for measuring the level of accountability in a given polity, which would be equally applicable to old and new democracies. This model switches from the spatial dimension of accountability (at what points in the institutional structure linking the State to society does an act of accountability occur) to a temporal dimension (at what moment in the process of policy-making actors contend and hold each other accountable). From this perspective, accountability among citizens, representatives and rulers (most probably those holding Executive positions) should be conceived as *ex ante*, *ex post* and between the two, when the actual decisions are debated and decided upon, each act of accountability having its own mechanism of activation depending on the moment when it occurs and the actors that brings together (Schmitter, 2003: 19-20).

⁸ I intentionally used the phrasing “meanings associated” in order to highlight that actual strategies of conceptualizing accountability had been mostly neglected.

As I have mentioned earlier, the already established concerns of scholars drive their efforts to conceptualize accountability. Schmitter (2003) develops his model of measuring the degree of accountability in a polity with the aim of measuring the quality of democracy (QoD): the higher the level of accountability, the better the quality of democracy. This new approach to democracy, focusing on quality rather than consolidation, indicates that after more or less all new democracies survived and some are faring surprisingly well, the need to capture and explain the problems they confront switched in the 1980s and early 1990s from concern with the consolidation of democracy (CoD), in the late 1990s and early 2000s to concern with the quality of democracy (QoD).

This model offers a definition of accountability and proposes a way of measuring the quality of democracy (QoD) as a function of the degree of systemic accountability (DoA) imposed on political actors and institutions. Measuring QoD as a function of DoA would lead to categorizing democracies across the world according to differences in degree and not in type.

In other influential articles and driven by his scholarly interest in exploring the functioning of the new democracies, O'Donnell (1994, 1996) claimed that political accountability is nothing less than the most important marker for the nature of a democratic regime: different types of democracies manifest different levels of capacity on the part of political institutions and citizenry to hold the rulers accountable. O'Donnell's concern has been to categorize democracies across the world according to differences in type, and not in degree.

O'Donnell claimed that low accountability of the Executive power is a permanent feature of an under-theorized type of democracy, which he called "delegative", based on political culture and plebiscitary politics. The attempts to categorize democracies across the world made a major contribution to the understanding of how mechanisms of accountability work, or should work, and their shortcomings in the new democracies. These attempts to theorize a new type of democracy had been more successful in offering the first serious attempt to conceptualize accountability across spatial dimensions (vertical vs.. horizontal accountability, as I will show latter), rather than by separating the new democracies (delegative) from established ones (liberal) as a function of causally relevant cultural factors.

In an illustration of the interchangeable use of the meanings of accountability, Carey and Shugart (1992: 34, 44) refer to the concept either as a feature of non-elitist decision-making process, or as the “degree and means by which elected policy-makers are responsible to citizens”. In the same literature, accountability had been related to retrospective voting, with presidential regimes exhibiting a higher level of political accountability given the citizens’ opportunity to replace the Executive power when voting (Carey and Shugart, 1992: 49 fn, 90-91). In this context, accountability had been used together with the voters’ capacity to identify possible post-electoral governments, mutual checks and the Presidents’ role as arbiters of politics in order to highlight the advantages of a presidential regime over a parliamentary system.

Therefore, authors with specific research concerns (in the latter case comparing presidential to parliamentary systems in terms of their capacity to uphold accountability and sustain democracy) subordinate an under-explored concept, whose weakly defined features have been used interchangeably, to the purpose of their scholarly work.

To conclude this section, a few legitimate questions ought to be asked. What is political accountability after all? How does political accountability function across time, space and regime types? Who are the actors involved in activating the mechanisms of accountability, be they institutional or societal? It appears that what is missing for offering a sound answer to these questions is a more serious effort to conceptualize accountability.

I will next offer some examples of conceptual stretching through adding labels to the root definition of accountability. I will do so by critically reviewing the scholarly work that dedicated some effort towards a disciplined conceptualization of accountability. Despite its obvious conceptual shortcomings, this work bettered our understanding of what political accountability is and how it functions and I find it useful for this chapter.

3.a. Labelling accountability as *vertical* and *horizontal*

Guillermo O’Donnell (1994, 1996) has formulated a seminal distinction, highly instrumental in ordering the action of different agents of accountability, between two main types: vertical and horizontal. Each of these two labels defines a spatial dimension: accountability between State institutions and society (vertical) and accountability among state institutions (horizontal).

Vertical accountability (VA) implies that citizens hold elected officials accountable at the ballot box. It had been assumed to be the only type of accountability that functions in the new democracies. Horizontal accountability (HA) had been defined as taking place across a network of autonomous powers that can investigate and eventually punish wrongdoings of other state offices. It is presumably weak or outright inexistent in the new democracies, where the Executive power undermines the legitimacy and proper functioning of other state institutions in an effort to rule without institutional constraints.

However, this spatial definition of accountability evolved throughout the 1990s. Initially, accountability had a low conceptual definition: a procedure through which representatives are held responsible for their actions by the public (O'Donnell, 1994). As I have showed, it had been defined as running both vertically and horizontally. Two years later HA had been described (but not necessarily conceptualized) somewhat more extensively (O'Donnell, 1996). Formal institutions have well-defined and legally established boundaries that delimit the exercise of their authority. Any trespassing of these boundaries is punished by other state institutions charged with redressing wrongdoings, abuses of power and/or state corruption.

The network of institutional boundaries and accountabilities [sic] (O'Donnell, 1996: 44) plays an important part of the institutionalization of democracy. As long as the institutionalization of horizontal accountability was defined as weak, the liberal nature of the new democracies was called into question.

The simple definition of accountability and the mere description of the faulty functioning of state institutions of accountability in the new democracies left a plethora of questions unanswered: What are the actual causes of institutional weakness and the ensuing low horizontal accountability? Which are the institutions of horizontal accountability and how do they relate to each other since they are part of an interdependent network? Do actors such as political parties play any role in the process of activating horizontal accountability? Is civil society reacting to the apparent incapacity of a state institution to uphold it?

It should be emphasized that this literature did not direct a significant effort into conceptualizing accountability beyond the purpose of defining "delegative" democracy (O'Donnell, 1994, 1996). This literature made some strong assertions about the significance of a low accountability in the new democracies, without coupling them with an equally strong conceptual definition.

The hasty conceptualization of accountability, mainly in legal/institutional terms, opened the door to criticism. An entire process of conceptual stretching ensued, matched in the literature only by the well-known conceptual stretching of democracy that aimed to catalogue democracies according to types: “delegative”, “illiberal”, “populist”, “corporatist”, “electoral” and many other labels (O’Donnell, 1994, 1996; Schmitter and Karl, 1992; Zakaria, 2003; etc.)⁹.

The process of conceptual stretching continued in the literature through the constant labelling of various instances of accountability, piggy-backing on the critiques of the spatial description of accountability and the theoretical assertions about the nature of the new democracies.

The initial labels (vertical and horizontal), the under-conceptualization of accountability and its subordination to specific research concerns are most responsible for the conceptual stretching and the scholarly difficulty in coming to terms with the ambiguities of accountability.

3.b. Societal accountability

The first indirectly to admit the conceptual stretching through the adding of labels had been O’Donnell himself: “my interest in what I labelled [sic] <<horizontal accountability>> stems from its absence” (1999: 29).

In search for a better definition, horizontal accountability had been assumed to imply “the existence of state agencies that are legally enabled and empowered, and factually willing and able, to take actions that span from routine oversight to criminal sanctions or impeachment in relation to actions or omissions by other agents or agencies of the state that may be qualified as unlawful” (O’Donnell, 1999: 38). The same claim had been put forth once more, that horizontal accountability is inexistent in the new democracies, where vertical accountability is the only functioning form of accountability.

These vague definitions of vertical accountability and horizontal accountability, as well as the accompanying strong theoretical assertions, have been challenged from different directions each with its own label.

As initially defined by O’Donnell (1994), vertical accountability refers to the society aiming to hold the rulers accountable through elections. This spatial metaphor describes the asymmetric relationship between unequals: “above” equals resources of power, while “below” equals

⁹ For a full list of labels attached to the concept of democracy, see Collier and Levitsky (1997).

powerlessness (Schedler, 1999: 23). However, it remains mute with regard to the direction in which vertical accountability comes into action, from top down or bottom up. In the realm of politics, the less powerful actor, the society as agent of accountability, attempts to hold accountable the more powerful actor, the Executive power, as subject of accountability, first and foremost through elections.

Given the mentioned disparity in resources available to the weaker actor (society as agent of accountability) Przeworski, Stokes and Manin (1999) question the efficiency of elections as a mechanism of holding politicians accountable. From this perspective, one cannot know if elections enforce prospective or retrospective controls, and therefore it could be reasonably inferred that voters cannot force the governments to act responsibly. As long as the voters can vote only once every few years, politicians know that most of their decisions will not be controlled by the public. Furthermore, shortages of information prevent voters from evaluating the government performance and decisions.

Along the same lines, challenging the alleged efficiency of vertical accountability described strictly in electoral terms, some authors pointed at the vibrant civil societies present in some new democracies and their successful attempts to hold the rulers accountable through demonstrations leading to resignations, impeachment and/or prosecution of elected or non-elected state officials (Smulovitz and Peruzzotti, 2000).

The implication is that vertical accountability is not the only form of accountability that functions in the new democracies: the incapacity of state institutions of horizontal accountability to hold the rulers accountable is not rooted in an understanding of politics based on a culture of strong, providential leaders. There is obviously something wrong with institutions and/or actors if the society itself does mobilize against the abuses of state power.

Societal accountability had been defined as part of vertical accountability, equally important to elections (Smulovitz and Peruzzotti, 2000: 153). A new label had been added to the concept in a spiralling scholarly debate that led to exactly what Sartori (1970) and LaPalombara (1968) warned against long ago: the stretching of the concept to fit new empirical circumstances.

Societal accountability had been later linked to horizontal accountability mechanisms in an interaction that challenges the attempts to theorize new democracies simply on the absence of the latter (Smulovitz and Peruzzotti, 2003: 310-315): it exposes and denounces wrongdoings of state officials that would otherwise go unnoticed and unpunished, imposes symbolic sanctions on

public officials and institutions, establishes parallel “societal watchdog” organizations that monitor the performance of specific public agencies and offices and, most importantly, activates the institutions of horizontal accountability by incurring reputation costs on elected and non-elected state officials through social mobilization and media denunciation.

3.c. Horizontal balance accountability and mandated horizontal accountability

O’Donnell (2003: 34-54) himself admitted later that horizontal accountability institutions are of different types and function in different ways, attempting to improve his initial definition of accountability. Institutions of accountability may come into play in two directions: one attempting to prevent and/or redress unlawful encroachment by one state agency upon the proper authority of another, the other punishing unlawful advantages (corruption) that public officials obtain for themselves and/or their associates (O’Donnell, 2003: 34).

According to these two directions, different types of agents of accountability become activated, each defined by the same stretching of the concept to fit new empirical instances through the addition of new labels to the old, ambiguous horizontal accountability.

Horizontal balance accountability: the agents of accountability who become activated when power encroachments occur are the main state institutions (Executive, Legislative and Judiciary). They act towards horizontal balance accountability when any of them transgresses the constitutionally ascribed boundaries of others, encroaching on its jurisdiction (O’Donnell, 2003: 44, italics added). They react by attempting to redress such unlawful transgressions. However, horizontal balance accountability institutions have some limitations in imposing accountability (O’Donnell, 2003: 45): they respond rather reactively and consequently intermittently, their action towards redressing the institutional transgressions generates highly visible and costly conflicts among supreme state institutions (these costs are even higher when the conflict occurs between state institutions with electoral legitimacy, such as a directly elected President and the Legislature), the actors in these conflicts are perceived as being motivated by partisan reasons.

Mandated horizontal accountability: the second type of agents that act towards redressing or punishing abuses of power are the mandated horizontal accountability institutions, such as

ombudsmen, accounting offices, controllers, Conseils d'Etat, Fiscalias, Courts of Accounts, etc. The establishment of such agents of accountability had been the outcome of the shortcomings in the functioning of horizontal balance accountability mentioned above (O'Donnell, 2003: 45). Mandated horizontal accountability institutions are proactive and continuous in their activity. These bodies are legally assigned to scrutinize, prevent, discourage, and promote the sanctioning of, or even directly sanction, the actions or omissions of other state agencies that are presumed unlawful (O'Donnell, 2003: 45).

The emergence of horizontal balance accountability (in the first place) and mandated horizontal accountability mechanisms (in the second place) had been the outcome of the shortcomings of elections as a vertical accountability mechanism (O'Donnell, 2003: 49).

Even labelled balance and mandate, O'Donnell's conceptual definition of horizontal accountability has a strong legal connotation, implying relations among state institutions, aiming to redress illegalities, be they trespassing of institutional prerogatives or outright corruption. It simply remains mute regarding the representational dimensions of accountability, given that some state institutions perform different accountability functions simultaneously. Legislatures not only punish the trespassing of the Executive power into their prerogatives when the latter takes on legislative functions in the form of issuing laws by Executive decrees, but they also expose the policy initiatives of the Executive to greater institutional scrutiny, in the name of the popular mandate received at elections. This act of policy scrutiny occurs equally in presidential systems, where both the Legislature and the President have direct electoral legitimacy and have been entrusted to make public policy, and parliamentary systems, where the Executive is rooted in the Legislature. In the latter systems, the Executive exercises its policy-making functions after receiving its mandate from the Legislature, but remaining under its close policy control.

3.d. Extended accountability

The incapacity of horizontal accountability (be it balance or mandated) and vertical accountability mechanisms (be they electoral or societal) to cover instances of policy-making accountability led to the extension of the concept by adding another label: extended accountability (Stark and Bruszt, 1998: 188-189).

Extended accountability captures the representational aspects of the process of policy-making: it represents “the embeddedness of the decision-making centre into a network of autonomous political institutions that limit the arbitrariness of the incumbents” (Stark and Bruszt, 1998: 188). In O'Donnell's horizontal definition of accountability, state institutions check on each other to prevent power encroachments and illegalities. Extended accountability has obvious affinities to O'Donnell's conceptualization, but at the same time it captures the action of state institutions that aim not only at keeping other state institutions within the framework of legality, but also aim to "expose policies to greater institutional scrutiny" (Stark and Bruszt, 1998: 189), reducing the arbitrariness of decision-making, and insuring the representation of a wide spectrum of societal interests in the process of policy-making, in a timeframe that extends beyond and between electoral cycles. Strengthening the connection between State and society in the process of policy-making, an act of extended accountability can be exercised not only among State institutions, such as Legislatures, Executives or Judiciaries, but also by organized societal actors in relation to State institutions. Therefore, Bruszt and Stark (1998) equate accountability with actions aiming at forcing elected officials to take into account in the exercise of government a broad spectrum of societal interests, basically demanding that they should govern for those who elected them, and not for the private interest groups that lobby the government. These actions take place through continuous dialogue and interaction between State and society, as well as among State institutions. From this particular perspective, a Legislature (or the political parties that are present in a Legislature) that exposes the Executive policy to greater institutional scrutiny, amending them with its own policy views, exercises extended accountability.

3.e. Oblique accountability

Along the same reasoning of bringing into the picture non-state actors, Schmitter (1999: 61-62, fn 4) adds another label to the concept by defining oblique accountability, which describes actions of non-state or semi-state actors aiming to hold rulers accountable not just for trespassing the prerogatives of other state institutions, but also for their misdeeds. These actors need the support of citizens for their oblique accountability actions and they use their peculiar position between the State and society to garner that support. It follows quite logically that political parties, organizations that are partly state actors, partly societal actors, occupy such an oblique position between the State institutions ordered horizontally at the higher State level enjoying plenty of power resources, and individuals positioned on the lower societal level, acting in scarcity of power resources. One can reasonably argue that there is not much difference between oblique accountability and extended accountability as described earlier, in that both define an act of accountability taking place not only among state institutions aiming to punish illegalities, but also between the State and society via organized actors (such as political parties, or labour unions) aiming to influence the process of policy-making from their uniquely oblique position between State and society.

To sum up this subsection, one is left wanting for a clear and exhaustive conceptualization of political accountability. It might well turn out that all labels (horizontal balance, mandated horizontal, vertical, societal, extended and oblique) added to the concept to fit new empirical instances do define a legitimate act of accountability. But which one does its job better and why? How is the disciplined researcher supposed to treat combinations of the above labels? Could some of these labels define acts of accountability that are more legitimate than others? I argue that one cannot find an answer to these questions unless engaging in a disciplined act of conceptualizing, by offering not only a proper definition but also a systematic and exhaustive categorization of various instances of political accountability, highlighting commonalities and differences, as a function of theoretically relevant criteria.

Given that concept formation should be prior to quantification (Sartori, 1970: 1038), some of the attempts to quantify accountability that I reviewed above, either in dichotomous terms (O'Donnell, 1994, 1996, 1999, 2003) or in more fuzzy terms ordered in a temporal space

(Schmitter, 2003) might end up only enhancing the confusion surrounding the under-defined and under-explored concept of political accountability.

When one would expediently attempt to solve his or her own research problems and plunge head on into Executive-Legislature relations of accountability, using the above labels as a simple check-list, without any taxonomical backing, one would most likely commit the same mistake eloquently captured and explained by LaPalombara (1968: 66) and Sartori (1970: 1039): embark on an “indiscriminate fishing expedition for data”, with an inadequate fishing net of their own making.

The outcome would probably be a substantial contribution to a “growing potpourri of disparate, non-cumulative and – in the aggregate – misleading morass of information” (Sartori, 1970: 1039) on various instances of accountability.

A disciplined use of terms and comparisons employing various models of conceptualizing (either a classic ladder of abstraction as proposed by Sartori, 1970; or the more recent model of radial categories, as proposed by Collier and Mahon, 1993) can turn an imperfect fishing net of one’s own make into an efficient fact-finding container, capable of gathering the most relevant empirical information, therefore increasing the clarity of scholarly dialogue. This is precisely what the chapter is attempting to contribute to, proposing a conceptualization of accountability that goes beyond the simple reflex of label adding. In what follows, I only sketch the basic logic beyond disciplined conceptualization building on the insights of previous scholarly work (Sartori, 1970; Schedler, 1999; Schmitter, 2003, Collier and Mahon, 1993).

4. Accountability: semantic meanings

Before sifting through empirical information assumed to represent an instance of an act of political accountability, the meaning and structure of the actual word “accountability” require further exploration. The literature attempted to define the meaning of accountability, explore its boundaries and internal structure (Schedler, 1999). This literature eloquently highlighted what instances of accountability could legitimately be considered full acts of political accountability, under what conditions accountability becomes possible, which are its agents and subjects, if accountability necessarily implies legally ascribed powers of oversight and punishment. In what follows, I will review the effort to conceptualize political accountability by exploring its meanings and structure. I will extensively draw on Schedler (1999: 13-28).

A reconstruction of the meaning of accountability highlights two basic connotations. The first is answerability, the obligation of public officials to inform about and to explain what they are doing.

The second is enforcement, the capacity of agents of accountability to impose sanctions on the subjects of accountability. The answerability dimension of accountability implies a certain obligation on the part of accountable actors to answer questions and inquiries coming from those who can hold them accountable, be they the public, or various agencies of accountability. They have to inform about, give account for, and/or explain their actions and decisions.

Particularly useful in highlighting this meaningful dimension of the concept, the metaphor put forth by Stark and Bruszt (1998: 192-196) captures its semantic ambivalence, evoking both narrative accounts and bookkeeping: politicians open accounts with the public, asking voters for credit and giving account of their actions in order to continue to benefit from public support: “put your credit on my account...credit me, invest in me, authorize me to act on your account”.

Also, specialized agencies within the state demand that accountable actors have to inform about (in the form of reliable facts) and explain (with valid reasons) their decisions. In this sense, the right to receive information on the part of the agent of accountability, and the obligation to release it, on the part of the subject of accountability, the right to receive an explanation, and the duty to justify one's conduct, are ways of exercising accountability distinct from, and equally important to, the account the politicians give to the electorate. These observations help to highlight that accountability is both retrospective and prospective, politicians having to give account not only for what they have done, but also for future actions (Schedler, 1999: 15, 27 footnote 6).

The enforcement dimension implies the capacity of agents of accountability to impose sanctions on the subjects of accountability, the power holders, who have gone beyond their constitutionally assigned powers, committed illegalities whilst in office, or failed to perform according to initial promises and voter's expectations.

The enforcement dimension complements the answerability dimension of accountability (with its two variants, information and explanation). The right to receive information and explanation, and the obligation to respond to such demands, purportedly aim at overseeing, checking and/or establishing wrongdoings, constituting the ground for a decision regarding potential punishment and/or redress. The subjects of accountability have to bear the consequences of their actions, including potential sanctions (O'Donnell, 1994: 61).

The issue of sanctions has elicited significant discussion. Are there any forms of accountability which function in the absence of sanctions? Is the capacity to punish an integral part of political accountability? In other words, can we speak of a legitimate act of accountability in the absence of sanctions? And what can be considered a sanction and what cannot? I adopt the position of authors who emphasize that 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. But as Schedler (1999: 16) rightly points out, the capacity to punish goes beyond legal punishment (*italic added*). In realm of politics, removal from office as outcome of public exposure of conduct that is considered inappropriate (although not necessarily illegal) constitutes a severe form of punishment.

Also, in the realm of institutional accountability a Legislature that alters the acts of the Executive power with policy-oriented amendments does not impose punishment of legal nature, although it acts according to constitutional provisions. It holds the Executive accountable for its policy-making acts in the name of the popular mandate obtained at elections.

Therefore, I use the concept of accountability as not necessarily requiring legally ascribed power to sanction, just as it does not require legalized authority to oversee. Sanctions can be of legal nature (such as prosecution of public officials carried out by the specialized agencies within the state) or of non-legal nature (such as removal from office or amending of Executive acts in the Legislature).

To summarize, accountability has two major dimensions, each with its own sub-dimensions. Answerability implies demanding and receiving information, prospectively or retrospectively, but also demanding and receiving explanation, prospectively or retrospectively. Punishment implies power to punish that is legally ascribed, leading to sanctions of a legal nature (i.e., prosecution as an outcome of legal investigation), but also to sanctions of non-legal nature (i.e., amending of Executive policy acts in the Legislature). Furthermore, punishment implies power to punish that is not legally ascribed, leading to sanctions of non-legal nature (i.e. voting against the incumbents), or demanding the activation of agents that impose punishment of legal nature (i.e., civil society oversight and action against malfeasant state officials).

The agents of accountability are all State institutions and all actors (individuals, civil society organizations, labour unions or political parties) that attempt to hold accountable the subjects of political accountability (other State institutions, elected or non-elected state officials at national or sub-national level). As Schmitter (2003: 5) rightly points out, most acts of accountability (although not all of them) play out between organizations.

Accountability can be missing one of its dimensions and still represent a full instance of the concept, as long as the agents of accountability attempt to keep the subjects of accountability under control, ultimately through the threat of punishment of a legal or non-legal nature (Schedler, 1999: 17).

It can reasonably be expected that accountability can be imposed in various ways, according to the capacity of the agents to enforce punishment. The agents of accountability range from state institutions to civil society, and the ways of attempting to impose accountability range from electoral to checks and balances, from civil society actions to actions of the agencies of oversight

and control, cutting across the boundaries between the state and society.

Some agents, such as the agencies of oversight and control, can uphold the law themselves. This grants them greater capacity than civil society to control and redress wrongdoing through punishment. It should not be neglected however, that civil society actions demanding punishment can either activate agencies of oversight and control, or lead to outright resignations, acts that represent a punishment in itself in the realm of politics (Schedler, 1999: 16-17).

Some agents of accountability act only through the imposition of non-legal punishment, such as demonstrators successfully demanding the resignation of an elected official. Others, such as labour unions, act towards imposing accountability on the Executive power by attempting to make it take into account a diversity of societal interests. Still, some agents of accountability, such as anti-corruption bodies, employ both dimensions of accountability, being legally able to demand information and/or explanation as well as to impose punishment of a legal nature acting in accordance with legally ascribed prerogatives, if necessary.

The radial structure of accountability is based on the different types of punishment that agents of accountability can impose on the subjects of accountability (power to punish legally or non-legally ascribed, sanctions of legal or non-legal nature), as well as on the different types of answerability relations established between the agents and the subjects of accountability (prospective or retrospective demands for information and/or explanations). Equally legitimate acts of accountability may possess one of these theoretically relevant elements, but not the others, while no single elements of those enumerated above is found in all instances of the concept.

As I have mentioned earlier, punishment is the only theoretical element in the absence of which one cannot define an act of political accountability. It could be reasonably inferred that punishment would play the same role in categorizing accountability as free elections does for categorizing democracy: namely, to be the single unifying element that is found in all instances of the concept, therefore ordering the categories taxonomically. However, as I have shown, punishment is of different types, some of which may be present in one instance of the concept but not in others, which will exhibit a different type of punishment.

Defining accountability as a radial concept avoids conceptual stretching, while providing for an effective operational tool. Furthermore, it highlights the important fact that various categories of accountability do not constitute diminished subtypes of the concept, but full instances of the

concept grouped in non-central subcategories positioned around the central subcategory, in a radial structure, as I will show later.

Collier and Levitsky (1997: 437 - 442) define a diminished subtype as being an incomplete form of a concept, one that identifies attributes of the root definition which are missing, increasing conceptual differentiation and therefore referring to a different set of cases to the root definition. Diminished subtypes are not full instances of the root definition of the concept and can only serve to make modest claims about it. In that sense, they are defined only by some of the attributes present in the root definition of the concept, while missing others. In the diminished subtype strategy of categorization, the full attributes that make for a full instance of the concept are found only in the root definition of it. This is not the case with accountability defined as a radial concept, as I will show later¹⁰.

I have critically reviewed all these interpretations on the meaning and structure of the concept of accountability in order to show that accountability is a concept with a radial structure, therefore when one of its dimensions or sub-dimensions is missing it can still be considered a full instance of the concept, and not a diminished form of it.

The disciplined exploration of the meaning and structure of political “accountability”, supported by critical reasoning, revealed its defining features and the relationships among them. Critiques can certainly still be raised against these findings (Schmitter, 2003: 5): “information can be selective and skewed (...), explanations can be deflected to other actors (<<The IMF made me to do it>>), sanctions are rarely applied and can simply be ignored (<<Who are you to question and threaten my...?>>)”.

I argue that “the caveats, loose linkages and role reversals” (Schmitter, 2003: 5) present in the complicated network of citizens, rulers and various competitive representatives involving responsibilities and sanctions do make the product (accountability) almost always contested, but should not deter the conscious thinker (C. Wright Mills, 1959: 27, quoted in Sartori, 1970: 1033) from a disciplined inquiry into its functioning.

¹⁰ For a detailed definition of radial categorization see Lakoff (1990) but also Collier and Mahon (1993).

The limitations posed by the complicated network of State-society relations present in a variety of acts of political accountability should not transform a conscious thinker into what Sartori (1970: 1033) calls an overconscious thinker, one who refuses to discuss heat unless he is given a thermometer. Realizing the limitations of not having clear-cut relations of political accountability, or simple, linear and self-exhausting acts of accountability (Schedler, 1999) to focus on and analyse, the conscious thinker can still say a great deal about the object of his or her inquiry by “steering the middle course between crude logical mishandling on the one hand, and logical perfectionism (and paralysis) on the other hand” (Sartori, 1970: 1033).

Information might be selective and skewed, explanations might be, and indeed are deflected sometimes to other actors, sanctions are sometimes ignored, but what does this tell us, other than that political accountability is as fuzzy and as complicated as many other concepts in social science? In this context, the value of the observation that “the product” is contested becomes questionable.

Furthermore, is information always selective and skewed, does it have to be taken for granted by those actors holding rulers accountable, does it stay skewed forever or does the plain truth eventually emerge, at least with electoral, if not legal consequences for the wrongdoers? Are explanations, all explanations, always deflected to other actors? And if so, how credible is the deflection? Are all types of sanctions always ignored and rarely applied?

The admittedly rhetorical nature of these questions points to two further observations. One is that the obvious “no” answer to all of them demonstrates how useful it can turn out to be going beyond observable empirics, and looking into the actual logic of the mechanisms of accountability. The other observation, stemming from the first, is that explaining the logic of “recursive cycles of mutual accountability” (Schedler, 1999) suffices for the purpose of scientific explanation and supersedes the need to explain the success or failure of every occurrence of an act of accountability, for reasons of skewed information, deflection of explanations and avoidance of sanctions. Research discipline requires the explanation of what happens and how it happens (by which I mean the identification, systematic definition and classification of circumstances and causes), in order to reveal the reasons behind non-occurrence, which becomes irrelevant in itself.

5. Conceptualizing accountability according to its radial structure

I will next illustrate how political accountability can be conceptualized according to the radial structure model. For comparative purposes, I will also conceptualize “democracy” according to Sartori’s (1970) classic ladder of abstraction model.

Table 3: democracy conceptualized according to the ladder of abstraction model: A, B, C.....E = theoretically relevant elements that better the quality of a democracy.

	Democracy	Number of objects
Higher level of abstraction (Highest extension/Lowest intension)	Elections (all democracies in the world)	120 countries
High intermediate level of abstraction	Elections + A	100 countries
Medium level of abstraction	Elections + A + B	80 countries
Lower intermediate level of abstraction	Elections + A + B + C	60 countries
Lower intermediate level of abstraction	Elections + A + B + C + D	40 countries
Lowest level of abstraction (Lowest extension/Highest intension)	Elections + A + B + C + D + E	20 countries

Elections are the most basic element of any type of democracy, present even in those possessing a low democratic quality. At the highest level of abstraction in Table 3 above, where the intension is lowest (only one defining attribute), the category contains the largest number of objects. Hypothetically, Table 3 above shows that 120 countries in the world can be considered democracies according to the theoretically relevant minimal criteria of having free, fair and regularly organized elections.

Going down the ladder of abstraction is accompanied by adding elements other than elections that define a democracy, increasing its quality, such as various liberal rights, socio-economic inclusion, etc. This leads to a higher intension and lower extension, more defining elements, harder to meet for a large number of countries, therefore decreasing the number of objects in each subordinate category. The super-ordinate categories contain less specific elements and

therefore cover more cases, given their greater extension and lower intension.

I emphasize one defining characteristic of this model once again: the subordinate categories are contained within the super-ordinate ones because they possess all of the defining features of the next super-ordinate category, plus other features deemed to have theoretical relevance, in a process of increasing the intension, becoming increasingly specific and therefore covering less and less cases. According to this logic, the 20 countries found at the lowest level of abstraction are also found in all the next super-ordinate categories, up to the highest level of abstraction. The same goes true for all countries at each subordinate level: they are found in all the next super-ordinate levels.

An important observation ought to be made: the categories found along the ladder of abstraction are arranged in a taxonomic hierarchy, having clearly defined boundaries, separating them from each other, and most importantly, one defining element (elections) possessed by all categories and each member, of each category. This common element makes all the objects of each category democracies in the first place, while organizing the conceptual categories in a taxonomic hierarchy by being present in all instances of a democracy.

The taxonomic hierarchy, the trade-mark of Sartori's strategy of conceptualization, is characterized by clearly defined boundaries between categories. Also, the common element that organizes the hierarchy among categories allows for normative comparisons among them. Conceptual stretching through adding labels is different to the exercise of ascending and descending the ladder adding or subtracting theoretically relevant elements in order to form categories. Conceptual stretching occurs within each category, when authors with specific theoretical concerns label categories to fit their research purposes. They stretch the concept to fit specific empirical circumstances. A hypothetical example in that sense is Elections+A+B+C being labelled "corporatist" democracy if B represents the legalization of labour unions and C represents the existence of corporatist arrangements among major economic actors. However, not all concepts are amenable to the ladder of abstraction strategy of conceptualizing. I will exemplify why accountability cannot be conceptualized according to Sartori's ladder of abstraction and show how the radial model is more appropriate in this particular case.

I will firstly recapitulate the theoretically relevant elements of accountability. They are answerability and punishment. The first implies demanding and receiving information, prospectively or retrospectively, demanding and receiving explanation, prospectively or

retrospectively. The second implies the existence of power to punish that is legally ascribed leading to sanctions of a legal nature (i.e., prosecution as outcome of legal investigation) or sanctions of a non-legal nature (i.e., amending of Executive policy acts in the Legislature), as well as the power to punish not ascribed legally, leading to sanctions of non-legal nature (i.e., voting against the incumbents) or the demanding of activation of agents that impose punishment of legal nature (i.e., civil society oversight and action against wrongdoings of state officials). I will secondly reorder these elements of accountability in a different way: information prospectively (A), information retrospectively (B), explanation prospectively (C), explanation retrospectively (D), legally ascribed power to impose sanctions of legal nature (E), legally ascribed power to impose sanctions of non-legal nature (F), non-legally ascribed power to impose sanctions of non-legal nature (G), non-legally ascribed power to activate the agents that can punish legally (H). The presence of all these elements in a single act of political accountability would make it an ideal instance of the concept, rarely met in reality, if ever. It would place such an ideal act of political accountability at the lowest level of abstraction on Sartori's (1970) ladder model. The largest number possible of defining features would give it a high intension and low extension on a classic ladder model. I will next graft the ladder model operating with hypothetical instances of accountability with actual, real world instances of accountability (see the Table 4 below).

Table 4: accountability conceptualized according to the ladder of abstraction model:

	Accountability	Number of objects
Highest level of abstraction	(?)	
	A+B	10 instances
	Societal Accountability: D+G	
	Societal Accountability: A+G	80 instances
	Mandated Horizontal Accountability: B+E	60 instances
	Mandated Horizontal Accountability: D+F	3 instances
	A+B+C	1 instance
	Extended Accountability: A+C+G	83 instances
	Extended Accountability: B+D+F	17 instances
	Electoral Vertical Accountability: A+B+C+D+G	40 instances
Lowest level of abstraction	A + B + C + D + E + F + G	Hypothetical instance

The combination of features in bold letters represents actual real world occurrences of accountability as described earlier in the chapter, whereas the combination of features in non-bold letters represents hypothetical occurrences, which might as well not exist in the real world. However, these hypothetical occurrences reflect the logic of the classic ladder of abstraction. According to Sartori (1970), the less attributes define a category of instances, the more super-ordinate that category is. According to the same logic exemplified earlier with the concept of democracy, the subordinate categories (lower extension and higher intension) should be contained within the super-ordinate categories.

I will next explain the four examples of accountability as shown in Table 4 above. Electoral Vertical Accountability implies that voters hold political actors accountable at the ballot box. It necessarily requires the demanding of information prospectively and retrospectively (A+B), the demanding of explanation both prospectively and retrospectively (C+D), as well as capacity to punish the power holders through non-legally ascribed power to impose sanctions of a non-legal

nature (G) when casting the ballot¹¹. According to the above classification, the table above shows Electoral Vertical Accountability as a combination of **A+B+C+D+G**.

Societal Accountability implies individuals or civil society organizations holding accountable the political actors or institutions. Societal accountability necessarily requires the demanding of information prospectively (A), in the case of civil society lobby groups, or explanation retrospectively (D), in the case of civil society human rights watchdogs, as well as the imposition of punishment through sanctions of a non-legal nature (G), such as reputation costs or demanding the activation of state agents of accountability which can impose punishment of a legal nature. It already appears clearly that different acts of societal accountability possess different theoretically relevant elements, given the radial structure of the concept of accountability. According to the classification in the above table, Societal Accountability is shown as a combination of either **D+G** or **A+G**.

Mandated Horizontal Accountability implies institutions that are legally assigned to oversee, prevent, discourage, promote the sanctioning of, or even directly sanction, the actions or omissions of other state agencies that are presumed unlawful, at national or sub-national levels necessarily require the demanding of information retrospectively (B) and the imposition of sanctions of legal nature (E), in the case of institutions that can uphold the law themselves, such as the Courts of Accounts. However, some the mandated horizontal accountability institutions, such as the Ombudsperson, act by demanding explanation retrospectively (D) and administering punishment of non-legal nature (F). As with the case of Societal Accountability, different acts of Mandated Horizontal Accountability possess different theoretically relevant elements, given the radial structure of the concept of accountability. Mandated Horizontal Accountability is shown in the table above as either **B+E** or **D+F**.

Extended Accountability implies institutions and civil society actors that expose policies to greater institutional scrutiny, reducing the arbitrariness of decision-making, and insuring the

¹¹ As I have already mentioned, Przeworski, Stokes and Manin (1999) raised objections about the capacity of elections to impose punishment, as well as the difficulty of establishing if individual voting is prospective (on the basis of electoral promises) or retrospective (on the basis of previous government performance). However, the free and regularly organized elections had been for a long period of time the only mechanism of accountability in many newly established democracies, where the newly founded democratic institutions had been weak and exhibited serious malfunctioning even after the collapse of their respective undemocratic regimes. Furthermore, free, fair and regularly organized elections are considered minimal criteria of any democracy and constitute the major theoretical element of the theory of democratic transition and consolidation (O'Donnell, Schmitter and Whitehead, 1986; Schmitter and Karl, 1991) as well as the more classical work dedicated to the study of democracy (Schumpeter, 1954; Dahl, 1971).

representation of a wide spectrum of societal interests in the process of policy-making. It necessarily requires information and explanation prospectively and retrospectively (A, B, C, D), as well as punishment of non-legal nature (F). A Legislature that amends the policy acts of the Executive exercises an act of Extended Accountability by demanding information and an explanation retrospectively (B+D) and imposing punishment of non-legal nature (F) with the aim of including a large spectrum of societal interests in a specific policy act. However, an NGO promoting the specific interests of a civil society group will hold the Executive accountable for a piece of legislation that influences its interests by demanding information and explanation prospectively about the intentions of the Executive (A+C), as well as by making use of its non-legally ascribed power of imposing sanctions of non-legal nature when amending the Executive act with its own policy views (G). Therefore, Extended Accountability is shown in the above table as either **A+C+G** or **B+D+F**.

It becomes obvious that the ladder of abstraction strategy of conceptualization leads to conceptual stretching when attempting to define accountability. Firstly, the super-ordinate categories do not contain the instances of accountability in the subordinate categories. Secondly, there are no clearly separated categories (as in the case of democracy on the ladder of abstraction) given the absence of a single theoretically relevant element shared by all categories. Categories of accountability in bold letters become problematic once ordered on a classic ladder of abstraction. Thirdly, the central subcategory (Electoral Vertical Accountability) that contains the largest number of defining features (but not necessarily all possible defining features), shares features with the non-central subcategories, but these non-central subcategories do not necessarily share features with each other, as in the case of ladder of abstraction. As it comes out quite clearly, the central sub-category is “central” because it contains the largest number of defining features of an act of accountability, and its “sub-category” status is justified by the fact that it does not contain all possibly imaginable features of a hypothetical act of accountability (A + B +.....+ G, as shown at the lowest level of abstraction in the table above). Following the same logic, the non-central subcategories are “non-central” because they contain a smaller number of features than the central subcategory. The definition of accountability employing the ladder of abstraction model inevitably leads to conceptual stretching through labelling. Another outcome of the ladder of abstraction strategy is the excessive weight it placed on instances in which an act of accountability took place between institutional actors, adding labels to new

instances described ad hoc from a large volume of empirical information (O'Donnell, 1994, 1996, 1999, 2003; Schmitter, 1999; Smulovitz and Peruzzotti, 2000; Stark and Bruszt, 1998). In some of this literature (O'Donnell, 2003), an almost exclusive emphasis had been placed on control and visible punishment of a legal nature. As I have demonstrated, the radial structure of the concept of accountability requires a different strategy of conceptualization. I will now present the conceptualization of accountability according to the radial structure model, in order to make it more obvious why this model is more appropriate than the ladder of abstraction in the case of this particular concept (see Table 5 below).

Table 5: accountability conceptualized according to the radial structure model

Ideal act of accountability	A	B	C	D	E	F	G
Societal Accountability	-	-	-	D	-	-	G
Societal Accountability	A	-	-	-	-	-	G
Mandated Horizontal Accountability	-	B	-	-	E	-	-
Mandated Horizontal Accountability	-	-	-	D	-	F	-
Extended Accountability	A	-	C	-	-	-	G
Extended Accountability	-	B	-	D	-	F	-
Electoral Vertical Accountability (Central subcategory)	A	B	C	D	-	-	G

As explained earlier, the radial structure of accountability is based on the different types of punishment (legal or non-legal, each with its own mechanism of imposition), on different types

of answerability relations established between the agents and the subjects of accountability as well as on different types of resources engaged.

Different combinations of these elements (type of punishment, resources engaged and mechanism of imposition) constitute equally legitimate acts of accountability, generating categories that do not necessarily share one common constituting element.

Table 5 above reflects the category types specific to radial structure concepts: all the subcategories share elements in common with the central subcategory, although the central subcategory itself does not possess all elements that would constitute an ideal act of accountability. The subcategories themselves may or may not share elements.

6. A bounded definition of accountability and its operationalization

As already mentioned, different forms of accountability have recourse to different resources and mechanisms of enforcement (Schedler, 1999: 22-23). When various agents hold accountable the subjects of accountability, they often cross the borders between the State and society, in an interaction that oppose actors who engage different resources. 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 chance of success.

I focus my research on a particular form of accountability, namely Executive accountability in relation to the Legislature, given the importance of the former in insuring the representation of societal interests into the act of policy-making (Woldendorp, Keman and Budge, 2000). Out of all the weaknesses of the new democracies, the elimination of Legislatures from the process of policy-making is considered the least propitious result for democratic consolidation and most favourable for the prevalence of private interests in the process of policy-making.

Given the afore-mentioned concern with the issue of representation of societal interests and its effects on the level of accountability, I place Executive accountability in the framework of extended accountability as defined by Stark and Bruszt (1998), presented earlier as a full instance of an act of political accountability.

From the perspective of accountability, the Executive branch of government is the Subject of

accountability, while the Legislature is the Agent of accountability, as defined earlier in this chapter. The action of the Legislature to hold the Executive to account encompasses both dimensions of accountability defined by Schedler (1999, 12-15): answerability and punishment.

Executive answerability to the Legislature takes place through oversight and investigation: the Legislature can demand information from the Executive aiming to oversee and/or investigate Executive activity, both prospectively and retrospectively; the Legislature can demand explanation from the Executive aiming to oversee and/or investigate the Executive activity, both prospectively and retrospectively.

In the process of oversight and investigation, the Legislature can make use of a variety of constitutional resources to hold the Executive to account (Palanza, 2005): written inquiries, interpellation of members of the Executive, constitutional obligation of regular visits to the Legislature by the head of the Executive, summoning Executive members to appear in legislative committees, ex post controls of budget implementation, special committees to investigate aspects of the Executive activity.

The Legislature punishes the Executive through extended accountability actions and/or demand for activation of agents of mandated horizontal accountability: the Legislature has the legally ascribed power to punish the Executive by imposing sanctions of non-legal nature aiming to hold the Executive to account and/or keep the Executive within the limits of legality.

Some extended Executive accountability resources available to the Legislature in relation to the Executive are: the motion of censorship against the Executive (constitutional procedure demanding the resignation of the Executive as an outcome of poor performance on a specific policy issue), the simple motion against the Executive (constitutional procedure demanding the change on a specific issue of policy), or rejecting or amending the legislative proposals of the Executive with policy-oriented amendments.

Some sanctions that are used by the Legislature to hold the Executive to account by keeping it within the limits of legality are the impeachment of the head of the Executive, removal from office of a member of the Executive as outcome of legislative investigation and/or interpellation, without referral to agents of mandated horizontal accountability.

The Legislature also has the legally ascribed power of demanding the activation of horizontal balance accountability Agents that impose punishment of a legal nature aiming to keep the Executive within the framework of legality. Some sanctions that are used by the Legislature in order to hold the Executive to account through the activation of horizontal balance accountability Agents are: the forwarding Executive acts to the Constitutional Court on grounds of unconstitutionality, forwarding resolutions of investigative committees on the actions of the Executive members to the Agents of mandated horizontal accountability legally to punish wrongdoings, suspending the parliamentary immunity of members of the Executive who are also members of the Legislature (in parliamentary or semi-parliamentary systems) and deferring them to the Agents of mandated horizontal accountability in charge with further investigation and legal punishment.

I therefore define Executive accountability in relation to the Legislature as being the capacity of the latter successfully 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 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. This thesis 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. How is accountability conceptualized across political systems? I will attempt to answer this question next.

The contemporary policy-making process involves acts of delegation of policy-making authority, all the way from voters to the civil servants, 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). The importance of this observation cannot be overemphasized, since it 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 (see Table 6 below).

Table 6: chain of delegation of power from Principals to Agents.

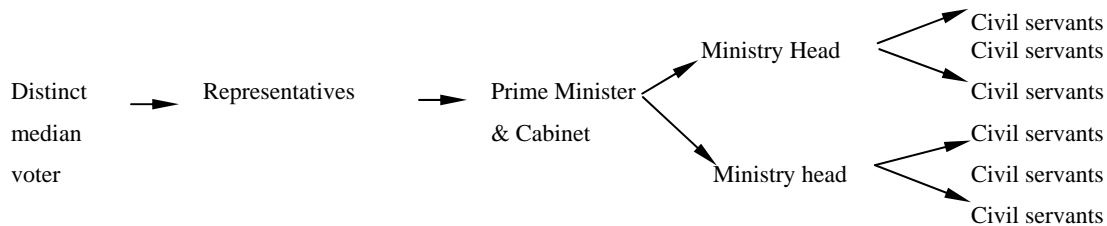
Principal	Agent
Voter	A member of Parliament and/or a party (depending on the ballot list system)
Members of Parliament, Parties	The government
Government	Cabinet Ministers
Cabinet Ministers	Civil Service
Civil Service directors	Civil Service employees

* Source: Lupia (2003): 34.

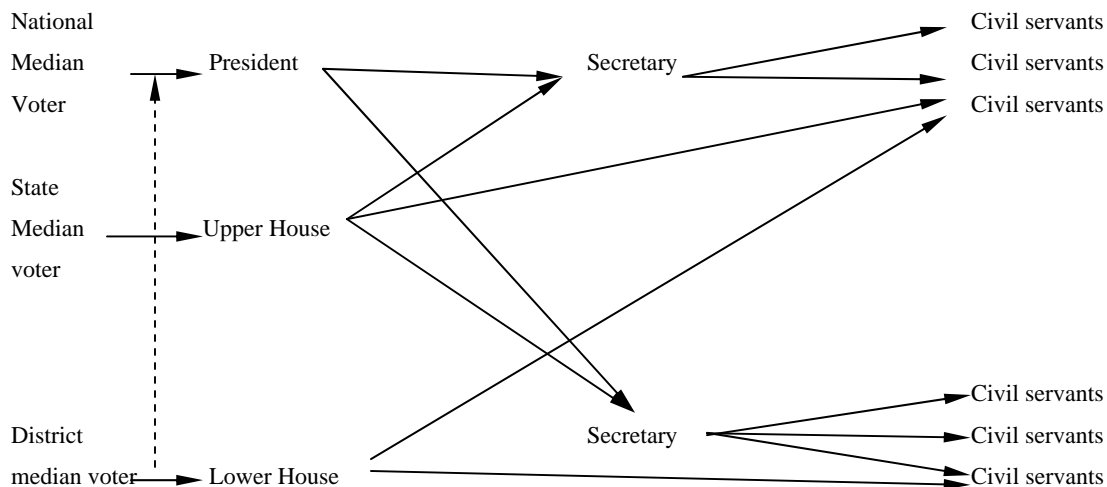
However, any delegation of policy-making authority is accompanied by various mechanisms of accountability, through which the Principals hold their Agents accountable, so that the power entrusted to them will not be abused. The policy-making process exhibits both components (delegation and accountability) in parliamentary systems, while exhibiting only the accountability component in presidential systems, as shown in figures a) and b) below based on Strøm, Müller and Bergman (2003).

Delegation and accountability under Parliamentary and Presidential Government:

a) single-chain delegation model of a parliamentary system:



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



In presidential systems, voters elect both the Members of Congress 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 figure (b) above) later in this subsection.

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 origin of the Executive in the Parliament. It is assumed that a Parliament supporting an Executive has no incentives to amend the latter's policies to the same extent as Congresses in presidential regimes, since the Parliament itself delegated the Executive the implementation of the program of the supporting legislative coalition. That is not to say amendment or rejection of Executive policy initiatives are absent from parliamentary systems. To the contrary, the Executive is held accountable by Parliament with varying degrees of success, according to the legislative resources granted to the latter by the 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 try to hold 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 to account, only in a different manner than in the parliamentary systems.

Executive accountability outside the 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 without the Principal – Agent framework (Müller 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, of overlapping functions, which 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 subject the presidential legislative proposals to closer policy scrutiny than would a Parliament.

It appears that differences across political systems are epiphenomenal as far as delegation and accountability are concerned. Both systems display the same functions of accountability, with a difference in degree and the accompanying mechanisms of imposition. Furthermore,

political parties perform the accountability function in both presidential and parliamentary systems, only in different ways. They structure the Executive-Legislature arena in different ways, according to the constraints imposed by the constitutional design, but with the ultimate purpose of reaching policy-making decisions (Strøm, 2003: 69).

7. Measuring the Executive accountability function of emergency Decrees

I will next propose a specific strategy of operationalizing Executive accountability based on the general and bounded definitions offered earlier, while introducing the dataset of empirical information supporting this thesis.

I will firstly attempt to establish if the Executive indeed governs by Decree rather than simple legislative proposals sent to the Legislature through the 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, which does not reveal any causal factor in itself. It 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 the 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 trend of Decree issuing. If the ratio is increasingly in favour 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 the 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 thesis, given that it entails punishment through rejection and amending of Decrees, as I have already argued. 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 of issued Decrees and issued Executive-initiated NPL to the ratio of successful Decrees and successful Executive-initiated NPL, revealing the level of the Legislature's acquiescence to the undermining of its legislative function. The ratio of issued Decrees/issued NPL reveals the intentions of the Executive to undermine the legislative function of the Legislature. The ratio of successful Decrees/successful NPL reveals the capacity of the Executive to rule though 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 to account.

This series of theoretically relevant comparisons is possible due to the dataset of empirical information collected during field research missions to Bucharest (September 2006 – November 2006), Rome (November 2006 – January 2007) and Buenos Aires (March 2007 – May 2007), at the Libraries of the Romanian Chamber of Deputies and the Italian Chamber of Deputies, as well as at the Information Department of the Argentine Congress (Dirección de Información Parlamentaria, or DIP). The information from the databases of the Legislatures of the three country cases is available in electronic format. The Italian case study is based on information available in the database of the Chamber of Deputies at www.camera.it, of the Senate at www.senato.it and the Parliament as an institution at www.parlamento.it. The Romanian case study is based on information available in the database of the Romanian Chamber of Deputies at http://www.cdep.ro/pls/dic/legis_acte_parlam. Both in the case of Italy and Romania, I had to combine the primary empirical information with information from secondary sources, given the difficulties of obtaining the whole set of relevant information that would allow for theoretically relevant comparisons.

The Italian databases contain information regarding the legislative production of the Executive for each Executive coalition since 1983. The legislative production of the Executive

during the period of 1947-1983 is not included in the database. The information on this period 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 Republic's Legislatures*). The book also contains information on the amending rate of DL and NPL. However, the information on NPL is organized only for each Parliament, while the information on DL is organized for each Executive (Cabinet), preventing a correlation between the volume and success-rate of the two types of legislative proposals for each Executive coalition. As I will explain more extensively later, this shortcoming in the empirical information has implications for the operationalization of Executive accountability to the Legislature.

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. I will explain the consequences of this shortcoming in the country case chapter.

The empirical information for Argentina was collected during a field research trip to Buenos Aires between March and May 2007. It had been provided by the Dirección de Información Parlamentaria (DIP) of the Argentine Chamber of Deputies in the form of two separate documents, Trabajo Especial 282 of 9 April 2007 and Trabajo Especial 304 of 16 April 2007, as outcome of a formal written request. The reason for making a request of the specialized Department of the Argentine Chamber of Deputies to provide the information is the complicated electronic database on legislation, the different legal status of different acts and the subsequent classification of these acts. Despite some inaccuracies (acknowledged by the DIP) due to the organization of the congressional legislative database, the information comes close enough to previous empirical information from secondary sources to warrant relevant scholarly claims. The information had been further checked against detailed lists of DNU and NPL initiated by the President and provided by the DIP for each year after 1983 until 2006. The interpretation of the empirical information benefited greatly from extensive personal discussions with Prof. Ana-Maria Mustapic of Torcuato di Tella University, Prof. Delia Fereirra Rubio of Universidad de

CEMA and director of the Center for Studies in Applied Public Policies in Buenos Aires and Alejandro Bonvechi of Torcuato di Tella University. The Information Department of the Argentine Chamber of Deputies responds to written requests only after the researcher requesting information produces documentary evidence of being associated with a local university. My request had benefited from the support of the legislative research group of Torcuato di Tella University.

This dataset is unique in the sense that no other literature uses information to compare the volume of Executive decrees to the volume of NPL in order to establish the extent of governance by Emergency decree. Existing literature only took notice of a large number of Executive decrees in Argentina and Italy (Rubio Ferreira and Goretti, 1995; Rubio Ferreira and Goretti, 2000; Di Porto, 2006). The case of Argentina also attracts constant media attention, but all arguments are built around information documenting the number of Emergency decrees¹². As I have already mentioned, this is not an indicator for measuring the tendency of the Executive to bypass the Legislature and can help to make only modest theoretical claims about this trend.

The literature exploring Executive-Legislature relations in Romania focused on how legislative coalitions have functioned (Radu, 2000) or the impact of reformist parties on the political and economic reforms in the aftermath of communism (Pavel and Huiu, 2003).

Even the most extensive work dedicated to the study of governance by Emergency decrees and the effects on democratic consolidation and/or quality (Carey and Shugart, 1998) is built on the assumption that the large number of such Decrees is enough in itself to warrant theoretical claims. The immediate consequence is an operationalization of accountability that does not focus on other legislative resources (therefore preventing a disciplined comparison among different Executive legislative resources that might be instrumental in establishing causality) or the rejection and amending rates of Decrees in Legislature (therefore preventing an accurate measure of the level of Executive accountability).

I have collected and interpreted information regarding the volume of issued Decrees and NPL sent to both legislative chambers in all three study cases. The influence of the legislative chambers is different across country cases: the Chamber of Deputies and the Senate have equal

¹² Laura Capriata, 'Kirchner firma por año más decretos que Menem', *La Nación*, 14 de junio 2006 <http://www.lanacion.com.ar/814460>; Laura Capriata, 'Kirchner firmó un decreto cada cinco días de gestión', *La Nación*, Lunes 13 de junio de 2005 http://www.lanacion.com.ar/politica/nota.asp?nota_id=712521; Laura Capriata, 'También este año, Kirchner firmó más decretos que leyes', *La Nación*, Lunes 3 de julio de 2006 <http://www.lanacion.com.ar/820121>

weight in Romania and Italy, while one chamber has advantages over the other in Argentina (the chamber where a piece of legislation is initiated by either the President or an individual legislator has stronger power over the final decision on that particular piece of legislation). This methodological choice will allow for tentative conclusions regarding governance by Decree and the level of Executive accountability across political systems.

Choosing to compare the volume and treatment of legislation initiated by Executive only in Senate would have overlooked a large volume of legislation in Italy and Romania, where the Executive sends its proposals firstly to the Chamber of Deputies. Choosing to compare the volume and treatment of legislation initiated by the Executive only in the Chamber of Deputies would have failed to account for an important volume of legislation in the case of Argentina, where the President sends policy proposals firstly to the chamber where it has a stronger majority given its formal advantages in the case of disagreements between the two chambers of the Congress.

III. EMPIRICAL RESEARCH PUZZLES AND PROBLEMS OF COMPARATIBILITY ACROSS POLITICAL SYSTEMS

In this chapter, I will present the research puzzles based on empirical information from the three study cases, as well as problems of comparability across political systems. The empirical information this thesis is based on highlights the shortcomings of existing literature focusing on emergency Executive decrees and its theoretical assumptions. As I have briefly mentioned in the Introduction to this thesis, some literature attempted to explain the issuing of Decrees through political culture, while other literature explored the role of institutions and political parties as causal factors.

The democratic transition and consolidation literature explaining causality through political culture (O'Donnell, 1994, 1996, 1999) assumes governance by emergency decree is a paramount feature of a new type of democracy. That is hardly the case, as empirical information in Table 1 below indicates.

Table 1: Volume of Decrees and NPL according to the success-rate of NPL across country cases.

Country cases	I. Decrees issued	II.NPL issued
Italy 1947 – 2006	18% (2,879)	82% (13,278)
Argentina 1983 - 2006	23% (699)	77% (2,331)
Romania 1992 – 2007	48% (1,874)	52% (2,023) (aprox.)

None of the study cases is ruled by emergency Executive decree, despite the high number of these acts. The emergency decree constitutes a low volume of total Executive-initiated legislation in Italy and Argentina (18% and 23% respectively), while the Romanian case study exhibits a significantly higher volume (48%), offering a relevant contrasting case that can be instrumental in revealing causality. Despite the high number of emergency Decrees, the volume of Decrees in the total body of Executive-initiated legislation is low in Italy, relatively low in Argentina and high in Romania compared to the other study cases.

The same literature assumes that governance by emergency Executive decree is a constant practice of a new type of democracy, labelled “delegative”, as I will explain more extensively in the next chapter of literature review. However, empirical information from Argentina and Romania contradicts this assumption. This literature cannot explain the low number of Executive decrees issued by one of the least democratic Executives that governed Romania between 1992 and 1996, at a time when the country hardly qualified as a democracy, save for the reasonably free and regularly organized elections, as shown in Table 2 below.

Table 2: Comparison of OUG and NPL issuing for two Romanian Executives with different democratic credentials.

Executive	I. OUG issued	II. NPL issued	III. NPL Success
VACAROIU 19.11.1992 - 11.12.1996	Aprox. 5% (19)	95% aprox. (Info not available)	(369)
CIORBEA VASILE ISARESCU 1996-2000	61% (668)	39% (435)	85% (369)

It also cannot explain why an Executive with impeccable democratic credentials, as the one that governed Romania between 1996 and 2000 (headed by three Prime Ministers), which initiated the first far reaching political and economic reforms, issued the largest volume of Decrees in the post-communist history of the country, far surpassing the less democratic one that preceded it, as Table 2 above indicates.

The same culturalist perspective on the topic cannot explain why President Raul Alfonsin of Argentina (1983 – 1989) issued significantly less Executive decrees than all other Argentine Presidents that succeeded him (as shown in Table 3 below), although all of them had enjoyed the same constitutional Decree power.

Table 3: Issuing of emergency Executive decrees (DNU) and NPL in Argentina since 1983.

Presidency	I. DNU issued	II. NPL issued
Alfonsin 1983-1989	2% (11)	98% (590)
Menem 1989-1999	18% (248)	82% (1170)
De la Rúa 1999-2001	24% (52)	76% (166)
Saá 1 week Dec. 2001	60% (6)	40% (4)
Duhalde 2002-2003	54% (151)	46% (127)
Kirchner 2003-2006	46% (231)	54% (274)
Total 1983-2006	23% (699)	77% (2331)

Table 3 above also reveals that the issuing of emergency Executive decrees in Argentina exhibits a fluctuating trend, growing from 2% of the total Executive-initiated legislation under President Alfonsin, to 18% under President Menem, 24% under President de la Rúa, reaching a peak of 60% during the economic crash of 2001-2002 under President Saá, and then decreasing to 54% under President Duhalde and 46% under president Kirchner. This fluctuation is puzzling in a country where the issuing of emergency Executive decrees is allegedly supported by a culture-specific understanding of politics. The maximum that the culturalist perspective on the topic can explain here is that President Alfonsin is more democratic than the other Presidents of Argentina, while the fluctuation in the level of issuing remains unexplained from a causal standpoint.

The literature explaining the issuing of emergency Executive decrees through bargaining problems caused by legislative fragmentation and polarization (Mainwaring, 1990, 1991, 1992-1993; Mainwaring and Shugart, 1997) requires the exploration of the success-rate of Executive-initiated NPL and its correlation to the tendency of the Executive to issue emergency Decrees given its manifest bargaining problems: the lower the success-rate of former, the higher the issuing of the latter.

According to the expectations of this literature, Romania should exhibit the lowest volume of Decree issuing (given the high 94% NPL success-rate), while Argentina should exhibit the highest (given the low 62% NPL success-rate). That is hardly the case as Table 4 below indicates so the assumptions of the existing literature need further improvement.

Table 4: NPL success-rate and volume of Decree issuing 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)

Another empirical puzzle from Italy and Romania contradicts the assumption that a large volume of Decree issuing is caused by the low success-rate of Executive-initiated NPL, given the specific bargaining problems the Executive faces in the Legislature. Table 5 below presents information on the legislative production of three Cabinets, two from Italy and one from Romania, which issued a large volume of emergency Executive decrees despite the high NPL success-rate.

Table 5: Italian and Romanian Cabinets with a high NPL success-rate that still issue a large volume of emergency Executive decrees.

Cabinets	I. Decrees issued	II.NPL issued	III.NPL success-rate
BERLUSCONI II BERLUSCONI III (2001 – 2006)	37% (187)	63% (324)	97% (317)
	56% (42)	44% (34)	97% (33)
NASTASE (2000 – 2004)	47% (680)	53% (767)	95% (725)

As Column III in Table 5 above indicates, almost all Executive-initiated NPL had been approved in the Legislature for these three units of analysis. Despite their manifest capacity to pass their legislative proposals, these three Cabinets issued a high volume of their legislative production through emergency Executive decrees, as shown in Column I of Table 5 above.

According to the assumptions of the democratic transition and consolidation literature that explains Decree issuing through political culture, these three Executives qualify as outright “dictatorial”, given that they bypassed the Legislature, undermining its legislative function through the issuing of a large volume of emergency Decrees, although they did not confront significant legislative opposition to their initiatives promoted through NPL.

I will explain the structure and functioning of these three Cabinets in the respective country chapters. For the time being, it suffices to note that the Berlusconi Cabinets in Italy and the Nastase Cabinet in Romania are based on solid parliamentary majorities, exhibiting a low degree of fragmentation and polarization when compared to other Cabinets in these two countries. I will show later how this type of coalition structure influences its legislative behaviour making the issuing of emergency Decrees a rational cost-efficient policy promotion strategy.

I will next present two empirical puzzles that have not been explored in any literature before. Both of these puzzles imply the “punishment” dimension of accountability (success-rate of Decrees), as I have argued in the previous chapter focusing on conceptual definition. The neglect of this dimension of accountability has prevented existing literature from making stronger causal claims that would explain all the already presented puzzles. The first puzzle compares the success-rate of Decrees to the success-rate of Executive-initiated NPL in Argentina. As Table 6 below indicates, the difference between the success-rates of these two legislative resources of the Executive is striking.

Table 6: comparative success-rate of emergency Decrees and presidential NPL in Argentina between 1982 and 2006.

Presidency	I. DNU issued	II.DNU success	III. NPL issued	IV. NPL success
Alfonsín 1983-1989	(11)	100% (11)	98% (590)	68% (401)
Menem 1989-1999	(248)	99% (246)	82% (1170)	59% (693)
De la Rúa 1999-2001	(52)	94% (49)	76% (166)	69% (114)
Saá 1 week Dec. 2001	(6)	100% (6)	40% (4)	0% (0)
Duhalde 2002-2003	(151)	99% (150)	46% (127)	57% (72)
Kirchner 2003-2006	(231)	100% (231)	54% (274)	57% (155)
Total 1983-2006	(699)	99% (693)	77% (2331)	62% (1435)

The success-rate of emergency Decrees in Argentina is 99% for the whole period under observation (as shown in Column II of Table 6 above), compared to the 62% success-rate of presidential NPL (as shown in Column IV of Table 6 above). Equally puzzling is the significant difference present for each presidential mandate. This indicates that the Argentine Congress is active in rejecting presidential NPL but almost unable to hold the President to account for legislation promoted through emergency Decree. The significant difference between the success-

rate of the two legislative resources of the Argentine President can explain the preference for the emergency Decree, as I will more show in more detail in the respective country chapter.

The second empirical puzzle not explored in the existing literature compares the ratio of issued Decrees/issued NPL to the ratio of approved Decrees/approved NPL. The difference between these two ratios indicates with precision the role of institutional structures in setting the capacity of Legislatures to hold accountable the Executive branch of government for legislation promoted through the abusive issuing of emergency Decrees. The first ratio reveals the intentions of the Executive, while the second reveals the capacity of the Legislature to hold the Executive to account for policy promoted through Decrees. Table 7 below provides a strong incentive to further explore the institutional structure present in each country case. It is puzzling to see that Italy ends up with a lower volume of approved Decrees than the volume of Decrees issued by its Executive, Argentina exhibits a higher volume of approved Decrees than the volume of Decrees issued by its Executive, while the difference between the two ratios is almost inexistent in Romania.

Table 7: 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)

The Argentine case is particularly puzzling: the country ends up being ruled by Decree to a higher extent than the initial Executive intentions. I will explain this important finding in the country case chapter.

To sum up, finding an answer to these empirical puzzles is a difficult research endeavour, particularly when comparing country cases that have radically different political systems and experience with democracy. Argentina has a presidential system, a bicameral system with differentiated functions between the two Chambers, a two party system organized federally, with a strong influence of provincial party leaders on the legislative behaviour of the Members of Congress. Italy has a parliamentary system, a bicameral Parliament with no functional

differentiations between the two Chambers, a multi-party system characterized by fragmentation and polarization. Romania has a semi-parliamentary system, a bicameral Parliament with no functional differentiations between the two Chambers, a partisan establishment characterized by fragmentation and polarization and an inchoate party system that changed significantly across the years.

As I have shown with the empirical research puzzles, the emergency Executive decrees are issued equally by Executives based on fragmented and polarized legislative coalitions and Executives based on solid legislative majorities, with a low degree of fragmentation and polarization. What is the lowest common denominator across political systems that allows for comparison between different types of legislative coalitions? What is the most appropriate model of defining coalitional functioning that would most precisely explain the cause of Decree issuing? Furthermore, how can presidential mandates (which are not dependent on legislative support) be compared to Cabinet mandates (which can be removed from power at any time by the Parliament)?

Equally important, how can Decrees and Executive-initiated NPL be compared? What are the legal features of Decrees and Executive-initiated NPL (the two constitutional resources the Executive can use to promote its policy views in relation to the Legislature) that should be accounted for when comparing their respective success-rates? The legal characteristics of the two legislative resources of the Executive should have theoretical relevance. They should also allow for comparison among different political systems, regardless of their country specific constitutional definition.

I will next review the literature that explored the topic from different theoretical perspectives. I will also attempt to answer questions regarding the comparability of the three study cases.

IV. LITERATURE REVIEW: SPECIFIC RESEARCH CONCERNS AND THEORETICAL CLAIMS REGARDING EXECUTIVE ACCOUNTABILITY

1. Introduction

This thesis compares newly democratized countries (Argentina and Romania), to an established democracy (Italy), but relates the findings to the claims of the literature on democratic transition and consolidation regarding the theoretical significance of excessive issuing of Executive decrees. This comparison across different political systems requires the combination of three main strands of literature, each with its own variations and shortcomings. Next, I will briefly describe each of these three literature strands.

The first is the democratic transition and consolidation literature (O'Donnell, 1994, 1996, 1999; Panizza, 2000; Peruzzotti, 2001; Oxhorn and Ducatzenzeiler, 1998; Jones, 1997). It had been the first to sound the alarm over the informal prevalence of the Executive over the Legislature in the new democracies, highlighting the resemblance of this phenomenon to the practices of the authoritarian regimes whence the new democracies emerged.

However, authors within this strand of literature have diverging views about the significance of the Executive prevalence over the Legislature: some claim that a large number of Executive decrees are caused by a specific understanding of politics, which is based on political culture. The countries where the Executive branch of government undermines the proper functioning of other institutions qualify as democracies, but they belong to a different category than the Western liberal democracies (O'Donnell, 1994, 1996, 1999).

Others authors argue that the very same indicator (large number of Executive decrees) is not a marker for a new type of democracy, since extensive Decree issuing has not been a constant practice throughout the decades, particularly in Latin America (Panizza, 2000; Peruzzotti, 2001; Oxhorn and Ducatzenzeiler, 1998; Jones, 1997).

The second strand of literature is part of the transition and democratization tradition, but goes further than noticing the peculiar institutional dynamic and/or the high number of Executive

decrees, attempting to establish some form of causality (Philip, 2003; Weffort, 1998). This literature had been developed mainly within the framework of institutionalism (Elster and Holmes, 1992; Steinmo, Thelen and Longstreth, 1992), placing causal explanatory power on the formal configurations of state institutions: the Executive prevails over the Legislature simply because it holds significant constitutional powers that enable it to do so. Furthermore, in some countries these institutional resources are identical to those in place under the undemocratic regimes that preceded the emergence of democracy.

The explanatory power of this literature is increased by linking institutions to political actors, such as party systems and legislative coalitions (Mainwaring, 1990, 1991, 1992-1993; Mainwaring and Shugart, 1997; Stark and Bruszt, 1998). Furthermore, this literature attempts to explain causality: Executives who confront bargaining problems in the Legislature will always tend to bypass them in order to promote their policy views. In the case of Latin America, Presidents who have constitutional powers that enable them to bypass the Congress will make use of them if the fragmented and polarized legislative coalitions are not capable of insuring stable legislative support for their policy promoted by NPL. This literature refrains from making any theoretical assertions about the nature of some new democracies on the simple notice of Executive prevalence over the Legislature. Its findings highlight the important role of formal political institutions and political parties in influencing the dynamic Executive-Legislature relation. Some applications of this literature to specific institutional and partisan settings furthered the understanding of the causes that encourage an Executive to promote its policies by an excessive recourse to Decrees (Llanos, 2002; Mustapic and Goretti, 1991; Mustapic and Goretti, 1993; Mustapic and Ferreti, 1995; Palanza, 2005).

The third strand of literature can broadly be summed up as also linking formal institutions and political actors, but commanding higher discriminatory power by employing a strong conceptual elaboration (Strøm, Müller and Bergman, 2003; Müller and Strøm, 2000). It also elaborately explains how the mechanisms of interaction between institutions and political actors influence policy outcomes. Although its focus is on European parliamentary systems, its conclusions can be applied to presidential systems as well, as I will show later.

This advantage is due to two factors: the parsimonious conceptual elaboration linking accountability to delegation of policy power in the framework of Principal-Agent model (as I have explained in the chapter focusing on conceptual definition) and the linkage with a strand of

rational choice institutionalism that explains the behaviour of political actors when deciding on policy outcomes (Tsebelis, 1995, 2000, 2002; Deering and Maltzman, 1999). The major concern of this literature is the variation of policy outcomes within the same institutional configuration of power.

Within this third strand of literature, but coming from the perspective of the transition and democratization literature, Carey and Shugart (1998) apply the logic of interaction between institutions and actors in order to explain why Legislatures prefer to grant Decree power to Executives when designing the Constitution, although the Decree power can be used by the Executive to undermine the legislative function of the Legislature.

The major difference between the literature on democratic transition and consolidation (focusing on the new democracies) and the literature dealing with policy outcomes (focusing on the established democracies) is the significance associated with the dynamic relation between the Executive and the Legislature. The democratic transition and consolidation literature is concerned with how the relation between the Executive and the Legislature affects the consolidation of democracy. The literature focusing on consolidated democracies explains how the interaction between the Executive and the Legislature affects the policy outcomes. The excessive issuing of Executive decrees is treated accordingly.

The first strand of literature associates the excessive use of decrees with a low level of democratic consolidation. Some of this literature (O'Donnell, 1994, 1996, 1999) does not explore the causes that lead to excessive Decree use or the treatment of Decrees in Legislature. It only assumes this practice is based on political culture. A variant of this literature goes further than noticing the large number of Decrees and explains causality through the interaction between institutional resources and political parties as legislative coalitions, rather than political culture (Mainwaring, 1990, 1991, 1992-1993; Mainwaring and Shugart, 1997; Stark and Bruszt, 1998).

The second strand of literature, which focuses on established democracies, is not concerned with Executive decree issuing per se, but explores the process of policy-making in the framework of delegation and accountability between the Legislature and the Executive. This is an appropriate conceptual framework for exploring the causes of an excessive issuing of Decrees. It explains systematically how the constitutionally granted decree power influences the Executive-Legislature relations across political systems in a variety of partisan legislative configurations.

I will next attempt to highlight the respective shortcomings of each one of the above strands of literature and show how they furthered our understanding of the dynamic relation between Executive and the Legislature. I will finally explain how and why this thesis is driven by the concerns of the literature on democratic transition and consolidation, but developed in the analytical framework of the literature explaining policy outcomes, as well as all the theoretical implications that derive from this positioning in the context of existing literature.

2. Democratic transition and consolidation literature: the role of political culture

The literature dealing with the democratic development of countries emerging from authoritarianism took notice of the prevalence of the Executive branch of government over Legislature through the issuing of a large number of emergency Executive decrees in some of the new democracies, particularly the Latin American ones.

In this literature, the large number of Decrees is indicative of a manifest institutional weakness of the Legislature and a constant attempt of the Executive to undermine its proper functioning (O'Donnell, 1994, 1996, 1999, 2003). This literature is mostly concerned with the consolidation of democracy, and not necessarily with the process of policy-making. The Executive decrees are considered an indicator of a low Horizontal Balance Accountability (HBA) as defined in the previous chapter (O'Donnell, 2003), representing an infringement with the principle of power separation within the State, since the Executives invade the institutional prerogatives of Legislatures when legislating directly through the use of Decree.

The most serious shortcoming of this strand of literature is the theoretical conclusion that it draws using the concept of accountability through conceptual stretching (as I have argued in the chapter focusing on concept formation): the prevalence of the Executive branch of government over the Legislature is caused by political culture and is the major feature of a new type of democracy in itself, labelled "delegative" (O'Donnell, 1994, 1996, 1999, 2003).

This literature attempted to define a new theory of democracy, comprehensive in nature, which would systematically explain the functioning of a "delegative" democracy. The backbone

of its argument is that existing democratic theories focus entirely on subtypes of representative democracy, while some new democracies have different characteristics than the liberal democratic regimes of the Western hemisphere.

In a “delegative” democracy, whoever wins the elections can govern as he or she sees fit, the holder of the Executive office (i.e., presidential office) being the embodiment of the nation. From this perspective, the involvement of society in politics is minimal. It is reduced to the act of casting the ballot in regularly held elections. Beyond this symbolic act of delegation of power, the society is expected to become a passive but cheering audience for the Executive branch of government, i.e., Presidents across Latin America. Once in office, the presidential agenda need not bear any resemblance to electoral promises. The public allegedly gives a blank cheque to the President to bypass democratic institutions, such as Courts and Legislatures, if they attempt to constrain the presidential political action.

This literature implies that voters perceive this state of affairs as normal and adopt it as common practice, based on the assumption that the relation between individuals and politics, particularly focusing on the President, is characterized by “delegation” of power and authority. An important point ought to be emphasized here: according to this literature, the “delegation” of power is the only way of conceiving the political life that can be developed by the populace of newly democratized country, given its social and political legacies.

This perspective bears a strong cultural connotation¹³. The concept of delegative democracy is applied to society as a whole, attempting to capture and describe a collective behaviour, allegedly generated by political culture, and not by the rational behaviour of individuals who make political choices according to their personal interests.

In order to support its theoretical claims, this literature refers to practices and conceptions about the proper exercise of political power in Latin America, which lead in the direction of “delegative”, not liberal, representative democracy. These practices and conceptions are allegedly based on a culture of hierarchy and providential exercise of authority, where strong and populist politicians portray themselves (and are perceived as such by public) as the saviours of the country (*salvadores de la patria*), the only ones capable of solving its problems. Once elected,

¹³ I will use the concept of political culture as a set of “attitudes toward the political system and its various parts, and attitudes toward the role of the self in the system.” (Almond and Verba, 1963). This set of attitudes influences the ways in which political elites make decisions, as well as the relation of the ordinary citizen to the government and to his or her fellow citizens.

the populist leaders of Latin America have always ruled in complete separation from society, in an unconstrained manner, as long as the public trusted them with power and authority, while considering this leadership style as entirely legitimate.

This perspective on Latin American politics goes along the same lines as the existing literature on the unique authoritarian culture of the region. This culture is allegedly based on elitism (people are not born equal and only elites should rule), authoritarianism (an overwhelmingly predominant Executive power stemming from a tradition of strong leaders) and patrimonialism (a system of mutual obligations and exchange of favours that breeds particularism and corruption) (Wiarda and Kline, 1990).

The Executive power relentlessly attempts to undermine whatever horizontal accountability does exist, in its effort to rule unconstrained. The Congress is bypassed with Executive decrees, and the Courts of Justice are manipulated for political and personal purposes. The Executive weakens other State institutions and is not accountable to any of them; it invades their legal authority and diminishes their prestige. Once deprived of real power and responsibility, institutions will act in ways that seem to confirm the reasons adduced for this deprivation: particularism becomes even more rampant in Congress and political parties, the Courts fail to administer justice, and agencies of control are eliminated or reduced to passivity. Legislatures cease to translate individual preferences into public policies, while the failure of the Court system leads to outright illegalities in the administration of justice (O'Donnell, 1994, 1996).

The model of “delegative” democracy leaves unanswered a few important questions. What is the significance of a large number of Decrees, if not compared to the volume of Executive-initiated NPL? Can we consider a large volume of issued Decrees that are highly amended or rejected in Legislature an indicator of low Executive accountability? What is more appropriate for making theoretical claims about the significance of Executive accountability: a large volume of issued Decrees that are highly amended and rejected or a significantly lower volume of issued Decrees that have a high success-rate and no amendments at all?

What is needed here is a more meaningful way of interpreting governance by Executive decree. In order to establish if a country is indeed ruled by Decree and approximate the policy-making intentions of the Executive one needs to establish the volume of Executive decrees compared to normal procedure legislative initiatives (NPL). It becomes irrelevant if an Executive issued a large number of Emergency decrees if it also initiated significantly more legislative

proposals through normal procedure (NPL).

This particular strand of literature on democratic transition and consolidation does capture and accurately describe an institutional behaviour emergent in different political systems and in countries that have different past experiences with democracy: an attempt of the Executive branch of government to prevail over the Legislature in the process of policy-making through issuing a large number of Executive decrees under the pretence of extraordinary circumstances.

3. A different literature approach: the role of political structure

The democratic transition and consolidation literature offers an improved understanding of Executives prevailing over the Legislatures, particularly through the use of Executive decrees. Mainwaring (1990, 1991, 1992-1993) has identified all the conditions that lead to a tendency of the Executive (Latin American Presidents in particular) to bypass the Legislatures (Congresses in Latin America).

The “democratic consolidation” literature, as well as the grand theoretical debate of “presidential vs.. parliamentary” regimes and their respective capacity to uphold democracy, diverted the scholarly attention from already existing analyses of the institutional and political determinants of Executive accountability in relation to the Legislature in new democracies.

Presidential regimes lead to conflict and instability only in the presence of fragmented Legislatures, not necessarily because of their conflict prone nature (Mainwaring 1990, 1991, 1992-1993). The partisan congressional fragmentation is the outcome of multiparty democracy and proportional representation electoral system. Latin American presidents having strong constitutional powers will tend to bypass the Congress if faced with fragmented legislative coalitions, undisciplined or polarized political parties. The President can prevail over the Congress particularly when granted constitutional veto power on the decisions of the Congress. The exploration of the Brazilian political system is revealing in this sense (Mainwaring, 1991, 1992-1993).

Following the argument elaborated by Mainwaring (1990, 1991, 1992-1993), a number of authors improved our understanding of Executive-Legislature relations and the capacity of the

latter to hold accountable the former.

Jones et al. (2000, 2002) explain the low level of Executive accountability in Argentina by showing why the Argentine Congress is a weak institution in relation to the President: it has poor constitutional resources, while the legislators have low incentives to invest in it as an institution, because their careers are under the control of local political party bosses, who are the gatekeepers of the closed PR electoral lists. The immediate outcome of this partisan control is short congressional careers, which do not provide any incentive to strengthen the Argentine Congress in its specific interaction with the President.

However, this literature provides a static view of Executive-Legislature relations. It does not take into account the attempts of the Argentine members of the Congress to change the policies of the President. Despite the poor institutional resources and the control of party leaders over legislators' careers, the Argentine Congress does attempt to hold the President to account, albeit with varying degrees of success (Llanos, 2001).

Improving the above explanation, Bruszt (2000: 212-213) shows that across-time variation in the level of Executive accountability to the Parliament in the Czech Republic had been determined by the polarization of the governing coalition, the bargaining power of the major Executive coalition partner, the cohesion of the legislative opposition, institutional design and popularity of the incumbent Executive. The Czech Executive headed by Vaclav Klaus ruled in a manner more accountable to the Parliament in the first part of the 1990s, than in the second part of the decade.

During his first mandate, Klaus' party had a small number of seats in the Legislature, giving it a low bargaining power in relation to its coalition partners, in a polarized Executive coalition. Adding to the incentives to compromise and leading to more Executive accountability, the upper house of the Legislature had veto power on legislation, a resource which could be easily used against the Executive by the united opposition and/or potentially resentful coalition partners.

After the separation of the Czech and Slovak Republics, the incumbent Executive was less accountable, given its increased popularity due to success in implementing economic reforms, the absence of an upper house of the Czech Parliament that would have ensured a diverse societal representation, and a very fragmented opposition in the Legislature.

These examples from a new Eastern European democracy explain the variation in the level of Executive accountability to the Legislature as the outcome of a specific interaction between the

political parties and the institutional system.

With a similar approach, scholars working on Latin America (Carey and Shugart, 1998) in particular those working on Argentina (Rubio Fereirra and Goretti, 1998; Mustapic, 2002; Llanos, 2001) were the first to focus on the use of Decrees and their treatment in the Legislature as a measure of Executive accountability.

The potential for deadlock between the Executive and the Legislature is high, given the divided government (the electoral system leads to problematic configurations of power in the Congress, making it very difficult to obtain a majority), the complicated institutional design (many veto gates at the level of congressional Committees, the necessity of a quorum to pass legislation), the political party system (highly decentralized with a significant control of local party leaders over legislators' careers, frequent internal party realignments, strong ideological identity). The Executive tends to overcome the legislative deadlock through excessive issuing of Decrees, particularly in times of economic crisis, when swift action is required to bring the situation back under control. As soon as the crisis had been overcome, in some countries legislators acting in allegiance to strong ideological party identity opposed the Executive when its policies ran counter to the partisan policy preferences.

4. Accountability across political systems: a model of comparison

Comparing countries with different political and partisan systems, as well as with different experiences with democracy, poses theoretical and methodological difficulties. I will next review that literature that addressed these difficulties.

In their extensive study of established parliamentary democracies, Strøm, Müller and Bergman (2003) developed a conceptual and theoretical framework of accountability that surmounts the difficulties of existing literature in systematically capturing and explaining the complex interaction between Executive and the Legislature according to the capacity of the latter to hold accountable the former. I argue that this theoretical framework can be extended to cover presidential regimes as well, through crossbreeding with rational choice models explaining how the behaviour of partisan and institutional veto-players influences the interaction between

Executive and the Legislature as well as the influence on the process of policy-making (Tsebelis, 1995, 2000, 2002).

The combination of different strands of literature is not a novelty. The need to combine different approaches in order to overcome shortcomings is emphasized by Heritier (1998: 35) and Thelen (1999), while Elster (1979) offers a two-filter model as an analytical tool that links rational choice theory and institutional analysis: in the first instance the structural constraints, such as political institutions, reduce the universe of possible decision alternatives available to a political actor to a "feasible set", while in the second instance the actor chooses one alternative from the feasible set. This simple model highlights how state activities and structures offer specific elements of rationality for the political agent (Hall, 1997; Heritier, 1998: 35).

According to the institutional veto-player model, the Executive has available two constitutional resources to promote its policy views in Legislature: the Decree issued under the pretence of urgency and necessity and legislative proposals forwarded to the Legislature through normal procedure (NPL). As I will show later, the Executive will choose the resource which offers a higher prospect of success if it confronts bargaining problems in the Legislature.

The merits of parliamentary government had been explored from three different perspectives motivated by three substantive concerns (Strøm, et al, 2003: 15): regime stability, policy outputs and their fit to citizen preferences, as well as the dynamic of the process of governance. Strøm et al (2003) can be located within the framework of parliamentary vs. presidential debate as being concerned with the dynamic of the process of governance, rather than regime stability or policy outputs and their fit to citizens' preferences.

The first approach rigidly separates the parliamentary systems from the presidential systems as a function of their formal/legal features in order to compare their respective merits in upholding the stability of democracy. The second approach maintains the same formal/legal rigid distinction, but adds subtypes of presidential and parliamentary systems in order to differentiate within each category.

The third approach however stands out compared with the first two, in that established formal/legal distinctions between parliamentary and presidential regimes are less consequential than other differences (Strøm, 2003: 15), as I will show.

The most representative author for the first approach is Juan Linz (1994), who argued that the rigidity of the presidential and congressional terms in presidential regimes makes it impossible

for citizens (Principals) to change their Agents (President and Congress) even under conditions of deadlock, divided government, or any kind of crisis of governability. This situation had been considered as having a high potential for democratic breakdown. The merits of parliamentary regimes reside in the constitutional provision enabling the Legislature to remove the Executive power once it lost the support of the parliamentary majority.

Various authors writing from this perspective gave credit to either one of the two systems. The regime survival rate among proportional representation parliamentary democracies is significantly higher than in presidential regimes (Colomer, 2001: 213), while other studies argued that presidential regimes provide timely and efficient governance (Shugart and Carey, 1992; Mainwaring and Shugart, 1997).

While the concern with regime stability had its particular relevance for the new democracies, the concern with policy outcomes and their fit to citizens' interests came from advanced industrial democracies which perceive the regime instability as a less serious threat (Strøm, 2003: 16). Scholars writing from this perspective focus on those dimensions that transcend the presidential-parliamentary distinction, such as proportional representation and majority representation. Powell (2000) shows that proportional representation allows for the formation of governments that are closer to the median citizen's preferences. Within his classification, the US presidential regime is classified as "mixed" because of the combined effects of a single member plurality electoral system, low party discipline, and separation of powers institutions.

Lijphart (1995, 1999) argued that what he called "consensus" democracies (parliamentary government and proportional representation elections) are almost equal to majority systems (presidential systems and parliamentary systems with majority elections) in terms of macro-economic performance, but clearly outperform the latter in terms representation of minority groups or income equality.

This emphasis on the combination of regime type and political party system represents a step forward in crossing the formal/legal boundaries among regime types, while attempting comparison. It becomes obvious that some types of presidential regimes are closer to some types of parliamentary regimes, a function of specific elements other than formal constitutional provisions, such as electoral system, party system, party discipline or coalition types.

The third major focus in the contemporary debate over presidential and parliamentary systems looks at the process of governance and the dynamic of the actual process of policy-

making, not necessarily at the policy outcomes. The major questions are how decisions are made, what factors influence the policy-making negotiation and how these factors affect the level of Executive accountability in relation to the Legislature. Strøm et al (2003) develop their model of delegation and accountability within this strand of literature.

Moe and Caldwell (1994) show that parliamentary systems outperform presidential ones with regard to policy efficiency, in that legislators have incentives to respond to the demands of interest groups. In presidential systems, the demands of the interest groups are dealt with by governmental agencies. The interest groups prefer to insulate the government agencies from democratic control by lobbying for the overregulation of these agencies, therefore rendering them inefficient. In contrast, Westminster-type parliamentary democracies prevent such encroachments by efficient action of any new parliamentary majority which can annul the existing regulations. Moe and Caldwell (1994) focus only on US-type presidential regimes and Westminster-type parliamentary regimes, but this literature does concede that coalitional parliamentary systems have strong similarities to presidential ones. This indicates that the transgression of boundaries between presidential and parliamentary regimes is a feasible option for comparison purposes, as long as they are compared according to the functions they perform and the mechanisms of performance.

Weaver and Rockman (1993) attempt to explain the act of governance and efficiency of policy-making process by three major factors: formal constitutional provisions (presidential vs. parliamentary), regime and government type (multiparty coalitions versus alternating single-party government versus dominant-party government), and institutional features such as federalism, bicameralism, judicial review and non-institutional features, such as political culture. Their conclusion is that, “the effects of specific institutional arrangements are neither uniform, nor unidirectional” (Weaver and Rockman, 1993: 454).

Along the same line of reasoning, Eaton (2000) looks at the effects of veto-players, the visibility of policy negotiations, the accountability of individual office holders, interest group strategies and delegation to bureaucrats, concluding that the differences between presidential and parliamentary regimes “tend to wash out” (Eaton, 2000: 371) when variation within each regime type is considered.

Tsebelis (1995, 2000, 2002) provides the most simple and parsimonious theoretical framework allowing for comparison among different political regimes, presidential or

parliamentary of any type. He argues that the main explanatory factor determining the dynamic of policy-making and the Executive-Legislature relations is the number of veto-players: presidential regimes tend to have more veto-players than parliamentary ones, while the formal distinction presidential-parliamentary becomes epiphenomenal (Strøm et al., 2003: 18). The conclusion is that systems with few and ideologically homogenous veto-players are more conducive to policy change, whereas those with more and ideologically heterogeneous veto-players are more prone to deadlock and tension.

To sum up, comparing across political systems is a feasible research strategy as long as one distances from the traditional debate on the merits of parliamentary vs. presidential regimes. I had shown that the initial focus of this debate, namely regime stability, is of no use when attempting to evaluate relations of accountability between the Executive and the Legislature in the process of policy-making. I had also shown that once the focus of research is on policy outputs, it comes closer to the purpose of this thesis, namely comparing across regime types by introducing subtypes and diminishing the presidential-parliamentary differences.

Retaining the regime subtypes, but changing the research focus to the process of policy-making itself, which implies both institutional structures and political actors, the differences between presidential and parliamentary systems become epiphenomenal, thus allowing for comparison across regime types as a function of their respective capacity to uphold the principle of accountability in the process of policy-making.

By briefly reviewing Tsebelis (1995, 2000, 2002), I have already shown the importance of finding the lowest common causal denominator across regime types: the number and nature of veto-players.

I will next show that relations of accountability require a similar logic of analysis, placing explanatory emphasis on the dynamic interaction between political actors and institutional structures. However, what is needed is a theoretical framework that would systematically explain the dynamic of accountability relations across political systems.

I will address this research problem in the next subsection by reviewing the model put forth by Strøm et al. (2003), in order to explain relations of accountability in parliamentary regimes. As I have already mentioned, I will extend the finding of this particular model to presidential regimes following the logic of Tsebelis (1995, 2000, and 2002).

5. The influence of partisan and institutional veto-players on the Executive accountability

As I have explained in the previous chapter focusing on the conceptualization of accountability, the Congress has a democratic mandate from voters to hold the President to account (although the Congress is not the Principal of the President), only in a different manner than in the parliamentary systems. The differences across systems are epiphenomenal as far as delegation and accountability are concerned. Both systems display the same functions of accountability, with a difference in degree and the accompanying mechanisms of imposition. Furthermore, in both presidential and parliamentary systems political parties perform the same function, only in different ways. They structure the Executive-Legislature arena in different ways, according to the constraints imposed by the constitutional design, but with the ultimate purpose of reaching policy decisions (Strøm, 2003: 69).

Out of two types of Executive accountability (*ex ante* and *ex post*), the weakness of the latter lies with the political parties (Strøm, 2003: 73). If the partisan legislative coalitions are supportive of the Executive, the outcome is low *ex post* accountability. This relationship is stronger in countries with parliamentary systems, since the legislative majority has no incentives to undermine its own cabinet.

However, when the partisan coalitions supporting the Executive are fragmented and polarized, indiscipline and coalition bickering can lead to very unstable legislative support. The same kind of low Executive accountability emerges equally in strong and supportive coalitions (such as a coalition with two ideologically close parties, where one senior partner has strong bargaining power over one junior partner) and in weak, fragmented and unstable coalitions (such as a coalition with five ideologically polarized parties, where none of the partners has any bargaining power over the others).

Inter-coalitional bargaining logic is highly instrumental in understanding the congressional support for the Argentine president Carlos Menem in the mid 1990s, when his own party held more than 50% of the seats on the Argentine Congress. The president's own party had a long history of factionalism. Various partisan factions behaved differently and adopted different bargaining strategies in exchange for their legislative support, according to strong local party leaders' interests.

Political parties appear to be pivotal in influencing the dynamic of delegation and accountability. Their ability to capture and disperse the policy agenda is considered an indicator of their cohesiveness (Strøm et al., 2003: 651), which is influenced by the institutional system and type of party system. The stronger the cohesiveness of the political parties, the stronger their capacity to activate the accountability mechanisms (Strøm et al., 2003: 652). Given that citizens are directly voting for political parties and entrust them with control the Executive, the stronger the disconnection of parties from society, the weaker their cohesiveness and capacity to hold the Executive to account.

Political parties have many facets that contribute to their effectiveness as instruments of citizen's control over the policy-making process and other state institutions, such as the Executive. Strøm et al. (2003: 654) built on V.O. Key's (1964) conception of party features (party in the electorate, the party organization, and the party in government) and proposed to measure the cohesiveness of the party system by measuring each one of these three features. They are considered mutually interdependent aspects of modern political parties.

Therefore, measuring the cohesiveness of the political party system will also offer an accurate measure for the level of accountability: electoral party strength, organizational party strength, party in government strength. The lower the scores in these three dimensions, the weaker the cohesiveness of political parties, the lower the accountability of the Executive in relation to the Legislature.

One further clarification ought to be made. The third feature, namely party in government, is specific of parliamentary democracies. This is explained by the exclusive concern with this type of system (Strøm et al., 2003).

However, I argue that in presidential systems in which the Congress has a high level of partisan fragmentation the logic of party government holds equally as in parliamentary democracies. The President has to ensure the support of the Congress for his or her policy-making initiatives: the more homogeneous the congressional coalition supporting the President (less parties and lower polarization), the more likely the support for the President's policy initiatives, after eventual policy negotiation. The only major difference is the incapacity of the congressional coalitions to remove the President from power. As far as policy decisions are concerned, the logic of legislative coalitions in multiparty presidential systems is the same as the logic of party government in parliamentary democracies.

Thus far I have reviewed the literature dealing with Executive-Legislature relations and showed that focusing on how decision-making mechanisms affect inter-branch relations, and therefore policy outputs, is more instrumental in evaluating Executive accountability function of Executive decrees than any other perspective (regime stability or policy quality). Within this strand of literature, I had shown that political parties, electoral systems and formal constitutional arrangements are the most decisive factors influencing how the decision-making mechanisms function and therefore how the policy decisions are made.

Furthermore, I had shown how Strøm et al. (2003) soundly explain the dynamic of the interaction of these three decisive factors when exploring relations of accountability in parliamentary systems. I had complemented their argument by showing that the same interaction seems to be present in presidential systems as well.

One question might legitimately arise: how does this interaction play out in presidential systems? Do parties, electoral systems and constitutional arrangements interact differently outside a universe of case studies exclusively made of parliamentary democracies? The only factor out of all the three identified that is truly different in presidential systems is the third one, namely the formal constitutional arrangements defining the inter-institutional relations. The main question is then if this difference is influential enough to alter the interaction found in parliamentary systems.

The veto-player model provides a sound answer to the above question, explaining how political parties, electoral systems and formal constitutional arrangements interact with each other across political systems in determining how decisions are reached (Tsebelis, 1995, 2000, 2002). The model allows for comparison across political systems in order to account for the features that are conducive to policy change. This concern with policy outcomes has a particular methodological relevance, as I will show later. Focusing on policy outcomes that exhibit variation across political systems but also within the same political system can be highly instrumental in establishing causality regardless of the nature of the political system. Although this literature explores “the capacity to produce policy change” (Tsebelis, 1995: 289), it might as well be renamed capacity to reach policy decisions, as long as mutually agreed decisions among political actors are the base of any policy change.

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”. Two veto-player categories are

identified: institutional and partisan veto-players (Tsebelis, 1995: 289). Institutions (Congress, President) act as veto-players only in presidential regimes, while partisan veto-players are present “at least” in parliamentary systems.

I will supplement these findings by showing that institutional veto-players are also present in parliamentary systems (Parliament, Cabinet), only functioning differently than in presidential systems, while partisan veto-players follow the same logic of action in multiparty presidential systems as in parliamentary systems. As far as partisan veto-players are concerned, Westminster-type systems, dominant party systems and single party minority governments have only one veto-player, while coalitions in parliamentary systems, presidential or federal systems have multiple partisan veto-players.

The main argument is that the potential for reaching decisions decreases with the number of veto-players, their lack of congruence (dissimilarity of policy positions among veto-players), the cohesion of veto-players (similarity of policy positions among the units of each veto-player).

The focus of this thesis on Executive accountability in relation to the Legislature’s function of issuing and treatment of Executive decrees is highly amenable to the model of institutional and partisan veto-players. Executive decrees are policy-making instruments that reflect particular inter-branch institutional configurations of power and the capacity of legislative coalitions defined in terms of partisan veto-players to use the inter-branch configurations of power in order to influence the policy-making process.

Exploring the interaction among partisan veto-players and their bargaining strategies as part of legislative coalitions that support or oppose the policy initiatives of the Executive can provide the formal model for understanding why the Executive issues Decrees when confronted with weak (fragmented and polarized) legislative coalitions, but also when confronted with strong (low number of parties that are ideologically cohesive) legislative coalitions.

Furthermore, the logic of the institutional veto-player model requires the exploration of the constitutional provisions allocated to the Executive and to the Legislature, defining under what conditions Decrees can be issued, the decision-making power of the Legislature on the Executive decrees and the veto power of the Executive on the decision of the Legislature, explaining the level of Executive accountability to the Legislature (amending and rejection rates of Decrees).

It becomes important to highlight that political parties relate to the Executive from the legislative benches only as part of coalitions formed according to ideological proximities and

available options based on the number of coalition partners (De Swaan and Mokken, 1980: 199; Riker, 1962). The coalitional dynamic determines how the coalition partners will make use of the resources granted to the Legislature by the Constitution or set out in the parliamentary rules of procedure. I will explain later the legislative coalition types that are theoretically relevant for the purpose of this thesis.

It had been claimed that a low ex post Executive accountability is the outcome of legislative coalitions of parties that are supportive of the Executive (Strøm, 2003: 73). This relationship holds even stronger in parliamentary regimes, since the parliamentary majorities have no incentives to undermine their own cabinet by using specific legislative resources (motions of censorship, amending or rejection of Executive legislative initiatives, etc.).

However, I argue that when the political party coalitions supporting the Executive are fragmented and polarized, indiscipline and coalition bickering can lead to very unstable support, and legislative deadlock. “Supportive” or “unsupportive” coalitions appear to be a matter of inter-coalitional bargaining, and not necessarily of similar political identity to the Executive. Political identity convergence between the legislative majority and the Executive can indeed facilitate an increased cooperation between the two branches of government but does not guarantee it.¹⁴ This holds even stronger in multiparty democracies with the PR electoral system, either presidential or parliamentary, where the partisan fragmentation rarely leads to stable legislative support.

I place the argument of this thesis 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 (provided by the types of legislative coalitions generated by specific party systems) interact with each other and determine how decisions are reached (Tsebelis, 1995, 2000, 2002).

In the context of this thesis, partisan veto-players are the political parties that form the legislative coalitions supporting the Executive. The behaviour of each coalition partner is conditioned by its importance in the 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 it is to reach a policy decision.

¹⁴ The Executive instability in Italy due intra-coalitional bargaining in a fragmented and polarized Legislature is thoroughly explored by Mershon (2002) and Cotta and Verzichelli (1996).

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 the Legislature leads to legislative coalitions that are either incapable of holding the Executive to account (fragmented and polarized) or simply unwilling to do so (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 cannot 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 accountability constraints from the more junior partners on negotiation.
- **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 must 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 this thesis, the term “institutional veto-players” refers to the policy-powers of each one of the two branches of government to propose and control the policy agenda¹⁵. 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.

The whole debate about strong-weak Presidents (or Executives for that matter) becomes irrelevant (Frye, 1999). The only powers of the Executive branch relevant for the veto-player model are the policy-making ones. Presidents considered “strong” because of their non-policy powers (controlling the armed forces, dissolving the Legislature in extraordinary circumstances, asking for referendums, declaring states of emergency, appointing or dismissing the government, etc.), might as well be considered weak in terms of proposing and controlling the policy agenda (Tsebelis, 1995: 306).

I further argue that governance by Decree becomes a successful policy promotion strategy (high rate of success and low/inexistent amending rate) when the configuration of institutional veto power between the Executive and the Legislature favours the former. The stronger the institutional veto power of the Executive, the higher the success-rate and lower the amending rate of the Decree. The stronger the institutional veto-player power of the Legislature, the higher the amending and rejection rates of Decrees.

Two legal features determine the configuration of institutional veto power in favour of one or the other branch of government across political systems as far as the Decree is concerned (and therefore its success and amending rates):

1. its legal status:

- the Decree can be a special legislative proposal that requires compulsory debate and decision in the Legislature (strong institutional veto-power in favour of Legislature).
- the Decree can be a de facto law issued by the Executive that does not require debate and decision in the Legislature (strong institutional veto-power in favour of the Executive). This situation is encountered when the Constitution does not

¹⁵ 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 manoeuvre in influencing the final decisions of what stays on the agenda and in what form.

clearly specify the legal status of the Decree, combined with a favourable interpretation on the part of the Justice system that endorses the constitutional limbo.

2. the conditions under which a Decree can be amended in the Legislature:

- tacit rejection: the Decree lapses (although it generates legal effects for a limited period) if the Legislature does not discuss and decide on it within a constitutionally defined deadline (strong institutional veto-power in favour of Legislature).
- tacit approval: the Decree automatically becomes law if not discussed and decided on within a constitutionally defined deadline (strong institutional veto-power in favour of Executive).
- the strength of Executive veto on the decision of the Legislature¹⁶:
 - the Executive can/cannot veto the decision of the Legislature on a Decree.
 - the Executive veto is 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's function of Decree success and amending rates).

From this perspective, I argue that governance by Decree becomes not only a rational policy promotion strategy, but also a successful one, when the configuration of institutional veto power between the Executive and the Legislature favours the former. If the formal configuration of power grants the Executive total agenda-setting powers allowing it unilaterally to prevail in the policy-making process through the use of Decrees¹⁷, then the coalition types described above are

¹⁶ The strength of the Executive veto on the decision of the Legislature varies from country to country. The Executive can veto the decisions of Legislatures in some countries, whereas it cannot in other countries. The veto of the Executive in a certain country can be easily overridden by the Legislature, whereas the veto power of the Executive in another country 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.

¹⁷ This would be a situation where the Constitution defines the Executive decree 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 Legislature.

relevant only in explaining the need to issue Decrees, but not in explaining the excessive issuing of Decrees (made necessary by the bargaining problems the Executive confronts in Legislature). The stronger the institutional veto-player power of the Executive when using Decrees, the more likely the Executive will issue Decrees excessively, namely more Decrees than necessary given the specific bargaining problems.

The bargaining problems confronted by Executive in the Legislature lead to different legislative strategies of the former and the subsequent choice of resources used to promote its policy views. Confronted with a fragmented and polarized Parliament, the Italian Consiglio dei Ministri issued an increasingly high number of Decreti Legge (DL) throughout the decades since December 1947, given the increasing difficulty of passing legislative proposals through normal procedure (NPL). Despite the increasingly high rate of issuing, the Italian DL are frequently rejected and amended, given the ample institutional veto-powers the Italian Parliament has in relation to the Executive, as far as DL are concerned (it might not be necessarily true for other types of Executive-Legislature interactions in Italy).

The same bargaining problem the Executive faces in the Legislature emerges equally in Argentina and Romania, as I will show later. The recourse to Decrees and their subsequent treatment in the Legislature sets the level of Executive accountability according to the institutional veto-player resources attributed to each branch of government. As I will show later, the Argentine and Romanian Executives solve their bargaining problems in relation to the Legislatures by using the same agenda-setting resource (the Decree) but with different outcomes to the Italian Executive, given their different institutional veto-player powers.

The branch that has more institutional veto powers on the other's legislative proposals is likely to see its policy views prevailing in case of divergence. This should not preclude the possibility of intense policy bargaining between the Executive and the Legislature.

The veto-player structures (partisan and institutional) provide a good understanding of how political parties and formal constitutional arrangements interact with each other across political systems in determining how decisions are taken. Mapping out Executive-Legislative relations as a function of partisan and institutional veto-players allows for comparison across regimes types, while highlighting the importance of the dynamic interaction between institutional and partisan policy-making structures for the problems confronted by the new democracies (Tsebelis, 1995).

The partisan and institutional veto-players model provides the lowest common denominator

across political systems, since any legislative coalition can be defined according to its structure and its capacity to reach decisions (with or without negotiation), while any formal institutional configuration of power can be defined according to how it distributes power resources between the Executive and the Legislature through the definition of the Decree and the conditions of its legislative treatment.

In what follows, I will explore the causes of Executive decree issuing and the level of Executive accountability to the Legislature's function of Decree rejection and amending rates in each country case. I will also compare country cases in the last section of the next chapter.

V. THE EMPIRICAL EXPLORATION OF COUNTRY CASES: EXECUTIVE DECREES AND ACCOUNTABILITY ACROSS POLITICAL SYSTEMS

Italy: high Decree issuing and high Executive accountability

Motto: "Regarding the conditions that can lead to an Executive constantly issuing decrees... There are mainly two instances. The first instance is a strong, authoritarian Executive, which defies the opposition. The second instance is a weak Executive, which constantly has to confront not only the opposition, but also its own internal dissent, an Executive which issues decrees in an attempt to hold together the majority that supports it, or should support it; otherwise the internal contradictions would explode".

Italian MP Machiavelli, *Atti*, VI Legislatura, p. 4419, quoted in Cazzola (1975: 13).

1. Introduction

This chapter is organized as follows: the first section explores the influence of legislative coalitions supporting or opposing the policy initiatives of the Italian Executive on the propensity of the latter to issue Decreti Legge (or DL, the Italian name of the Executive Decree exercised based on constitutional decree authority). I argue that the internal divisions of the Italian parties, as well as the high fragmentation and polarization of the party system, create the need for the Executive to overcome the ensuing legislative instability by issuing DL.

The second section will present the formal legal status of the DL in Italy before and after the constitutional reform of 1996 and its effect on the success-rate of the DL. I argue that the constitutional definition of the DL strictly in favour of the Parliament turns it into a weak, easy to repeal, agenda-setting power of the Italian Executive. The DL is a simple legislative proposal, with immediate legal effect under the pretence of exceptional circumstances, which nevertheless becomes invalid if the Parliament does not decide on it within a 60 days constitutional deadline (rule of tacit rejection).

The third section offers some tentative conclusions about the dynamic relation between the Italian Parliament and the Executive. I argue that the latter is accountable to the former even when excessively issuing DL because the Italian political parties shaped and dispersed the institutional veto power in such a way as to ensure firm control on the policy initiatives of the Executive, despite being part of a fragmented and polarized party system.

The words of Italian MP Machiavelli quoted in the opening of this chapter accurately reflect the incapacity of the Italian political system to produce legislative coalitions that would ensure stability and efficiency in the process of policy-making by reaching decisions after negotiation and compromise.

The vast majority of all Italian coalitions since 1948 until 1993 had been highly fragmented and polarized, providing weak legislative support for the Executive, translating into the latter's incapacity to pass legislative initiatives sent to Parliament through normal procedure (NPL) in a timely fashion and the ensuing recourse to DL in order to compensate for this incapacity. The only less fragmented and less polarized (therefore more stable) coalitions emerge after the electoral reform of the 1990s, on the centre-right part of the Italian political spectrum, as I will show later. Even these issue a large number of DL, simply because they have the capacity to pass any piece of legislation through the Parliament, representing what MP Machiavelli is referring to in the above quote as "authoritarian" Executive. Therefore, the Italian political system generates either Type 1 (weak) or Type 2 ("dictatorial") legislative coalitions supporting the Executive, according to the classification presented in the literature review.

The major Italian political parties traditionally had significant internal divisions¹⁸. Some ideologically motivated factions centred on different leaders from the same party and did not follow the official party policy line (the case of the major parties), while some power-oriented factions attempted to align their policy positions with those of the Executive if motivated to join it (the case of smaller political parties).

Furthermore, the Italian proportional representation electoral system had constantly led to a large number of parties in Parliament until 1993. The political parties present in Parliament represented a wide range of ideological identities: from extreme left to extreme right, a divided centre and versatile centre-right and centre-left political parties. The outcome had been a

¹⁸ For a detailed presentation and analysis of the internal divisions of Italian political parties see Cotta (1979), Cotta and Verzichelli (1996), Farneti (1983, 1985) and Sartori (1982).

constant legislative instability which made the recourse to DL a rational strategy of the Italian Executive, in a constant attempt to overcome the incapacity of the partisan veto-player structure of accountability to reach policy decisions after negotiation and compromise.

The institutional veto-player structure of Italy favours the Parliament: the powers of the Executive are weak when dealing with a negative legislative response to a DL. In case the DL is rejected, the Executive cannot veto the rejection of the Parliament. However, the 1947 Constitution does not mention any provisions in case the legislative coalitions choose the cost-efficient strategy of tacit rejection and allow the DL to lapse by ignoring it. The Italian Executive speculated on this constitutional loophole throughout the decades and increasingly re-issued the lapsed DL, only with slight formal changes, in an attempt to compensate for its weak institutional veto-player powers, as a surrogate form of veto power, as I will explain later.

The direct effect of an institutional veto power in favour of the Parliament is a high Executive accountability: low success-rate and high amending rate of DL, despite the gradual trend of increased DL issuing since 1948. The trend to rule by DL increases significantly over time despite the constitutional reform of 1996. This indicates that the interaction between the institutional and partisan structures of accountability induces a legislative practice highly detrimental to the quality of democracy, by attempting to promote policy without exposing it to parliamentary scrutiny.

Therefore, the Italian political system exhibits the structural features that have the potential to lead to a low Executive accountability. However, the systemic trend towards low Executive accountability is counterbalanced by the formal configuration of the Executive-Legislative relations in so far as DL is concerned, granting almost total agenda-setting power to the Parliament through effective mechanisms of institutional control over the Executive.

The empirical information in this chapter contains data for legislation initiated by the Italian Executive through DL as well as through normal procedure (NPL) in both the Chamber of Deputies and the Senate for the reasons explained earlier in the thesis.

2. Legislative fragmentation and the partisan veto-player structure of accountability

The Italian Executive rarely enjoyed solid parliamentary support between 1948 and 1993. Most of the legislative coalitions supporting the Executive had been oversized, fraught with intra-partisan and inter-partisan divisions, made up of political parties weary of electoral loss, always ready to desert the coalition if their political fortunes required them to do so.

The Italian coalitional politics since 1948 had been highly determined by the polarized multi-party system present in this country (Cotta and Verzichelli, 1996: 1-2). Seven parties of relatively stable weight had been the main actors of a game of forming and dissolving Cabinets in a constant search for a coalitional formula that would ensure a stable and efficient government: PC (Partito Comunista), PS (Partito Socialista), PSD (Partito Social Democratico), PR (Partito Repubblicano), DC (Democrazia Cristiana), PL (Partito Liberale) and MS (Movimento Sociale).

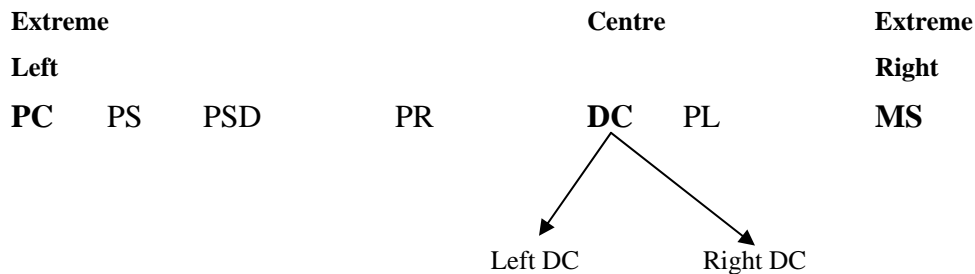
The high fragmentation of the party system had been accompanied by an equally high political polarization along the pro-system/anti-system or communist/anti-communist divide, making it virtually impossible to assemble a governing coalition that would last in power long enough to ensure an efficient policy-making process.

The major purpose of all governing coalitions assembled around Democrazia Cristiana (DC) since 1948 had been the relegation of the Communist Party (PC) to a permanent opposition status, given its anti-system programmatic orientation. In this act of fine coalitional balancing, 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 the governing coalition.

Except for the elections of 1948, DC itself never won a majority of votes that would have enabled it to govern on its own (Cotta and Verzichelli, 1996: 4). Caught between its own need to govern the country as the major party in government while keeping the Communist Party (PC) out of power, and the need of its smaller allies to mitigate electoral loss by distancing themselves from the governing coalition of which they formed part, DC had always had to build an oversized governing coalition, but also maintain the coalition long enough and ensure its proper functioning. The long string of cabinet resignations and re-negotiations among parties attempting

to form new Cabinets without calling elections testifies for the failures of DC to assemble and maintain governing coalitions.

The explanation for this failure rests with the heterogeneous nature of the DC-centred coalitions: cabinets brought together either socialist/bourgeois coalitions, or clerical/anti-clerical coalitions (Cotta and Verzichelli, 1996: 4) with the obvious outcome of intra-coalitional bickering and eventual break-up (see diagram below for ideological positioning of the Italian political parties).



The first factor contributing to coalitional instability had been the competition imposed on the centre-left and centre-right parties by the extreme PC and neo-fascist MS: the socialist PS, the social democratic PSD and the left-republican PR had always competed with each other for the limited political space between the Christian Democratic DC and the PC, while being fearful of electoral loss to the latter.

On the other side of the ideological divide, the right-liberal PL had always attempted to protect itself from losing votes to the extreme right MS. Therefore, both the centre-left and the centre-right attempted to impose policies closer to their ideological preference whenever in government, while opposing the policies promoted by the other coalition members.

The second factor increasing the instability is the internal factionalism of DC itself, which had two large political wings, one more right/clerical-oriented, the other more left but still bourgeois-oriented. Each one of these wings came under the pressure of the other when in the government if it distanced itself from the political identity of DC when making policy concessions to the coalition allies.

The third factor contributing to coalition instability is the interaction between the first and the second: DC factions attempted to ally themselves with the part of the political spectrum they were closest to outside DC. The other parties also had different factions leading to internal

dissent and coalition instability. PS had been divided on the question of collaborating with DC, PSD had the same internal divisions as PS but to less severe extent, while only the smaller PR and PL were more internally cohesive.

The major outcome of this coalitional bargaining among polarized political parties is a complicated political game in which a number of short term political cycles emerge, each characterized by one specific coalition formula (see Table 1 below): Centrism, Centre-left, National solidarity (the only attempt to involve the communists in the act of governing) and the Pentapartito.

Table 1: Phases and sub-phases of coalition government in Italy before the electoral reforms of early 1990s (source: Cotta and Verzichelli, 1996: 35)

Phases	Years	Parties	Cabinets	Sub-phases and Prime-Ministers
Centrism	1948-1960	DC-PLI-PSD-PR	13	Preparation: Gasperi Central period: Gasperi V, VI, VII Crisis: Gasperi VIII, Pella I, Fanfani I New stabilization: Scelba I, Segni I Final crisis: Zoli I, Fanfani II, Segni II, Tambroni I
Centre-left	1960-1975	DC-PS-PSD-PR	17	Preparation: Fanfani III, IV, Leone I Central period: Moro I, II, III Crisis: Leone II, Rumor I, II, III New stabilization: Colombo Attempts to change: Andreotti I, II Decline and final crisis: Rumor IV, V Moro IV, V
National solidarity	1976-1979	DC-PC-PS-PSD-PR-PL	3	Preparation and central period: Andreotti III, IV Crisis: Andreotti V
Pentapartito	1980-1992	DC-PS-PSD-PR-PL	14	Preparation: Cossiga, Forlani Central period: Spadolini, Fanfani V, Craxi Crisis and re-negotiation: Craxi, Fanfani, Goria, De Mita New stabilization: Andreotti Final crisis: Amato

The major difference among these coalitional phases, with the exception of the National solidarity phase, had been the inclusion or exclusion of one of the smaller parties, which generated severe instability by entering and deserting the coalition, or by staying in the coalition

but opposing the policies of the senior partner, particularly during the Centre-left phase and the Pentapartito phase.

Before explaining the dynamics of coalition formation, functioning and breakdown, it is useful to distinguish between a coalitional formula, a coalitional phase and a coalitional sub-phase (Cotta and Verzichelli, 1996: 4-5).

A coalitional formula consisted of a certain partisan composition of the Government and the accompanying policy platforms, as well as the specific distribution of government posts according to the electoral weight of each party.

A coalitional phase lasted a long period and it had been characterized by the continuous attempt of the political actors occupying positions in the Executive to make the coalition formula function; building and rebuilding Cabinets that would fit the policy position of all partners and their claims for government positions.

Each coalitional phase experienced more or less three sub-phases. The preparatory sub-phase involved the experimentation with the new coalition formula, but without the full engagement of all political parties. The central sub-phase of each cycle implied more lasting Cabinets with all parties acting as full members of the coalition, while the 'decline' sub-phase had been characterized by increased instability, shorter-lived Cabinets and the disengagement of some coalition partners. Each phase, except that of National solidarity, experienced a sub-phase of crisis followed by a sub-phase of relative stabilization. The National solidarity phase does not exhibit the same sub-phase evolution given its high polarization due to the presence of the PC in the legislative coalitions supporting the Executive and the impossibility to renegotiate the coalitional formula (for a list of formulae, phases and sub-phases of Italian politics see Table 1 above).

The Italian polarized multi-partism itself had been the outcome of the PR electoral system in place from 1948 until 1993, which provided no serious incentive for electoral coalitions, leading to a large number of parties in Parliament.

Another feature of the Italian political system that compounded the problems of polarized multi-partism had been the full bicameralism. There is no functional difference between the two Parliament chambers, which might well have different majorities, leading to the possibility that legislation passed in one chamber can be rejected in the other. This institutional configuration had been an incentive for building larger rather than smaller government coalitions in order to

ensure parliamentary support, therefore increasing the possibility that the coalition will be fragmented and polarized.

The change in the electoral system that occurred in 1993 with the introduction of a 75% plurality representation and 25% proportional representation did not necessarily reduce the perils of fragmentation and polarization. The parties formed oversized electoral coalitions, but engaged in similar coalitional behaviour after elections: some parties of the same electoral coalition formed different parliamentary groups once in Parliament, while other parties of the winning coalition opted out of the government formula.

Therefore, although the electoral competition became more “polarized” between two major camps along the left-right divide and the voters had a better defined electoral choice after 1993, the winning electoral coalitions did not necessarily form stable governing coalitions once in power. The reason is the same problem of fragmentation and polarization inside the same part of the political spectrum once the parties occupy their legislative benches: they organize and behave as individual partisan entities, sometimes in disregard to the electoral coalition logic that ensured their election to Parliament.

However, a difference does emerge after the landmark changes of 1993: the Centre-right coalitions, built around Forza Italia (FI), are significantly less polarized and fragmented than the centre-left coalitions, built around Democratici di Sinistra (DS), an ample left-oriented coalition. The latter ones still exhibited higher fragmentation and polarization because of the many factions inside the leftist parties and the presence of the highly ideological PC communist party.

This has important implications for the theoretical assumptions of this thesis, as I will show later in greater detail: it is the first time in Italian politics that Type 2 “dictatorial” coalitions emerge after 1993. The Italian centre-right coalitions have a low degree of polarization and fragmentation and a high capacity to put through the Parliament most of the legislation that they initiate. I will elaborate on this aspect later in this chapter.

The legislative instability that ensued in a highly fragmented and ideologically polarized party system translated first and foremost into a decreasing success-rate of Executive-initiated NPL. This expectation is confirmed by empirical information (see Table 2 below).

Table 2: The volume of DL and the volume and success-rate of NPL in Italy 1948 – 2006.

Coalitional phase	I. DL issued	II. NPL issued	III. NPL success
Centrism 1948-1960	3% (105)	97% (4292)	90% (3894)
Centre-left 1960-1975	7% (310)	93% (4310)	86% (3744)
Solidarity 1976-1979	19% (185)	81% (831)	77% (644)
Pentapartito 1980-1992	30% (1068)	70% (2573)	69% (1786)
Transition 1993-1996	75% (810)	25% (273)	58% (161)
New system 1996-2006	29% (401)	71% (999)	84% (839)
Total 1948-2006	18% (2879)	82% (13278)	83% (11068)

Column I in the Table 1 above indicates the number of DL issued by each Italian Cabinet since 1948, as well as the percentage volume of DL in the total volume of Executive-initiated legislation. Column II indicates the same measure, only for Executive-initiated NPL. Column III indicates the success-rate of Executive-initiated NPL.

The information in Table 2 reveals a few important empirical findings. Firstly, Italy is not a country ruled by DL, as some of the democracy literature reviewed in the previous chapter on literature and theoretical review would predict by taking notice of a high number of these acts (O'Donnell, 1994, 1996, 1999, 2003). Despite the obvious trend of increased DL issuing throughout the decades (see Column I in Table 2 above), the volume of DL compared to the volume of Executive-initiated NPL for the whole period under observation is only 18% (compare row Total for Column I and Column II in Table 2 above).

Secondly and as expected, there seems to be a correlation between the success-rate of NPL and the tendency of the Italian Executive to issue DL. The Italian Executive had experienced increased difficulty in passing NPL in Parliament: the success-rate of NPL drops constantly from 90% approval rate during the Centrist phase of Italian politics to a low 58% approval rate during the Transition phase (see Column III in Table 2 above). The lower the NPL success-rate, the higher the volume of DL issuing (see the inverse correlation between Column III and Column I in Table 2 above). The phase of Transitional politics (1993-1996) reaches a peak of DL issuing: the Italian Executive issues 75% of its legislative initiatives by DL and only 25% by NPL. However, 1993-1996 was a period of exceptional politics, marked by a major change in the party system and a national anti-corruption campaign that led to the arrest of important political figures. Most of the cabinets of this period are “technical” (non-political), as I will show later.

The overall trend indicates a correlation between the success-rate of NPL and the tendency to issue DL. I will test this assumption later through a series of two-tailed Pearson correlations.

I will explore the functioning of legislative coalitions for each major phase of Italian politics as defined earlier in order to show why testing for possible correlations between the success-rate of NPL and the issuing rate of DL can strengthen the theoretical argument of the thesis.

2.a. Coalitional phases, legislative instability and the issuing of Emergency decrees

The Centrist phase of Italian politics (1948-1960), characterized by more coalition stability, exhibits a significantly smaller volume of DL compared to Executive-initiated NPL than the rest of coalitional phases. The stability is explained by a more clearly defined profile of the Christian democratic DC as a centrist party: its major factions did not begin to develop different legislative strategies as long as the coalitional formula had been functional. The success-rate of NPL is 90%, as shown in row Total Column II in Table 3 below.

Table 3: DL issuing, NPL issuing and NPL success-rate during Centrism.

Cabinets: Centrism (1948-1960)	I. DL issued		II. NPL issued	III. NPL success
1. De Gasperi V	(7)	2%	98% (2149)	93% (1996)
2. De Gasperi VI	(6)			
3. De Gasperi VII	(16)			
4. De Gasperi VIII	-	4%	96% (1564)	92% (1439)
5. Pella I	(5)			
6. Fanfani I	-			
7. Scelba	(18)			
8. Segni	(29)			
9. Zoli	(9)	3%	97% (579) (aprox.)	79% (459) (aprox.)
10. Fanfani II	(5)			
11. Segni II	(5)			
12. Tambroni	(5)			
Total Centrism (1948-1960)	3% (105)		97% (4292)	90% (3894)

Despite the low rate of DL issuing (3% for the whole Centrist phase), the correlation between the success-rate of Executive-initiated NPL and the tendency to issue DL is already visible (compare the inverse correlation between Column III and Column I in Table 3 above). Research constraints prevented the collection of information on the success-rate of NPL for each coalition

(Cabinet) of this particular phase of partisan politics, as I have explained in the section dedicated to operationalization of accountability in Chapter II. This reduces the number of units of analysis from 12 (number of Cabinets in place during the Centrist phase) to only 3 (periods for which the success-rate of NPL can be correlated to the volume of DL issuing). Despite this empirical research constraint, the correlation between the Executive incapacity to promote its policy views through NPL and its tendency to rule by DL is shown in Column I and Column III in Table 3 above. The NPL success-rate drops from 93% to 79% by the end of this coalitional phase, while the volume of DL issuing increases from 2% to 4% from the first to the 9th Cabinet of the phase (from De Gasperi V to Zoli in Table 3 above).

The Centrist period of Italian politics exhibits longer tenures in power of Executive coalitions, given the lower ideological polarization and the subsequently low number of partisan veto-players in Parliament supporting the Executive. However, the first picture presented by the first period of coalitional politics is indicative of a structural tendency to govern by DL caused by the difficulty encountered by the coalition partners in reaching negotiated decisions. The difficulty of governing in a heterogeneous coalition formula had become manifest from within the DC itself: the Zoli Cabinet (1958) lost its legislative support before elections and had been asked to stay in power until a new Parliament had been elected (Cotta and Verzichelli, 1996: 22). The difficulty of reaching negotiated policy decisions grew exponentially during the next coalitional phase, when the DC intra-party conflicts became manifest.

Generally, the Executive attempted to escape policy scrutiny in Parliament, as long as the controversial policies were expected to face parliamentary opposition even from within the benches of the parliamentary groups that supported the Cabinet.

As I have argued earlier, the relevance of governance by DL resides in the volume compared to the volume of Executive-initiated NPL and in the actual trend (volume increasing over time), and not necessarily in the number of DL as such. It becomes irrelevant that the actual number of DL is significantly lower during the Centrist phase compared to later coalitional phases. The structural cause inducing a systemic propensity towards a low executive accountability is the partisan veto-player structure of the legislative coalitions, present since 1947 and generating effects which will become increasingly obvious across the decades, as I will show further.

The next coalitional period (1960-1975), the Centre-Left already exhibited a higher degree of instability, after the “opening” of the more socially oriented factions of DC towards the Italian

left. Another factor that facilitated the aperture for the left and the emergency of this new phase of coalitional politics had been the gradual move of the socialist PS from the left of the political spectrum towards the centre and its increasingly moderate political discourse. The socialist PS and the social democratic PSD had been invited to take part in the Cabinet and support it from Parliament.

The accompanying noticeable trend of diminishingly successful NPL is indicative of the difficulties encountered when the much needed policy negotiation could not be concluded because of the high number of partisan veto-players, given the fragmentation and polarization of the legislative coalition. The “opening” to the left of the DC-centred Executive had been motivated by the need to find a coalition formula that would mitigate the instability induced by the DC internal factionalism. Despite the goodwill pledges, it did not reach the intended outcome and the invitation of an increasing number of parties to join the legislative coalition and join the Executive had led to an actual increase in its level of fragmentation and polarization.

The same research constraints mentioned earlier prevented the collection of information regarding the success-rate of NPL for each coalition (Cabinet) of this particular phase of partisan politics. This reduced the number of units of analysis from 17 (number of Cabinets in place during the Centre-Left phase) to only 4 (periods for which the success-rate of NPL can be correlated to the volume of DL issuing). Despite this empirical research constraint, the correlation between the Executive incapacity to promote its policy views through NPL and its tendency to rule by DL is shown in Column I and Column III in Table 4 below. The NPL success-rate drops from 97% to 83% by the end of this coalitional phase, while the volume of DL issuing increases accordingly from 2% to 10% from the first to the 17th Cabinet of the phase (from Fanfani III to Moro V in Table 4 below).

Table 4: DL issuing, NPL issuing and NPL success-rate for Centre-Left phase (1960-1975).

Cabinets Centre-left (1960-1975)	I. DL issued		II. NPL issued	III. NPL success
1. Fanfani III	(10)	2%	98% (904) (aprox.)	97% (881) (aprox.)
2. Fanfani IV	(4)			
3. Leone I	(4)	6%	94% (1442)	87% (1259)
4. Moro I	(9)			
5. Moro II	(26)			
6. Moro III	(55)			
7. Leone II	(6)	8%	92% (831)	80% (663)
8. Rumor I	(11)			
9. Rumor II	(11)			
10. Rumor III	(11)			
11. Colombo	(29)			
12. Andreotti I	(2)	10%	90% (1133)	83% (941)
13. Andreotti II	(25)			
14. Rumor IV	(24)			
15. Rumor V	(24)			
16. Moro IV	(33)			
17. Moro V	(26)			
Total Centre-left (1960-1975)	7% (310)		93% (4310)	86% (3744)

The increased fragmentation and polarization brought about by the presence of leftist parties in the coalition supporting the Executive has increased throughout the years from 1960 until 1975. The crises breaking down Cabinets were most often extra-parliamentary. The Fanfani and Moro Cabinets lost their legislative support before elections and had been asked to stay in power until a new Parliament would be elected (Cotta and Verzichelli, 1996: 22).

The government composition had been difficult to agree on and it emerged only after a number of bargaining attempts lasting for a long period, sometimes months, while a minority cabinet was put in place. The role of such a Cabinet was transitional, while its sole purpose was to ensure the governing of the country and prepare the agreement for a new coalition. Such a transitional cabinet (which often has only one party) had been the base of the future cabinet containing all coalition partners. Examples of such transitional cabinets during the Centre-Left phase of Italian politics are Fanfani III (DC), Fanfani IV (DC-PR-PSD), Leone I (DC), Leone II (DC) and Rumor II (DC) (see Tables 1 and 3 on pages 89 and 93 earlier). The leaders continued to negotiate while these minority cabinets were in place. If no agreement was reached, then weak cabinets with unstable parliamentary support could drag on for many months in a political crisis

called “crisi al buio”, literally meaning “crisis in the dark”. The Moro V Cabinet is an example of “crisi al buio”, being asked to govern only until the next formula would be in place. Given the failure of this phase of coalitional politics, the Moro V Cabinet ensured the transition to the next phase of coalitional politics: National Solidarity.

Continuing the trend of coalitional instability induced by the highly fragmented and polarized partisan structure of accountability, the National Solidarity coalitional period (1976-1979) exhibits a stronger tendency for unaccountable Executive rule through the issuing of an increased volume of DL compared to the Executive-initiated NPL.

This is the period during which Italy was governed by the most heterogeneous Executive coalition before the collapse of its party system in the early 1990s. In an attempt to keep the country under control in times of resurgent terrorist activities, as well as contain the radicalization of the Italian communists, the DC accepted to govern together with an anti-system party, turning policy-making into a difficult negotiation game. The National Solidarity legislative coalition supporting the Executive contained the PC, besides the other leftist parties (the socialist PS and the social-democratic PSD) (Cotta and Verzichelli, 1996: 38-39), increasing the legislative instability and the tendency of the Executive to issue DL in order to compensate for the incapacity of coalition partner to negotiate policy.

Table 5: National solidarity period of 1976-1979: NPL success-rate and DL issuing.

Cabinets National solidarity (1976-1979)	I. DL issued	II. NPL issued	III. NPL success
30. Andreotti III	(87)	Not available	Not available
31. Andreotti IV	(50)	Not available	Not available
32. Andreotti V	(48)	Not available	Not available
Total National solidarity (1976-1979)	18% (185)	82% (831)	77% (644)

The approval rate of NPL drops from 90% (during the Centrist phase) and 86% (during the Centre-Left phase) to 77% during the National Solidarity phase (see row Total for Column III in Table 5 above). The volume of DL compared to the volume of NPL increases spectacularly, from 3% under Centrism and 7% under Centre-Left to a high of 18% under National Solidarity (see row Total for Column I in Table 5 above).

The National solidarity phase represents a significant political compromise of the Italian political class and its party system, given their incapacity to assemble functional legislative coalitions that would ensure stable support for Executive first and foremost through the negotiation and passage of Executive-initiated NPL. This phase was short-lived compared to the previous ones, lasting only three years, given the unstable legislative support offered by the PC, whose party representatives did not join the Executive themselves, but supported it from Parliament after a formal agreement. The last cabinet of Andreotti V had been asked to stay in power after losing its legislative support until the next phase of Pentapartito.

The next coalitional period, the Pentapartito (1980-1992), reflects even more strongly the systemic tendency towards a high volume of DL issuing. The legislative coalition supporting the Executive had been made up of the Christian democratic DC, the socialist PS, the Republican PR, the social democratic PSD and the liberal PL, a formula that searched without success for governance stability by including all the non-extremist political parties who pledged to stay together without deserting the coalition in order to govern the country efficiently. Despite the goodwill pledges, the Italian political establishment found its ultimate failure in building negotiation and consensus with the Pentapartito period. On a background of decreasing DC electoral fortunes and an increasingly assertive socialist party (PS), the coalitional instability grew stronger than ever before. The country confronted a prolonged economic crisis and a resurgence of organized crime activities pervading State structures and targeting State officials.

The renegotiation of the cabinet structure in order to avoid calling early elections became more difficult when the inter-partisan polarization of the coalition increased under the Pentapartito phase. The number of Executives brought down by inter-party conflicts increased (Figura, 2000). The Spadolini I Executive (1981-1982) had been dismissed after the socialist ministers left the Coalition because the legislative majority supporting it in the Chamber rejected a DL on taxing oil products. The Craxi I (1983-1986) and Craxi II (1986-1987) cabinets fell because of policy disagreements between the junior coalition partners the socialist PS and the left-republican PR, as well as the incapacity to reach an agreement between the socialists PS and the senior coalition partner the Christian Democratic DC regarding the individual who should occupy the position of Prime Minister, the socialist Craxi or the Christian Democrat De Mita (Figura, 2000).

The Fanfani V (1982-1983) cabinet collapsed after the socialist PS abandoned the majority. Early elections had been called after no agreement had been reached to form a new government. The Gorla I cabinet (1987-1988) had been dismissed as the outcome of a dispute between the senior coalition partner Christian Democratic DC and the junior coalition partner the socialist PS on maintaining the functioning of a nuclear power plant, while the De Mita I Executive (1988-1989) had been dismissed simply because the participants at the Congress of the socialist PS had engaged in strong rhetoric against their own governing partner, the Christian Democratic DC.

The failure of the coalition formula is accurately reflected in the dynamic of NPL success-rate (see Column III in Table 6 below) and DL issuing (see Column I in Table 6 below):

Table 6: DL and NPL issuing and success-rate Pentapartito period (1980-1992).

Cabinets Pentapartito (1980-1992)	I. DL issued	II. NPL issued	III. NPL success
1. Cossiga I	13% (45)	87% (326)	77% (254)
2. Cossiga II	15% (18)	85% (104)	75% (78)
3. Forlani	32% (54)	68% (120)	68% (82)
4. Spadolini I	31% (91)	69% (208)	63% (133)
5. Spadolini II	28% (15)	72% (40)	37,5% (15)
6. Fanfani V	38% (25)	62% (41)	56% (23)
7. Craxi I	21% (176)	79% (680)	73% (502)
8. Craxi II	46% (69)	54% (81)	11% (9)
9. Fanfani VI	98.4% (60)	1.6% (1)	0% (0)
10. Gorla I	26% (76)	74% (218)	90% (198)
11. De Mita I	36% (122)	64% (221)	76% (170)
12. Andreotti VI	33% (128)	67% (264)	68% (180)
13. Andreotti VII	45% (84)	55% (105)	46% (49)
14. Amato I	42% (114)	58% (164)	56% (93)
Total Pentapartito	30% (1068)	70% (2573)	69% (1786)

The partisan veto-player structure reaches its most devastating effects for the legislative process during the Pentapartito: the Executive has no other option for promoting legislation but the recourse to DL. The volume of DL compared to NPL increases spectacularly from 13% under the first cabinet of the period (see Column I for the Cossiga I Cabinet in Table 6 above) to a high 45% under the Andreotti VII cabinet. The success-rate of Executive-initiated NPL fluctuates, with a high of 90% under the Gorla I cabinet, and a low of 11% under the Craxi II

cabinet. Most importantly, the total of DL issuing is 30% under the Pentapartito, the highest issuing rate since 1948 (see Column I in last row Total Pentapartito in Table 6 above).

The next two coalitional phases of Italian legislative politics, namely the transition period (1993-1996) and the new party and political system (1996-2006), provide a good opportunity to compare legislative trends in order to identify the causal factors behind the tendency of the Executive to issue DL.

The Transition period (see Table 7 below) heralds the highest volume of DL issuing in Italy, after almost half a century of unsuccessful attempts to overcome the fragmentation and polarization of the party system.

Table 7: The issuing of DL and its treatment during the Transition period.

Cabinets Transitional phase (1993-1996)	I. DL issued	II. NPL issued	III. NPL success
47. Ciampi	85% (311)	15% (58)	31% (18)
48. Berlusconi I	53% (163)	47% (143)	76% (109)
49. Dini	83% (336)	17% (72)	47% (34)
Total transitional phase	75% (810)	25% (273)	58% (161)

The Italian party system collapsed in the early 1990s under criminal investigations revealing large corruption schemes involving almost all leaders of all political parties. 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: it collapsed because of a typical inter-partisan conflict in the Executive coalition (Cotta and Verzichelli, 1996: 25). The junior partner Lega Nord abandoned the coalition given its high veto-player potential because of the slow progress towards the administrative devolution of the country, but also because of intra-Cabinet dissension about the pension reforms (Figura, 2000: 235).

The technical cabinets of Ciampi and Dini initiated most of their legislation by DL. The technical cabinets presented the Parliament with a disproportionately larger number of DL compared to NPL (see Table 7 above). Even the political cabinet of Berlusconi I initiated most of its policy by DL, given the political instability.

This period of Italian politics has similarities to the emergency situations found in many new democracies, where newly established political institutions and unstructured party systems

struggle to tackle financial collapses, military uprisings or civilian unrest. The primary function of these Executives had been the overcoming of the crisis, by all means, including turning the Legislature into a rubberstamp institution by taking over legislative functions in the form of governance by Decrees based on constitutionally granted prerogatives.

The major relevance of this period of Italian politics rests with the manifold crises that it experienced and the non-political nature of governance by DL. Now it is not the number of partisan veto-players that provokes the Executive to rule by DL rather than NPL, but the need to keep the situation under control without wasting precious time in parliamentary debates and scrutiny.

Turning now to the new electoral and party system in place in Italy after 1996, it noticeably exhibits the same tendency of the Executive to rule by DL as before 1993, despite the constitutional reform of 1996 attempting to prevent the re-issuing of Decrees (see Table 8 below).

Table 8: DL and NPL issuing and NPL success-rate New political system (1996-2006).

Cabinets New system (1996-2006)		I. DL issued	II. NPL issued	III. NPL success
50. Prodi I	13 th Parliament (1996 – 2001)	28% (198)	72% (519)	83% (428)
51. D'Alema I		26% (42)	74% (122)	71% (87)
52. D'Alema II		31% (15)	69% (34)	55% (19)
53. Amato II		47% (44)	53% (50)	38% (19)
54. Berlusconi II	14 th Parliament (2001 – 2006)	37% (187)	63% (324)	97% (317)
55. Berlusconi III		56% (42)	44% (34)	97% (33)
Total new system		32% (548)	68% (1118)	81% (914)

Table 8 above reveals two important trends. Firstly, the centre-left Cabinets (Prodi I, D'Alema I, D'Alema II and Amato II) continue to encounter a low success-rate of their respective NPL sent to the Parliament: it drops from 83% to 38% (see Column III in Table 7 above). The DL issuing increases accordingly: from 28% of the total initiated legislation to 47% (see Column I in Table 8 above for the first four Cabinets).

The new political and party system in place after 1996 until 2006 (the last year for which empirical information is accounted for in this thesis) still exhibits a high polarization of the centre-left coalitions with the countless factions of the Communist party and the various strands of socialists and social democrats: four leftist Cabinets governed Italy during the 13th Parliament,

from 18th May 1996 until 11th June 2001, rotating in power without calling elections after inter-partisan negotiations following the same pattern as between 1948 and 1993¹⁹.

The Prodi I, D'Alema I, D'Alema II and Amato II Cabinets had been based on the broad leftist alliance of L'Ulivo, comprised of not less than 9 political parties of varying leftist orientations. In a constant attempt to hold the Executive in power L'Ulivo gradually allied itself with the communist PDC (Partito Demo-Communita) and the Christian democratic splinter UDR (Unione Democratica per la Repubblica) leading to the D'Alema I Executive. The second expansion of the coalition occurred when the Christian democratic splinters of DEMO and UDEUR joined the Executive leading to the formation of the D'Alema II Executive. The number of Executive partners went even higher under the Amato II Executive with the social democratic SDI joining the Executive. The coalition fragmentation and polarization was as high as before 1993, with Communists, Christian Democrats, Greens, Socialists and Social democrats attempting to govern together. The Cabinet changed each year between 1996 and 2001 at a rate that is similar to those of traditional Italian politics of 1948-1993.

Secondly, coalitions of a “dictatorial”-type emerge clearly after 1996, given that the new electoral system and the political party system reforms led to more cohesive centre-right coalitions, with a significantly lower degree of fragmentation and polarization, therefore a significantly low number of partisan veto-players.

The new Italian centre-right, built around Forza Italia, the political party presided over by Silvio Berlusconi, did not confront the same political circumstances the DC confronted for almost 50 years. The latter had to build oversized coalitions to prevent the rise to power of the Communist party under the political constraints of the Cold War. DC always had to make policy concessions, often not being capable of reaching any agreement with its coalition partners over policy sensitive issues. The new Italian centre-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 their NPL, while still issuing a high number of DL compared to NPL. These two Cabinets initiated their legislation 37% and 56% through DL (see Table 8 on page 101 earlier). These are Executives that MP Machiavelli quoted in the opening of the chapter refers to as “strong, authoritarian Executive”,

¹⁹ Information from the official website of the Italian Executive www.governo.it

which can easily pass most of their legislative initiatives through Parliament, as proven by the high approval rate of their NPL (97% for both Berlusconi cabinets).

The cohesion of the new centre-right political Cabinets is proven by their duration in power for almost 5 years (the Berlusconi II and III Cabinets governed Italy between 11.06.2001 and 17.05.2006)²⁰. Both Berlusconi II and III Cabinets had been based on the ideologically close Cassa delle Liberta political alliance initially comprised of only four ideologically close centre-right political parties (Forza Italia, Aleanza Nazionale, Lega Nord and Unione Demo-Christiana). The Berlusconi II Cabinet lasted in power in this coalitional formula for four years (June 11, 2001 – April 23, 2005), the longest surviving Italian Executive in the post-World War II history of the country. The Berlusconi III Cabinet expanded the political alliance Cassa delle Liberta to include two more political parties, without disintegrating before elections. The ideological cohesion of these Cabinets ensured their capacity to pass any type of legislation through Parliament without having to negotiate with the Opposition.

The same holds true for the Berlusconi I cabinet, which initiated most of its legislation by DL (53%) (see Table 7 on page 100 earlier). The only difference between the Cabinets Berlusconi I, II and III is that the first one had governed Italy under extreme political circumstances during times of political transition, which strengthened its tendency to issue DL proportionately higher than necessary, given not only its Type 2 “dictatorial” nature, but also the political circumstances it had to confront.

However, all centre-right Cabinets continue to issue a disproportionately large number of DL even after the political transition had finished and even when their NPL has a high success-rate. This is explained by the nature of the coalitions, which could guarantee the success of any type of legislative initiative and choose to issue a large number of DL simply because this act has immediate legal effect and is more expedient than the NPL. Having to choose between a legislative proposal with immediate legal effect and a high probability of success in the Parliament (DL) and a legislative proposal without immediate legal effect and the same high probability of success in the Parliament (NPL), the “dictatorial” coalitions will choose the first option for its obvious advantages.

Italy clearly had in place a party system that led to coalitions with a high number of veto-players that prevented the Executive from passing NPL between 1947 and 1996. Its coalitional

²⁰ Information from the official website of the Italian Executive www.governo.it

dynamic evolved according to the phases and sub-phases explained earlier. However, the Berlusconi I, II and III cabinets had a lower number of partisan veto-players and consequently had been more adept at passing legislation through NPL as proven by the high success-rate shown in Table 8 above. The Berlusconi Cabinets become deviant cases from the argument of the thesis: the lower the success-rate of NPL the higher the DL issuing. They issue DL even when the success-rate of their NPL is high.

I will next run three two-tailed Pearson correlations to check for the assumed inverse negative relation between the NPL success-rate and the tendency of the Executive to issue DL. It is expected that the strongest correlation is found for the 1947-1993 period of coalitional politics, when Italy had been governed by weak Executives, exhibiting a high number of partisan veto-players that prevented the conclusion of negotiated policy compromises.

When looking at the whole period under observation (1948-2006) the correlation mentioned above is .656 as shown below.

Correlation between NPL success-rate and volume of DL issuing in Italy, 1947-2006.

		success_rate	decreespresentedPerc
success_rate	Pearson	1	-,656(**)
	Correlation		
	Sig. (2-tailed)		
	N		
decreespresentedPerc	Pearson	-,656(**)	1
	Correlation		
	Sig. (2-tailed)		
	N		

** Correlation is significant at the 0.01 level (2-tailed).

The above sample contains 33 units of analysis, including the Cabinets of the Transition phase (which seem to deviate from this argument given the exceptional nature of this phase) and the centre-right Cabinets of the new political system (which seem to deviate from this argument given their nature explained earlier). The initial correlation is expected to become stronger once the units of analysis (Cabinets) of the Transition phase are excluded, considered statistically irrelevant, for reasons explained above. For the purpose of this argument and in order to

highlight an increasing correlation, I will next eliminate only the Transition phase Cabinets and maintain in the sample the centre-right Cabinets of the new political system. The correlation between the low success-rate of Executive-initiated NPL and the tendency to issue DL increases to .769, as further shown below.

Correlation between NPL success-rate and volume of DL issuing without the Transition Phase.

		success_rate	decreespresented Perc
success_rate	Pearson	1	-,769(**)
	Correlation		
	Sig. (2-tailed)		
	N		
decreespresentedPerc	Pearson	-,769(**)	1
	Correlation		
	Sig. (2-tailed)		
	N		

** Correlation is significant at the 0.01 level (2-tailed).

However, the units of analysis used for the correlation above still contain the “dictatorial” Executives of Berlusconi I, II and III, which are not statistically relevant, as I explained above. Once these Executives are excluded from the sample of units of analysis, the correlation between the low success-rate of Executive-initiated NPL and the Executive tendency to rule by DL further increases to a high of .801, as shown below.

Correlation between NPL success-rate and volume of DL issuing without the Transition, Berlusconi I, II and III.

		success_rate	decreespresente dPerc
success_rate	Pearson	1	-,801(**)
	Correlation		
	Sig. (2-tailed)		
	N		
decreespresentedPerc	Pearson	-,801(**)	1
	Correlation		
	Sig. (2-tailed)		
	N		

** Correlation is significant at the 0.01 level (2-tailed).

Thus far I have revealed a strong negative correlation between the incapacity of the Italian Executive to pass NPL in the Parliament and its tendency to issue DL. The coalition types generated by the Italian party system make the recourse to DL a rational option. For reasons explained above, the Italian legislative coalitions were either weak (fragmented and polarized until 1993) or strong (low fragmentation and low polarization after 1996, only on the centre-right of the political spectrum).

The weak type of legislative coalition is not able to offer the Executive stable legislative support by providing a negotiation base that would ensure the passage of NPL. The key to understanding this incapacity is the two-fold Executive-Legislature relationship: the relation among the legislative parties that support the Executive and the relationship between the Executive and the legislative Opposition.

The parties that support the Executive cannot agree on policy decisions given the oversized Executive coalition leading to a high number of partisan veto-players and the consequent coalitional behaviour explained above. The only feasible solution remains the negotiation between the Executive and the Opposition, which is virtually impossible, given the presence of the Communist party and its increasing electoral prominence throughout the decades. The increasing electoral strength of the Communist party translated into higher and higher incapacity of the DC-centred Executive to negotiate policy with the Opposition, beside its manifest incapacity to reach policy agreements inside the governing coalition. The recourse to DL ensued as the only solution for promoting policy that would otherwise be blocked by legislative deadlock. This is not to say that policy negotiation had been entirely impossible. However, the compromises that had been reached translated into highly amended Executive-initiated legislation.

The strong type of legislative coalition (“dictatorial”) emerging on the centre-right of Italian politics after 1996 does not have any incentive to govern by NPL, since it can reach policy decisions easily, given its lower fragmentation and polarization. It need not negotiate the passage of policy measures through the Parliament with the legislative Opposition either. The recourse to DL proves a very cost-efficient solution for promoting policy.

3. Institutional veto-player power: the legal status of DL

In this chapter, I will explore the capacity of the Italian Parliament to hold the Executive to account by rejecting or at least amending the DL, since this legislative resource attempts to promote policy by evading legislative scrutiny. It is expected that the DL should be rejected or amended extensively, particularly when the Legislature is active in opposing other types of Executive legislative resources, such as the NPL.

Table 9: DL and NPL success and amending rates 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)
Centre-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)
Pentapartito 1980-1992	30% (1068)	52% (564)	82% (468)	70% (2573)	69% (1786)
Transition 1993-1996	75% (810)	28% (231)	78% (180)	25% (273)	58% (161)
New system 1996-2006	29% (401)	83% (333)	88% (296)	71% (999)	84% (839)
Total 1948-2006	18% (2879)	57% (1650)	77% (1268)	82% (13278)	83% (11068)

The theoretical expectation is confirmed by empirical information: the success-rate of the Italian DL has been decreasing, while the amending rate has been increasing, as shown in Table 9 above. The success-rate of DL in Italy between 1948 and 2006 is 57% and the amending rate is 77% (see row Total in Columns II and III in Table 9 above). Overall, the DL has a low success-rate and a high amending rate, which proves that the Italian Executive was accountable to the Parliament, despite the increasing volume of DL issuing in the years since 1948.

However, the relevant empirical finding in Table 9 above 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 9 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 9 above). The trend is that of a very strong Executive accountability to the Parliament: the higher the DL issuing, the lower the success-rate and higher the amending rate.

According to the institutional veto-player model explained in the literature review and theoretical chapter, the success-rate of DL is determined by the combination between its legal status (full law or simple legislative proposal) and the rules governing its treatment in the Legislature (tacit rejection, tacit approval and the strength of the Executive veto power on the decision of the Legislature).

The Italian DL is regulated primarily by the Constitution of December 1947. Emerging from the 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 latter 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 power to issue DL which come into effect immediately, but expire after 60 days if not discussed and decided on in the Parliament.

The second set of legal provisions regulating the legislative decision process on DL is made of parliamentary rules of procedure granting the Executive very low resources in controlling the legislative agenda. Although these rules of procedure had been reformed throughout the decades attempting to relieve the tension of legislative deadlock by allowing the Executive some influence when the legislative content and timetable were discussed, the effect on the governance by DL has been mostly insignificant²¹.

The most important feature of the DL in the Italian system is its legal status of legislative proposal. The legal status is the major element dispersing the institutional veto-player power in favour of either one of the two branches of government, by exposing the Executive legislative

²¹ For a comprehensive review of the reforms and revisions of the parliamentary rules of procedure in Italy, see (Della Sala and Kreppel, 1998: 177-178), Kreppel (1997: 332), Hine and Finocchi (1991: 79-86).

initiatives to compulsory or non-compulsory policy scrutiny in the Legislature before they can become full law.

The Italian DL must be approved in the Parliament before it becomes full law. It is a special legislative proposal with immediate legal effect under the pretence of special circumstances, but requires decision in the Parliament before it is endorsed as law.

The immediate consequence of this legal status is that the Italian Parliament discusses and decides on the Executive DL after it is compulsorily forwarded to its attention. 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.

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, sets the most important parameters of institutional veto-player model of accountability, by granting the Parliament almost total power when it comes about 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).²²

The clear definition of DL (a special legislative proposal) and the existence of the tight regulation regarding its treatment (the rule of tacit approval through the 60 days constitutional deadline) ensure that it is turned into a weak institutional resource of the Executive. The institutional veto-player power strongly in favour of the Italian Parliament explains the high level of Executive accountability to the Parliament: the higher the DL issuing, the lower the success-rate and higher the amending rate. It also explains the high Executive accountability even during the Transition phase of Italian politics, despite the very high volume of DL issuing (see Table 10 below).

²² The unstable nature of legislative coalitions leads to an avoidance of 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).

Table 10: 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)

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 10 above). However, the level of Executive accountability to the Parliament is still high, given the low DL success-rate (28% in Column II in Table 10 above) and the high DL amending rate (78% in Column III in Table 11 above).

3.a. The Constitutional reform of October 1996

The Italian Constitution of December 1947 grants strong institutional veto-player powers to the Parliament as far as the DL is concerned. However, it lacks provisions regarding the re-issuing of DL which had been rejected or allowed to lapse in the Parliament. It left some aspects of governance by DL unanswered, such as the possibility that the Executive will issue and re-issue one and the same DL with only slight modifications after the Parliament rejected it directly or tacitly. The framers of the Italian Constitution assumed that both branches of government would act responsibly: the Executive will issue DL only in situations of true urgency and necessity, while the Parliament would certainly discuss and decide on these acts (Della Sala and Kreppel, 1998: 177).

However, the Italian Executive has ended up making excessive use of a constitutional resource meant to tackle other types of circumstances than legislative deadlock. Lacking the institutional veto-player power that would enable it to influence the decision of the Parliament on DL, the Italian Executive chose to reissue a large number of these acts after they had been

rejected directly or tacitly by the Parliament. Whole “chains” of DL (literally versions of the same policy act only with slight formal modifications) had been issued and reissued, sometimes leading to the situation of having a specific policy in place without any legislative scrutiny for years.

The Italian constitutional reform had addressed the problem of DL re-issuing, not necessarily the excessive use of DL. Consequently, the Supreme Court issued Court Sentence 360/1996 banning the reissuing of a DL that lapsed in Parliament. The Supreme Court justified its decision claiming that the ample and constant reissuing of DL exposed the Legislature to the danger of losing its primary function, that of legislating. Significantly enough, the ample institutional veto-player power of the Executive present in other countries leads exactly to the danger invoked in Italy, as I will show in the next chapter on Argentina.

The Italian political class however had been concerned with the excessive use of DL. It allowed the Executive an increased influence in setting the content and the schedule of the legislative agenda by reforming the rules of parliamentary procedure ever since the 1980s²³, hoping that this concession would make the recourse to DL unnecessary.

Only the sentence of the Supreme Court banning the reissuing of DL had led to the intended outcome: as of October 1996, the Executive issued only the DL of whose legislative approval it was certain in order to comply with the new constitutional requirement (Di Porto, 2006). This explains the high DL approval rate after the constitutional reform.

However, the increased role of the Executive in setting the legislative agenda did not lead to a decreased volume of DL issuing: the volume of DL compared to the volume of NPL stays at the same levels as during the highly unstable Pentapartito phase (see Table 9 on page 107 earlier).

Therefore, the constitutional reform did not constrain the use of DL but it increased its success-rate. After the constitutional reform, a high DL issuing rate had been accompanied by a high success-rate, for the first time in Italian politics since 1947. The DL had a high success-rate under Centrism and Centre-left phases (97% and 92% respectively), but the volume of issuing had been low (3% and 7% respectively) compared to the new system, when the volume of issuing is 29% and the success-rate is 83% (see Table 9 earlier on page 107 for Centrism, Centre-

²³ For a comprehensive review of the reforms and revisions of the parliamentary rules of procedure in Italy, see Della Sala and Kreppel (1998: 177-178), Kreppel (1997: 332), Hine and Finocchi (1991: 79-86).

left and New system). The amending rate remains high even during the new political system phase (88%) showing that the Italian Executive is still accountable to the Parliament even when issuing a large volume of DL with a high success-rate, as long as the Parliament infuses these acts with its own policy views when extensively amending them (see Columns II and III in Table 10 on page 110 earlier.). The policy amendments of the Parliament prevail over the policy intentions of the Executive as long as the latter does not have any institutional veto power on the decision of the former.

It becomes irrelevant how many DL the Executive issued before the constitutional reform (Cazzola, 1975) or after the 1996 constitutional reform (Di Porto, 2006) per month or per year. The volume of DL as compared to the volume of Executive-initiated NPL, representing the two policy promotion strategies at hand for any Executive in a given circumstance, remains the same. It had been claimed that the issuing of DL went from “river flow” to “rain drop” (Di Porto, 2006). This is the case of DL re-issuing, but not the case of DL issuing, as I have shown.

A further and more detailed exploration of the DL success-rate during the new political system phase (1996-2006) can reveal substantially more regarding the causes of high DL success-rate even when the volume of DL is high (a situation not encountered between 1948 and 1993).

The new political system phase consists of two Parliaments (the 13th and the 14th Legislatures) and six Executive coalitions between 1996 and 2006: four left-oriented Executive coalitions supported by the 13th Legislature and two right-oriented coalitions during the 14th Legislature.

I have explained the behaviour of the two types of coalitions present during the new system phase, as well as their effect of the tendency of the Executive to issue a large volume of DL, in the previous section dealing with partisan veto-players. I have shown that the first four coalitions exhibit the same tendency to issue DL for the same reason as all previous coalitions between 1948 and 1993: the high level of fragmentation and polarization. I have also shown that the last two coalitions of the new system (Berlusconi II and III) issue a large volume of DL despite the high NPL success-rate because of their “dictatorial” nature, given their lower level of fragmentation and polarization. At this stage of the argument, the nature of the Executive coalitions during the new system phase has important consequences for the success-rate of DL.

The weak (highly fragmented and polarized) Executive coalitions of left political orientation had an overall low success-rate of their policy promoted by DL (60%) (see Column II in Table 11 below). This had been almost equal to the average success-rate of previously unstable coalitional politics during the National Solidarity and Pentapartito coalitional phases.

Table 11: Left-oriented coalitions of the New system compared to the most unstable periods of coalitional politics (National Solidarity and Pentapartito).

Left-oriented Cabinets	I.DL issued	II.DL success	III.DL amending	IV.NPL issued	V.NPL success
Total 13th Parliament (1996-2001)	29% (299)	60% (180)	83% (150)	71% (725)	76% (553)
Solidarity and Pentapartito (1976-1992)	27% (1253)	55% (698)	81% (566)	73% (3404)	71% 2430

Table 11 above reveals that the left-oriented coalitions governing Italy during the new political system produce the same legislative patterns as the traditionally unstable Italian politics, with the slight difference of 5% in the success-rate of DL (see Column II in Table 11 above).

However, the information in Table 11 above still contains the legislative production of the Prodi I Cabinet before the Constitutional reform. If this is eliminated, the DL success-rate of the left-oriented coalitions of the New system increases to 79% (see row Total in Column II in Table 12 below). This increase in the DL success-rate is explained by the effects of constitutional reform presented earlier.

Table 12: Left-oriented coalitions of the New system after the constitutional reform.

Left-oriented Cabinets (1996-2001)	I. DL issued	II. DL success	III. DL amending	IV. NPL issued	V. NPL success
Prodi I after decision	14% (71)	74% (53)	83% (44)	86% (435)	83% (364)
D'Alema I	26% (42)	90% (38)	78% (30)	74% (122)	71% (87)
D'Alema II	31% (15)	66% (10)	90% (9)	69% (34)	55% (19)
Amato II	47% (44)	81% (36)	77% (28)	53% (50)	38% (19)
Total 13 th Parliament Without Prodi I	27% (172)	79% (137)	81% (111)	73% (641)	76% (489)

Comparing the legislative performance of the New system left-oriented Cabinets after the Constitutional reform (i.e., eliminating the legislation initiated by the Prodi I Cabinet before the reform) to the average legislative performance of the Cabinets in power during the most unstable coalitional phases (National Solidarity and Pentapartito), the difference between the respective DL success-rates is a significant increase of 24% from 55% to 79% (see Column II in Table 13 below).

Table 13: Left-oriented coalitions of the New system after the constitutional reform compared to the unstable phases of National Solidarity and Pentapartito.

Cabinets (1996-2001)	I.DL issued	II. DL success	III. DL amend.	IV. NPL issued	V. NPL success
Total 13th Parliament without Prodi I before Constitutional reform	27% (172)	79% (137)	81% (111)	73% (641)	76% (489)
Solidarity and Pentapartito (1976-1992)	27% (1253)	55% (698)	81% (566)	73% (3404)	71% (2430)

Thus far I have shown and explained the effect of Constitutional reform on the legislative performance of the highly fragmented and polarized Italian Executive during the 13th Parliament: the volume of issued DL is the same as during the National Solidarity and Pentapartito phases at a similar NPL success-rate. However, the success-rate of DL is significantly higher, given that the Executive is issuing only the DL that is certain to pass in the Parliament after the constitutional reform of 1996.

The second part of the New political system phase consists of the 14th Italian Parliament, which supported the Berlusconi II and III Cabinets, both having a low number of partisan veto-players. I have explained the legislative efficiency of these two coalitions and the effect of their nature on their tendency to issue a large volume of DL in the previous section of the chapter. The success-rate of DL initiated by these two coalitions is overall high at 86% (see Column II in Table 14 below).

Table 14: DL and NPL issuing and success-rates for the “dictatorial” Cabinets of Berlusconi II and III supported by the 14th Parliament.

Right-oriented Cabinets	I. DL issued	II. DL. Success	III. DL amending	IV. NPL issued	V. NPL Success
Berlusconi II	37% (187)	88% (165)	95% (157)	63% (324)	97% (317)
Berlusconi III	56% (42)	73% (31)	90% (28)	44% (34)	97% (33)
Total 14 th Parliament (2001-2006)	39% (229)	86% (196)	94% (185)	61% (358)	97% (350)

The major difference between the Cabinets of Berlusconi II and III, on the one hand, and the left-oriented Cabinets supported by the 13th Parliament is the high DL issuing rate (39%) even when the NPL success-rate had been very high (97%) (see Columns I and V in Table 15 above). The DL issued by the “dictatorial” Cabinets of Berlusconi II and III have a higher success-rate (86%) when compared to the fragmented and polarized left-oriented Cabinets supported by the 13th Legislature (79%).

The Berlusconi II and III Cabinets have a higher capacity to agree on their own legislative initiatives than the left-oriented Cabinets, given their significantly lower level of fragmentation and polarization. Both the centre-left and the centre-right Cabinets of the new political system send to the Parliament only the DL that will most likely pass knowing that reissuing is impossible. However, the “dictatorial” Cabinets have a significantly higher success-rate of their legislative initiatives (both DL and NPL), given their nature explained earlier.

I will next attempt to establish the difference between what the Executive aims for when promoting policy by DL (ratio issued DL/issued NPL) and what the Parliament is willing and able to do with policy promoted by DL (ratio approved DL/approved NPL).

The picture that is revealed confirms the assumption that the Italian Executive rules accountable to the Parliament even when it issues a high volume of DL: the ratio approved DL/approved NPL is either lower than or identical to the ratio issued DL/issued NPL (compare Column I to Column II in Table 15 below).

Table 15: Volume issued DL/NPL and volume of successful DL/NPL.

Coalitional phase	I. DL issued/NPL issued	II. Success. DL/ Success. NPL
Centrism 1948-1960	DL: 3% (105) NPL: 97% (4292)	DL: 3% NPL: 97%
Centre-left 1960-1975	DL: 7% (310) NPL: 93% (4310)	DL: 7% NPL: 93%
Solidarity 1976-1979	DL: 19% (185) NPL: 81% (831)	DL: 8% NPL: 82%
Pentapartito 1980-1992	DL: 30% (1068) NPL: 70% (2573)	DL: 24% NPL: 76%
Transition 1993-1996	DL: 75% (810) NPL: 25% (273)	DL: 59% NPL: 41%
New system 1996-2006	DL: 29% (401) NPL: 71% (999)	DL: 29% NPL: 71%
Total 1948-2006	DL: 18% (2879) NPL: 82% (13278)	DL: 13% NPL: 87%

Overall, the intentions of the Italian Executive to undermine the legislative function of the Parliament are met with resistance by the latter given its ample institutional veto-player resources when dealing with the DL. This is reflected in the difference between the DL issuing rate of 18% for the whole period under observation (see row Total in Column I in Table 15 above) and the DL success-rate of only 13% (see row Total in Column II in Table 15 above). The Italian Executive initiates 18% of its policies by DL and 82% by NPL, while the treatment of the two resources in the Parliament leads to approved Executive-initiated legislation of 13% DL and 87% NPL. The Executive intentions are reflected in the 18% DL issued, while the Parliament treatment of DL and NPL is reflected in the outcome of 13% DL of in the final body of approved Executive-initiated legislation.

An important observation ought to be made here: the phases of Centrism and Centre-left (the most stable coalitional phases in Italian politics) exhibit an identical ratio between the percentage of initiated DL and NPL and the percentage of approved DL and NPL (see the respective rows in Table 15 above). The same holds true for the new system phase: the intentions of the Executive are accurately reflected in the outcome of parliamentary decision (see the new system row in Table 15 above). The only phases that exhibit a lower ratio of approved DL/approved NPL than

the ratio of issued DL/issued NPL are the most unstable ones in Italian politics: the National Solidarity, the Pentapartito and the Transition phases.

The theoretical significance of this finding is that when the Executive issues policy by DL when strictly necessary (the Centre and Centre-left phases), these acts are approved accordingly in the Parliament and have a high amending rate, as shown earlier. However, the DL has a significantly lower proportion in the final body of approved legislation initiated by the Executive when the Executive issues policy by DL in order to overcome its manifest incapacity to pass NPL due to increased coalitional instability.

4. Conclusion: high Decree issuing and high Executive accountability

In this chapter I have shown that the issuing of DL is structurally induced in Italy. I have shown that the Italian Executive issues an increasing number of DL since 1948 mainly because its NPL is met with resistance by the fragmented and polarized legislative coalitions. I have further shown that the overall success-rate of DL is low and the amending rate is high. The high level of Executive accountability to the Parliament is ensured by the strong institutional veto-player powers of the latter.

The constitutional definition of DL and the inexistence of Executive veto on the decision of the Parliament allow the latter to keep under control the tendency of the Executive to rule unaccountable. As long as the Executive is issuing DL when strictly needed, the volume of approved DL in the total body of approved Executive-initiated legislation accurately reflects intentions of the Executive. Once the Executive is issuing DL excessively, the Parliament rejects these acts accordingly, leading to a lower volume of approved DL in the body of total Executive-initiated legislation. Regardless of success-rate, policies promoted by DL are frequently amended in the Parliament.

The empirical information for the Italian case study indicates a high level of Executive accountability to the Parliament ensured by the institutional veto-player structure of accountability consisting in a clear constitutional definition of DL and tight regulation of its treatment in the Parliament, as I have already shown.

There is a marked trend towards lower accountability on the part of the Italian Executive, which issues an increasingly number of DL in order to overcome the legislative deadlock induced by the fragmentation and polarization of the legislative coalitions supporting the Executive. However, the institutional structure of accountability granting the Parliament high agenda-setting powers compensates for the fragmentation and polarization of the legislative coalitions, reversing the systemic tendency towards low Executive accountability through a low success-rate and high amending rate of DL in Parliament.

The partisan configuration exhibiting a high number of veto-players persists over time. The political, constitutional or electoral reforms taking place in the early 1990s did not succeed in mitigating the strong and lasting effects induced by the two coalition types generated by the Italian party system (either Type 1 “weak” coalitions or Type 2 “dictatorial” coalitions). The disappearance of the traditional Italian parties in the early 1990s did not lead to the creation of a new party system. The electoral reforms led to a different electoral competition, but not to different legislative politics, as long as the legislative fragmentation and polarization remained high. Also, Court Sentence 360/1996 banning the reissuing of any DL that had been rejected or allowed to lapse in the Parliament did not reverse the systemic trend towards low Executive accountability: policies continued to be promoted by DL at rates similar to those experienced before the Court sentence, while the DL amending and rejection rates remained overall high.

Perhaps the most important observation is that the perpetuation of a fragmented and polarized party system leads to specific coalition types that either cannot reach negotiated agreements or can impose their policy views without having to negotiate them.

The implications of governance by DL on the Italian democracy are important. Although the Italian Parliament is successful in holding the Executive accountable as I have shown, negative effects on the quality of democracy obtain.

Firstly, important pieces of legislation tend to be initiated and decided on outside the Parliament, in a process of depriving this important deliberative institution of its primary function, that of debate and decision of important legislative proposals. A good example in this sense is that the most important policies (therefore the most politically divisive) tend to be promoted by DL, increasingly leaving less important policies to be promoted by NPL. The relevance of this particular legislative dynamic is that the Parliament is left to pass “leggine”

(literally “little laws”), laws of reduced policy importance. The number of these laws increased year after year, rendering the legislative arena increasingly irrelevant to policy (Di Palma, 1977).

Secondly, this tendency of unilaterally promoting policy outside the Parliament is strengthened by the practice of re-issuing the DL that lapsed in Parliament, only with slight content modifications. Important policy measures, such as building regulations, had been in place for many years without being discussed in the Parliament (Di Palma, 1977).

The Italian democracy is certainly not affected to the same extent as the new democracies by the governance by DL, as I will show in the next chapters on Argentina and Romania. But this is not to say that Italy does not experience negative consequences which lower the quality of its democracy, as I have shown in this chapter.

Argentina: excessive Decree issuing and inexistent Executive accountability

Motto: "Within this constitutional framework, in instances where I am able to take action by decree, I am going to do it"

Carlos Saul Menem, President of Argentina 1989-1999, quoted in Rubio and Goretti, 1998

1. Introduction

This chapter explores the level of accountability of the Argentine President to Congress by explaining the cause of issuing a large number of Decrees of Necessity and Urgency (DNU) by the Presidents of Argentina and the success-rate (rejection or amending) of these acts in Congress.

The quote opening this chapter reflects the large degree of freedom granted by the Constitution of 1994 to the Argentine presidents when deciding what constitutional resources they can use to pursue their policy goals. Carlos Menem, long considered the embodiment of a President unaccountable to Courts or Congress, sums up a constitutional reality that allows any Argentine president to initiate policy bypassing the Congress and denies the latter the capacity to react.

This chapter is organized as follows: the first section explores the influence of partisan configurations in Congress supporting or opposing the policy initiatives of the President on the propensity of the latter to issue DNU. I argue that the internal divisions of the Argentine parties, combined with the presence of small provincial parties in Congress and the control of local party leaders over the careers of legislators lead to a policy-making process in which the fragmented and polarized legislative coalitions cannot ensure a stable congressional support for presidential NPL. Furthermore, the important resource of Executive removal from office, specific of parliamentary systems, is absent in Argentina. The outcome is significant presidential leeway in dealing with the fragmented and unstable congressional coalitions. More specifically, the President issues DNU in order to overcome the congressional deadlock. The trend towards low

Executive accountability is induced by the partisan veto-player structure in the Argentine Congress, which makes the recourse to DNU an efficient presidential strategy to overcome congressional deadlock.

The second section will present the formal legal status of the DNU in Argentina before and after the constitutional reform of 1994 and its effect on the success-rate of DNU. I argue that the very lax constitutional definition of the DNU guarantees a high DNU success-rate (low or inexistent amending or rejection in Congress). The DNU legal status of full law rather than a legislative proposal and the inexistence of provisions regarding the legislative treatment of this powerful presidential resource in Congress grant the Argentine President excessive institutional veto-player powers, allowing him or her to impose policy unilaterally whenever confronting congressional opposition. The presidential capacity to impose policy unilaterally is increased by the very strong constitutional veto powers on any piece of legislation coming out of Congress, be it a presidential initiative or a congressional initiative.

Furthermore, I argue that the DNU is a strong agenda-setting instrument of the Argentine President used in a legal vacuum before the constitutional reform that took place in 1994 and later legalized. The constitutional reform has no effect on the level of Executive accountability, since it does not grant the Congress any institutional veto-player power that would allow it successfully to reject or amend policy promoted by DNU. The only effect the constitutional reform has is an increase in the volume of DNU issuing. The reason is the formalization of a previously informal, but very powerful, legislative resource. The level of Executive accountability as a function of rejection and amending rates is the same before and after the constitutional reform: almost inexistent.

The third section offers some tentative conclusions about the dynamic relation between the Argentine Congress and the President: the partisan veto-player structure of accountability induces the trend towards a low Executive accountability making the issuing of DNU necessary through congressional opposition to the Executive-initiated NPL, while the institutional veto-player structure strengthens it, instead of constraining it, as in the case of Italy. The outcome is an inexistent Executive accountability to Congress, ultimately determined by the constitutional definition of the DNU.

I will show that the Argentine Congress is literally subdued by a President that can constitutionally eliminate it from any policy field regulated by DNU (this is not the case with

presidential legislative proposals sent to Congress through NPL). To say the Argentine Congress is a rubberstamp institution because of a specific political culture in which the President legitimately prevails over other institutions would imply that the Congress has the opportunity to effectively oppose the President, but it refuses to do so even when its legislative function is undermined by an excessive use of DNU. That is hardly the case. The parties in the Congress do make use of their scarce legislative resources against the President, albeit with little success, as I will show later.

Furthermore, the process of constitutional reform does not place any constraints on the use of DNU and does not increase the institutional veto-player power of the Congress, proving that institutional structures persist overtime, even when producing deleterious effects for the democratic consolidation or the quality of the policy-making process, as long as they serve the interests of political parties, as I will show later in this chapter.

The President-Congress relation exhibits a different dynamic when the former is using DNU, as compared to NPL. The Congress successfully opposes presidential policies promoted by NPL, while incapable or unwilling to do the same for policies promoted by DNU. Nevertheless, despite occasional congressional opposition to the presidential policy views, the latter always prevails due to very strong formal veto power on any piece of legislation coming out of Congress.

The empirical information in this chapter contains data for legislation initiated by the Argentine Presidents through DNU, as well as through normal procedure (NPL) in both the Argentine Senate and Chamber of Deputies since 1983. I chose to account for data sent to the Congress rather than data for only the Chamber of Deputies because the Argentine President can initiate legislation equally in the Senate and the Chamber of Deputies. Informal practice led to a situation where Presidents send their legislative proposals firstly to the congressional chamber where they have a stronger majority, given the stronger decision power of the chamber where legislation is initiated in case of disagreements between the two chambers of the Congress. As an example, President Carlos Menem initiated most of his NPL in the Senate (744 pieces of NPL), and not in the Chamber of Deputies, where he initiated only 426 pieces of NPL, if both of his presidential mandates are accounted for (1989-1995; 1995-1999)

I did not include here the presidential Decrees issued based on a special law of delegation, such as Law 23.696/1990 (Reform of the State) and Law 23.697/1990 (Economic Emergency

Law). Such laws of delegation represent a willing and temporary abdication of Congress from its policy-making authority, for a clearly defined period and on specific policy issues. I consider this type of “delegated” decree power theoretically irrelevant for the argument of this thesis. Why Legislatures willingly give up on their institutional prerogatives for a limited period, on specific policy issues, is an entirely different question to why the Executives tend to bypass Legislatures by excessive issuing of DNU without the acquiescence of the latter.

2. Congressional fragmentation and the partisan veto-player structure of accountability

The Argentine Presidents rarely enjoy a majority in both the Chamber of Deputies and the Senate (Negretto, 2004: 555). Such a majority occurred only between 1995 and 1997, when the party of President Menem had more than 50% of the legislative seats in both chambers. Except for this rare occurrence, the party supporting the President has had a comfortable plurality in at least one chamber. The political party that had a president in office had held between 45% and 51% of congressional seats since 1983, particularly in the Chamber of Deputies. The number of effective parties has been between 2.3 and 2.7 in the Argentine Senate and 2.2 and 2.3 in the Argentine Chamber of Deputies between 1983 and 1999 (Molinelli, Palanza y Sin, 1999: 305-306).

Such legislative partisan representation, combined with a constantly low number of effective parties in Congress, should ensure disciplined partisan support for the President, which would automatically translate into an efficient passage of presidential NPL (although occasional negotiation should not be precluded). Empirical information contradicts this assumption. The success-rate of presidential NPL is not as high as expected (see Column III in Table 1 below).

Table 1: Volume and success-rate of presidential NPL in Argentina since 1983.

Presidency	I. DNU issued	II. NPL issued	III. NPL success
Alfonsín 1983-1989	2% (11)	98% (590)	68% (401)
Menem 1989-1999	18% (248)	82% (1170)	59% (693)
De la Rúa 1999-2001	24% (52)	76% (166)	69% (114)
Saá 1 week Dec. 2001	60% (6)	40% (4)	0% (0)
Duhalde 2002-2003	54% (151)	46% (127)	57% (72)
Kirchner 2003-2006	46% (231)	54% (274)	57% (155)
Total 1983-2006	23% (699)	77% (2331)	62% (1435)

Column I in the Table 1 above indicates the number of DNU issued by each Argentine President since 1983, as well as the percentage volume of DNU in the total volume of presidential legislation. Column II indicates the same measure, only for presidential NPL. Column III indicates the number and volume of successful presidential NPL.

The information in Table 1 above reveals two important empirical findings. Firstly, Argentina is not a country ruled by DNU, as the “delegative” democracy literature reviewed earlier in the thesis would predict by taking notice of a high number of these acts. Policy promoted by DNU constitutes only 23% of the legislation initiated by the President since 1983, as shown in the last row of Column I in the Table 1 above.

Only presidents Adolfo Saá and Eduardo Duhalde have issued more DNU than NPL (60% and 54%). But even in these cases, President Saá had been in power only for one week, appointed by Congress, under the circumstances of resignation of the previous President as an outcome of the economic crash of 2001, accompanied by civil protests and street violence. He issued only 6 DNU and sent to the Congress only 4 pieces of NPL. His mandate is hardly relevant for the use and treatment of DNU in the context of the legislative process. President Duhalde, also appointed by Congress, had to solve the economic situation in 2002 and exercised the presidential power under serious constraints imposed by the international financial community.

DNU exceeding the number of presidential NPL is hardly a surprise in such times of economic turmoil and social unrest. Even Italy, a well-established parliamentary democracy, had been governed by DL between 1993 and 1996, with the transitional cabinets of Ciampi, Berlusconi I and Dini, as shown in the previous chapter on governance by Decree in Italy.

The Argentine President Nestor Kirchner is probably the most emblematic example of excessive use of DNU as an outcome of structurally induced governing style (see Table 1 above).

Although the success-rate of his legislative proposals sent to the Congress through NPL is almost equal to that of Carlos Menem (see Column III in Table 1 above), his use of DNU is significantly higher (see Column I in Table 1 above).

Secondly, the average success-rate of presidential NPL is only 62% since 1983, as shown in Column III of Table 1 above. This is hardly indicative of a rubberstamp Congress. It also shows that the Argentine political parties are not as disciplined (or subjugated to presidential will) as assumed (Negretto, 2004; Mustapic, 2002). They do oppose the President, regardless of occasional ideological convergence, attempting to force him or her to negotiate policy compromises.

This empirical finding is not that surprising. Existing literature accounted for sufficient circumstances when the President could not count even on the support of his own party when promoting policy sensitive issues such as privatization or social reforms (Llanos, 2001; Magar, 2001; Palanza, 2005; Panizza, 2000). Further strengthening the relevance of this empirical finding, President Menem encountered congressional opposition to his NPL initiatives even when his own party had more than 50% of congressional seats between 1995 and 1997 (see Table 2 below).

Table 2: Use and success-rate of NPL and DNU for Carlos Menem 1995-1998.

	I. DNU issued	II. NPL issued	III. NPL success
01.03.1995- 28.02.1996	8% (7)	92% (87)	68% (59)
01.03.1996- 28.02.1997	9% (9)	91% (97)	64% (62)
01.03.1997- 28.02.1998	12% (23)	88% (163)	51% (83)
TOTAL	10% (39)	90% (347)	59% (204)

President Menem could have passed any legislative initiative he pleased given his ample congressional majority between 1995 and 1998. The landslide electoral success of *Partido Justicialista* in the mid-1990s leading to congressional majority had been in great part owed to the success of President Carlos Menem in containing the economic crisis and eventually generating economic growth. Nevertheless, it did not translate into a corresponding congressional support for its own President. The low success-rate of NPL initiated by President Menem (on a decreasing trend from 68% to 51% between 1995 and 1998 as shown in Column

III of Table 2 above) clearly indicates that the presidential *Partido Justicialista* stood against its own President. Some factions of the presidential party opposed the neo-liberal economic policies promoted by the President, while others supported the presidential bids of other candidates from the same party and disregarded their own incumbent (Llanos, 2001: 92; Llanos, 2002: 165).

Furthermore, returning to the empirical information in Table 1 on page 124 earlier shows that all Argentine Presidents use less NPL across the years since 1983 and have increasing recourse to DNU. Indeed, the issuing trend increasingly favours the DNU rather than the NPL. Not only the allegedly ‘authoritarian’ Carlos Menem issued an increasingly high number of DNU. All Argentine Presidents excessively use a constitutional resource meant to be used only in extraordinary circumstances of necessity and urgency.

Existing literature took notice of the comfortable presidential pluralities in the Congress and automatically assumed that the excessive recourse to DNU is owed to an ‘authoritarian’ political culture in which the President can bypass the Congress if he or she pleases, despite the comfortable partisan composition of the Congress. However, as I have already shown, the recourse to DNU seems to be correlated to the success-rate of presidential-initiated NPL. I assumed that a large number and an increasing trend of DNU issuing are inversely correlated to the success-rate of presidential NPL.

I will next test this correlation. In order to increase the number of units of analysis and warrant statistical relevance, I have re-ordered empirical information regarding the number of NPL, its success-rate and the number of DNU.

Instead of organizing the information for each presidential mandate as shown in Table 1 earlier, I have ordered the information for each legislative period (March 1 to February 28 of next year, from 1983 until 2006) as provided by *Dirección de Información Parlamentaria* of the Argentine Chamber of Deputies.

The ordering of information for each presidential mandate had been made possible by the detailed lists of presidential legislative initiatives for each calendar year, provided separately by the same specialized department of the Argentine Chamber of Deputies. Reordering the information according to legislative periods rather than presidential mandates increases the number of units of analysis from 6 to 29.

The correlation between the success-rate of NPL and the number of DNU (assuming that the President tends to issue DNU when NPL are rejected) is almost zero for the whole period under

observation (**-,066**) and a high level of significance (**,732**) (see below). This is puzzling, given the low success-rate of NPL shown in Table 1 earlier.

		DNU presented	Success-rate of NPL sent to Congress
DNU presented	Pearson Correlation	1	-,066
	Sig. (2-tailed)		,732
	N	29	29
Success-rate of NPL sent to Congress	Pearson Correlation	-,066	1
	Sig. (2-tailed)	,732	
	N	29	29

Once eliminating the deviant case studies of Presidents Adolfo Saá and Eduardo Duhalde, who ruled Argentina mainly by DNU in times of economic crisis under the imperative of necessity and urgency (see Table 1 earlier, on page 124), the two-tailed Pearson correlation increases to (**-,232**), but the level of significance decreases to (**,274**), as shown below.

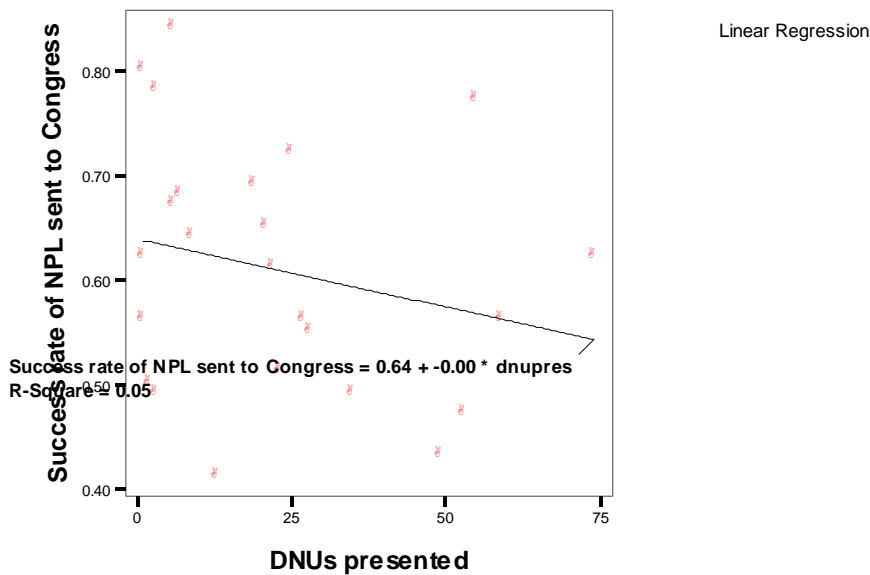
		DNU presented	Success-rate of NPL sent to Congress
DNU presented	Pearson Correlation	1	-,232
	Sig. (2-tailed)		,274
	N	24	24
Success-rate of NPL sent to Congress	Pearson Correlation	-,232	1
	Sig. (2-tailed)	,274	
	N	24	24

The number of units of analysis in the second two-tailed Pearson correlation decreases to 24, given that the mandate of President Duhalde comprised five legislative periods, while the mandate of President Saá lasted only for one week, after being appointed by the Congress under severe economic circumstances. The small number of units of analysis prevents stronger statistical claims.

I have not eliminated the legislative periods of the presidential mandate of Carlos Menem, who also ruled Argentina in times of true Necessity and Urgency, particularly until 1993. The reason is that Menem promoted most of his contentious legislation by Decrees issued based on

two special laws of delegation passed by Congress: Law 23.696/1990 (Reform of the State) and Law 23.697/1990 (Economic Emergency Law). I do not consider these Decrees as being DNU. The passing of a law of delegation represents a willing abdication of the Congress from policy-making on a limited period and the Decrees issued based on such law are theoretically irrelevant for this argument, as I have argued earlier in the chapter.

This methodological choice is as questionable as the legal status of DNU in Argentina until the constitutional reform of 1994 (Rubio Ferreira and Goretti, 1995; Rubio Ferreira and Goretti, 2000), which I will address later in the chapter. Nevertheless, the correlation between the success-rate of presidential NPL and the volume of DNU is only a moderate one. The negative slope of the linear regression further shown below indicates some reasonable relationship between the success-rate of NPL and the volume of DNU: the lower the success-rate of presidential NPL, the higher the number of DNU.



The congressional resistance to presidential NPL, as reflected in the success-rate, is indeed part of the cause of a high number of DNU, but this is not entirely relevant for causality. In other words, the Argentine Congress does oppose the President as proved by the success-rate of NPL. However, the Argentine Presidents do issue more DNU than required by the success-rate of their NPL. I will explain this empirical finding in the section dealing with the institutional veto-players.

Thus far, I have shown that Argentina is not ruled by DNU in the aftermath of its authoritarian regime. I have also shown that the Argentine Congress does react to presidential policy initiatives attempting to hold the President to account. Most importantly, I have revealed a moderate negative correlation between the success-rate of presidential NPL and the volume of issued DNU.

However, the most puzzling empirical finding so far is the congressional opposition to presidential NPL even in case of ideological convergence between the Congress and the President. What explains such opposition? Ideological convergence between the President and the congressional majority should translate first and foremost into a high capacity to negotiate policy, reflected in a high success-rate of presidential NPL. Is there any other causally relevant factor that would explain the tendency of the President to issue DNU more than made necessary by the congressional opposition to presidential NPL?

I will attempt to answer these questions by further exploring the dynamic of congressional coalitions in relation to the President and also by comparing the success-rate of NPL to the success-rate of DNU in order to find any theoretically relevant differences.

I will explore the formation of congressional coalitions in order to understand their legislative behaviour by looking at the party system and the electoral system in Argentina. Understanding how coalitions form is instrumental in understanding their legislative behaviour, even more so their different strategies when dealing with different presidential initiatives (either NPL or DNU).

The distinction between party discipline and legislative discipline is an instrumental one in the case of Argentina, given its regionalized party system. The legislative behaviour of the Argentine members of the Congress is controlled by local party leaders from provincial level, as opposed to party systems where the national leadership controls the legislative behaviour 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; Calvo and Murillo, 2005; Jones and Hwang, 2005). 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.

The Argentine PJ (*Partido Justicialista*), is the paradigmatic example of this type of party organization (Levitsky, 2001). It is centred on local leaders to such an extent that it ran three different candidates for the presidency in the national elections of 2003, after each one of them created a new party as an electoral vehicle, registered at the local level²⁴.

Furthermore, there are situations in which the same political party registers different congressional groups. This explains the high level of congressional fragmentation, despite the low number of effective parties in Congress (Molinelli, Palanza y Sin, 1999: 277-278).

Other examples of factionalized parties are the Japanese Liberal Democrats (Cox and Rosenbluth, 1996) and the Italian Christian Democrats (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). The formation of factions in the Argentine parties is centred on strong leaders controlling resources at the local level and it is mainly resource-oriented, rather than policy-oriented.

The Argentine 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 ensure the support of provincial party bosses, sometimes by pressuring the President to offer them financial incentives (Jones et al., 2000: 5). Therefore, party discipline does exist in the Argentine Congress, but it plays out in a different dynamic than in centralized party systems that are organized nationally. Legislators are disciplined mainly (but not exclusively) in relation to the provincial leadership.

The very same legislators exhibit varying degrees of discipline in relation to the President, depending on circumstances: if the local leaders who control their careers ask them to do so or if their local leaders are weaker than the President in allocating resources. The latter situation is encountered when they represent a province where their party boss does not control resources other than the access to the party list. The support of the Argentine legislative coalitions cannot be counted on, unless the President negotiates with the party bosses, or unless the President can offer more to a legislator than his or her local party leader.

²⁴ Information collected through personal interviews and discussions with Argentine scholars and researchers in Buenos Aires, between March and May 2007.

The Argentine Congress reached very high levels of fragmentation under President Kirchner, to the extent that even some members of the opposition UCR (*Unión Cívica Radical*) chose to support the President under the name of *Radicales-K* (“K” stood for the ideologically-opposed President Kirchner). The coalitional dynamic had been decided *ad hoc*, on an issue-by-issue basis, according to the resources offered as an incentive by the President. The tactic was successful, as long as the local party leaders were not in the position to offer the *Radicales-K* anything more than one legislative term, while supporting the popular Nestor Kirchner could also garner resources and popular electoral support for the *Radicales-K* themselves.²⁵

This has not always been the case with the Argentine political parties and their congressional behaviour, and certainly some parties or individual legislators are more resource oriented than others. Traditionally, the current opposition UCR had been a party with consistent ideological loyalties, but the decline of its electoral fortunes throughout the last decade led to increasingly easy to buy out legislators.

The PJ is probably the best example of a party with strong ideological orientation, so strong that some of its factions engaged in terrorist activities against the government in the 1970s. However, given its “movementist” nature and loose organization centred on strong leaders, it had been exposed to the phenomenon of legislative desertion of various factions or individuals. The more ideologically-oriented factions strongly supported the traditional PJ economic statist policies throughout the 1990s, voting against the policies of liberalization and privatization of the PJ President Carlos Menem (Llanos, 2001; Negretto, 2004: 557). Other factions voted against Menem in the Congress simply because they supported the presidential bid of other Peronist leaders, such as Eduardo Duhalde.

In addition to intra-partisan divisions, the presence of small provincial parties is another factor that increases the fragmentation of the Argentine Congress. These parties have only a few legislators representing just their province, such as *Partido Bloquista* from the *San Juan* province, *Movimiento Popular Fueguino* from the province of *Tierra del Fuego*, *Fuerza Republicana* from the province of *Tucumán* or *Movimiento Popular Neuquino*, from the province

²⁵ This information had been collected through personal interviews and discussions with Argentine scholars and researchers in Buenos Aires, March-May 2007.

of *Neuquén*.²⁶ Some of them are strong at local level, such as *Movimiento Popular Neuquino*, which had been in power in the province of *Neuquén* since 1993. However, the Argentine provincial parties would not be able to pass any legislative initiative on their own and therefore become very versatile in changing sides across the main partisan divisions, depending on the policy issues and the financial incentives or policy concessions they are offered.

Therefore, the Argentine Congress is highly fragmented and polarized despite the low number of effective political parties. The causes of fragmentation and polarization are the regionalized nature of the party system centred on local leaders and the presence of small, easy to buy out, provincial parties.

How does the partisan fragmentation affect the capacity of Congress to hold the President to account? More specifically, how does the partisan fragmentation influence the capacity of the Argentine Congress to amend or reject presidential legislative initiatives of any type, be they NPL or DNU?

Empirical information reveals that presidential NPL is met with resistance by the fragmented congressional coalitions and its success-rate is not as high as existing literature assumed, but not necessarily because NPL is rejected. The Argentine Congress acts more like a ‘blunt veto-player’ than an active one, when it comes to presidential NPL:²⁷ it does not vote against it, but simply drags-on discussions without any final decision until the NPL become *caduco*, i.e., lapsed after two years of congressional inaction.²⁸

The cause of this peculiar legislative behaviour is the strong presidential veto power on any decision of the Congress. The President can veto any law passed by Congress, returning the policy issue to the previous *status quo*. The Constitution further strengthens the presidential power by requiring a two-thirds majority of congressional votes in order to override the presidential veto, which in turn is difficult to assemble given the fragmentation and polarization of congressional coalitions explained above. This ample presidential leeway in dealing with

²⁶ The information on the legislative behaviour of small provincial parties in the Argentine Congress was collected through personal research interviews and discussions with Argentine scholars and researchers in Buenos Aires. For further information on the congressional behaviour of provincial parties see Llanos, 2002: 118-119.

²⁷ For a detailed analysis of the capacity of Legislatures to oppose the Executive, see Jones *et al.*, 2000: 6. 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.

²⁸ Law 13.640 on the sanctioning of legislative proposals
(<http://www1.hcdn.gov.ar/dependencias/camunicipales/archivo/ley13640.html>)

congressional opposition is compounded by the system specific independence of the Executive mandate from legislative support, as opposed to parliamentary systems where the capacity to remove the Executive from office grants legislative coalitions increased bargaining power.

Facing the futility of congressional action (given the strong presidential veto power) the partisan veto-players in Congress use the only legislative resource that can constitute some form of threat against the President, albeit a weak one: the tacit rejection of presidential NPL through its delay until it lapses. Here the complicated legislative procedure that allows the partisan actors 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 gate-keeping resource that used when delaying the presidential NPL.²⁹

From a rational perspective, the gate-keeping and delay powers are literally the only legislative resources the Argentine parties have at their disposal that could change the policy of the President.³⁰ It would simply be irrational to dedicate effort and risk electoral fortunes voting against the presidential NPL, amending or rejecting it, only to have the final version easily vetoed by the President, bringing the policy back to the presidential preference, which in turn is almost impossible to reverse given the two-thirds veto-override requirement.

From an institutional perspective, the Argentine Congress appears to be an institution that can formulate its own policy views, given its share of legislative initiative slightly lower than the presidential NPL between 1983 and 1989 and slightly higher than the same presidential NPL between 1989 and 1995 (Mustapic, 2000: 30). On the other hand, it also appears to be an institution that reacts sporadically and mostly in a blunt manner to the presidential policy initiatives forwarded to its attention through NPL by exercising gate-keeping and other types of delay strategies (Jones *et al.*, 2000: 24).

In this section I have showed that the low success-rate of NPL initiated by the Argentine President is explained by the strategies of tacit rejection used by the fragmented and polarized partisan veto-players in Congress, which use delay strategies and gate-keeping resources in an attempt to force the President negotiate policy. The strong presidential veto-power on any

²⁹ See the sanctioning of legislative proposals in the Argentine Congress at http://www1.hcdn.gov.ar/dependencias/dip/congreso/diagrama_del_mecanismo_de_sancio.htm

³⁰ Other congressional resources, such as Written Inquiries (Palanza, 2005) are also used by the Argentine members of the Congress, but they do not have the capacity to change the policy of the President, merely contributing to a better informational level of the Congress, or used as weak bargaining tools in a larger negotiation context.

decision of the Congress makes the delay strategies and the gate-keeping resources the only available means of negotiation, albeit weak ones.

How are the DNU treated by a Congress exhibiting a high number of partisan veto-players acting with a scarcity of legislative resources? If the partisan veto-players attempt to force the President to negotiate policy by delaying the NPL until it lapses in Congress, how do the same partisan veto-players react when confronted with the presidential policies promoted by DNU? I will attempt to answer this question in the next section.

3. Institutional veto-player power: the legal status of Emergency decrees

The DNU should be rejected or amended extensively, particularly when the Congress is active in opposing other types of presidential legislative resources, such as the NPL. This expectation is contradicted by empirical information. The DNU have an astoundingly high success-rate as shown in Table 3 below.

Table 3: Success-rate of DNU in Argentina since 1983.

Presidency	I. DNU issued	II.DNU success
Alfonsín 1983-1989	(11)	100% (11)
Menem 1989-1999	(248)	99% (246)
De la Rúa 1999-2001	(52)	94% (49)
Saá 1 week Dec. 2001	(6)	100% (6)
Duhalde 2002-2003	(151)	99% (150)
Kirchner 2003-2006	(231)	100% (231)
Total 1983-2006	(699)	99% (693)

Existing literature found that if legislative inaction and ratification are counted together as favourable responses to a DNU, 92% of these strong agenda-setting instruments had been successful without amendments (Negretto, 2004: 553). The empirical information on which this chapter is based shows an even higher success-rate of 99% (see Table 3 above), but still close enough to the empirical findings of existing literature to indicate a high degree of reliability of empirical information.

What explains the differences between the success-rate of NPL (62% on average since 1983) and the success-rate of DNU (99% on average since 1983)? The Argentine congressional coalitions are ostensibly active in opposing the NPL through delay strategies, but seem utterly incapable of rejecting the DNU, which undermine their legislative function. The difference in the success-rate of the two presidential legislative resources (NPL and DNU) can only be explained by possible differences in their legal status, as defined in Constitution.

According to the institutional veto-player model explained in the literature review and theoretical chapter of the thesis, the success-rate of the DNU is determined by the combination between its legal status (full law or simple legislative proposal) and the rules governing its treatment in the Legislature (tacit rejection, tacit approval and the degree of Executive veto power on the decision of the Legislature).

The Argentine presidents had only three types of decree power until the 1994 constitutional reform (Rubio Ferreira and Goretti, 1998: 33): rule-making Decrees in the course of implementing legislation, autonomous Decrees based on constitutionally endowed presidential powers and delegated Decrees as outcome of a special law of delegation passed by the Congress allowing the President to legislate in clearly defined policy areas and for a fixed period.

Furthermore, the Constitution granted the President emergency Decree powers in the case of a state of siege declared by Congress or the President in situations of interior unrest or external attacks on the country, when civil rights can be suspended. Even in such extreme circumstances, the Decree power did not include the right to legislate (Rubio Ferreira and Goretti, 1998: 34). It should be emphasized here that all the Decree types defined by the Argentine Constitution do not represent legislative initiatives. They are simple administrative acts of the President in the course of exercising presidential prerogatives. This aspect is highly relevant when accounting for the success-rate of DNU, given that when the Argentine president issues a DNU, he is actually issuing law. The DNU need not be approved in Congress to have full legal effect including before the Courts (Rubio Ferreira and Goretti, 1998: 33). The President only needs to inform the Congress that he has issued a DNU, presenting the legislative body with a *de jure fait accompli*, and not only with a *de facto*, political one.³¹

³¹ 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 (Kelsen, 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 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 legislate directly and bypass the Congress to expedite the policy-making process in times of necessity and urgency: 25 DNU had been issued between 1853 and 1983 in circumstances such as internal civil unrest or the economic crisis of the 1930s. President Raul Alfonsín (1983-1989) has issued 11 DNU in serious situations such as the change of the national currency (Ferreira Rubio and Goretti, 1995: 78).³²

This legal limbo has been consolidated by the decision of the Argentine Supreme Court, which ruled that DNU is a valid legislative instrument of the President in 1990, whilst deciding on the constitutionality of DNU 36/1990 creating a forced public loan system (Negretto, 2004: 551). The only two conditions set forth by the Court were the existence of “serious social danger” requiring the adoption of rapid measures, and a Congress that “does not adopt decisions different from the decree on the involved issues of economic policy” (Negretto, 2004: 552). Neither of the two conditions represented a significant constraint on the presidential use of DNU: deciding what constitutes serious social danger rests completely with the President, while the will of the Congress could prevail only if initiating a new law either specifically rejecting the DNU or regulating the same policy area. This would be a costly and inefficient option, given the strong presidential veto power on any law passed in the Congress, as I have explained earlier.

Firstly, the legal status of the DNU strategically favours the agenda-setting power of the President through the para-constitutional rule of tacit approval (Negretto, 2004: 552). The DNU had always been considered approved by Congress even in cases of congressional inaction. The para-constitutional tacit approval of the DNU is exactly the opposite of the Italian tacit rejection of DL: the expression of a total relegation of the Argentine Congress from any policy area that is regulated by recourse to this strong constitutional resource of the President.

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, as I have already mentioned in the previous section, the President can entirely veto or partially modify with a line veto any law passed by the Congress, including the laws initiated by legislators. Furthermore, overriding the

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.

³² There is an ongoing legal-constitutional debate about the status of the DNU in Argentina before 1994, 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.

presidential veto requires a two-thirds majority in Congress, almost impossible to achieve, given the high fragmentation of the Argentine Congress and the specific legislative coalitional dynamic, as I had also shown in the previous section. This is exactly the opposite as in the case of a similar decree power in Brasil (Negretto, 2004), Italy (Della Sala and Krepel, 1998), or Romania (Constitution of 1991 and 2003³³), where the equivalent of the Argentine DNU is a special legislative proposal, albeit one with immediate legal effect, which must be endorsed in the Legislature before it can formally become law.

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 in a highly favourable institutional set-up (Negretto, 2004: 552-553). The outcome is that the vast majority of DNU have a very high success-rate (see Table 3 on page 134 earlier). Most often, the DNU is not even discussed in Congress, given its legal status explained earlier (Rubio Ferreira and Goretti, 1998: 51-53).

Saying that a DNU had passed without amendments would be erroneous and misleading, since the DNU does not actually have to “pass” any congressional scrutiny to act as full law, as with the NPL. Nevertheless, there are many congressional legislative initiatives challenging various DNU, either with outright rejection or amending (122 between 1999 and 2007)³⁴. Given the presidential veto powers on any law coming out of the Congress, the vast majority of these congressional initiatives end up neither rejected nor approved, failing the 2-year constitutional deadline for decision.

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

³³ <http://www.cdep.ro/pls/dic/site.page?id=371>

³⁴ According to the empirical information on which the current thesis is based, provided by *Dirección de Información Parlamentaria* (DIP) of the Argentine Chamber of Deputies in the form of two separate documents, *Trabajo Especial* 282 of 9th April 2007 and *Trabajo Especial* 304 of 16th April 2007, as outcome of a formal written request.

The attempt to reject or amend a DNU became so futile, that the Argentine members of the Congress developed a different practice in dealing with it: appealing to the goodwill of the President by issuing Declarations (an official act of the Congress, but with no legal effect) literally asking the President to reconsider a specific DNU on policy grounds.³⁵

Therefore, the major difference between the NPL and the DNU is their respective legal status. The first is a legislative proposal and it requires treatment and debate in Congress before it can become law and produce legal effects. The partisan veto-players in the Congress latch on this slim opportunity to go against a presidential initiative and delay the NPL as much as they can, until it lapses after failing the constitutional deadline for debate and decision, in an attempt to force some form of negotiation on the President. Voting against the presidential NPL would expose the congressional action to the strong institutional veto powers of the President.

The DNU has been a law as such until 2006 (given its para-constitutional status). The Congress had no legal/institutional power to delay its discussion and decision as it did with the NPL. The only congressional action against a DNU had been the initiation of a new law by the Congress dealing with a specific DNU directly (amending or rejecting it) or regulating the same policy issue as the DNU.

Nevertheless, the presidential veto power on the congressional decisions on NPL and DNU is the same for both acts. It becomes clear that the President enjoys stronger institutional veto powers when using the DNU than when using the NPL. The excessive recourse to the former comes as no surprise.

Thus far in this section I have explained why the DNU are preferred by the Argentine Presidents to the NPL. The DNU simply grant more institutional veto-power to the President than the NPL, through the combination of legal status (para-constitutional law) and the veto powers on the decision of the Congress.

How did the constitutional reform of 1994 change the legal status of DNU and did the change have any effect at all on the level of accountability of the Argentine President to the Congress? I will attempt to answer this question next in this section.

³⁵ An example would be 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 24th October 2001, asking the 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.

The inclusion of the DNU in the article 99.3 of the Constitution after the constitutional reform that took place in 1994 practically retains the same major feature: the DNU remains a law not requiring compulsory discussion and decision in Congress. The inclusion of the DNU in Constitution on such terms represents an actual reinforcement of the President's power as long as the same legal status of full law is transformed from para-constitutional to constitutional, formalizing the strong presidential agenda-setting power (Ferreira Rubio y Goretti, 1995: 89).

However, the 1994 constitutional reform did introduce a few regulations regarding the use and treatment of the DNU. The President cannot issue a DNU on matters of taxation, penal code, elections or political parties (Rubio Ferreira y Goretti, 1995: 90).

The new constitutional provisions require that a DNU must be forwarded to the Congress within ten days after being issued, specifically sent to a special bicameral Committee, which will discuss it and make recommendations to the Congress on approval, amending or rejection. This condition came after some DNU had never been forwarded to the Congress, particularly in the early 1990s, given the para-constitutional status of full law.

Another provision stipulates that the decision of issuing a DNU has to benefit from the support of all ministers and the Chief of the presidential Cabinet, while the Congress has to deal with the DNU immediately. This constitutional provision attempted to prevent the President from acting discretionary when issuing DNU.

The new constitutional provisions in place since 1994 do not constrain the use of DNU by the President. The exclusion of the afore-mentioned policy fields responds more to a question of principle, rather than constraining the actual issuing of DNU, while the Chief of Cabinet (as any other member of the Cabinet) can be removed by the President at any moment, therefore removing any incentives to oppose the issuing of DNU (Rubio Ferreira y Goretti, 1995: 90).

Furthermore, the 1994 Constitution stipulates that the Congress has to pass a specific law for setting up of the bicameral Committee dealing with a DNU. Such a law would also better regulate procedural matters, like amending or rejection of any DNU, the presidential veto on a law initiated by the Congress repealing a DNU, the rule of procedure in case a DNU is sent simultaneously to the Senate and the Chamber, the outcome of congressional inaction towards a DNU, or the outcome of no congressional decision after discussing a DNU.

However, the law setting up the special Committee and detailing the procedural matters applying to the treatment of the presidential DNU had not been passed in Congress until 2006,

for almost 12 years after the constitutional reform of 1994. Whenever the opposition initiated the law, the party of the President ensured its rejection with the support of smaller, easy to buy out congressional parties or partisan splinters of the major political parties.³⁶

Once the opposition managed to win the next elections, it did the same, repealing the law initiated by the parties who supported the previous President, now in the opposition. This game of initiation-rejection of the special law setting up the Committee and regulating the procedural matters for the treatment of DNU went on for almost 12 years, always ending in rejection of any provision that would truly constrain the use of DNU. The outcome of this reluctance on the part of Argentine political parties to constrain the use of DNU and hold the President accountable led to a situation where the rule of tacit approval established by the afore-mentioned 1990 Peralta decision of the Supreme Court regulated the legal validity of DNU until 2006 (Negretto, 2004: 553).

The constraints imposed on the presidential DNU power by the 1994 constitutional changes are hardly significant, given the loopholes left by the constitutional reform and the lack of willingness on the part of the political parties to pass the law setting up the specialized Committee. The issuing of DNU has increased after 1994, as compared to the use of presidential NPL (see Table 4 below).

Table 4: Constitutional reform of 1994 and the use of DNU and NPL.

	I. DNU issued	II. NPL issued	III.NPL success
Before 1994	13% (161)	87% (1085)	64% (693)
After 1994	30% (538)	70% (1246)	60% (742)

It could be hypothesized that the Argentine Presidents increased the number of DNU as compared to NPL as an outcome of congressional resistance to their policy initiatives, as in the case of Italy (della Sala and Krepel, 1998). However, as Column III in Table 4 above shows, this is hardly the case: the success-rate of presidential NPL remains almost the same before and after

³⁶ This information had been collected through personal interviews and discussions with Argentine scholars and researchers in Buenos Aires, March-May 2007.

the constitutional reform: 64% before 1994 and 60% after 1994. The decrease in the success-rate of presidential NPL is only 4%, while the 17% increase in the use of DNU is disproportionately higher (see the difference between 13% DNU issuing before reform and 30% after the reform in Column I in Table 4 above).

The policy-making structures of the Argentine political system, both partisan and congressional, remain the same after 1994, leading to the same success-rate of presidential NPL. This finding is similar to the situation in Italy, explained in the previous chapter, and indicates that the cause of an excessive use of Executive decrees is the persistence of partisan legislative structures, while the institutional structure determines the respective success and amending rates of DNU. Furthermore, empirical information shows that Carlos Menem, long considered the most “dictatorial” of all Argentine presidents after 1983, did not ruled Argentina by DNU either when considering the issuing (volume of issued DNU compared to volume of initiated NPL).

The case of Menem ruling by DNU has attracted a good deal of scholarly (Rubio Ferreira y Goretti, 1995; Rubio Ferreira and Goretti, 1998; Llanos, 2001) and media attention³⁷. President Menem had been taken as standard reference of high DNU issuing and all other Presidents had been compared to him. The empirical evidence indicates that Menem’s use of DNU after the constitutional reform of 1994 is the same as before (see Column I Table 5 below).

Table 5: DNU and NPL of Carlos Menem before and after constitutional reform.

	I. DNU issued	II.NPL issued	III. NPL success
Menem before reform	23% (150)	77% (505)	57% (287)
Menem after reform	23% (198)	77% (665)	61% (406)

The assumption that the constitutional reform as such, with its irrelevant regulations regarding the DNU, led to decreased DNU issuing proves to be unsubstantiated. As was emphasized the DNU issuing trend had picked up pace once again towards the end of the 1990s, under Menem himself, as an effect of economic deterioration, despite Menem’s overall

³⁷ See Capriata in footnote 12 on page 52.

decreased issuing of DNU during his second mandate (Rubio Ferreira and Goretti, 2000) (see Table 6 below).

Table 6: Use and success-rate of DNU and NPL for Carlos Menem by mandate.

	I.DNU issued	II.NPL issued	III.NPL Success
Carlos Menem 1989-1995	20% (154)	80% (611)	61% (375)
Carlos Menem 1995-1999	15% (94)	85% (559)	57% (318)

In other words, although Menem had issued less DNU during his second mandate, he increasingly resorted to DNU towards the end of his tenure in power, as he confronted an increased congressional opposition, as already explained earlier in this country chapter.

Menem did not issue more DNU than NPL throughout his two mandates in power. The ratio between DNU and NPL has actually improved during his second mandate, when he ruled more accountable to the Congress than during his first mandate.

Despite the notable increase in presidential power during Menem's two mandates (Rubio Ferreira and Goretti, 1998; Llanos, 2001; Negretto, 2004) empirical information indicates that he is a president who uses DNU under extreme economic circumstances and sends most of his policy initiatives to Congress through NPL or through Decrees issued based on special laws of delegation of legislative power passed by the Congress, as shown earlier in the chapter. However, this is not to say that Menem did not manipulate the Courts or engage in acts of corruption.

In this section I have shown that the constitutional reform of 1994 reinforced the legal status of the DNU by turning it from a para-constitutional resource into a constitutional resource, while retaining its major legal features that grant the President excessive institutional veto powers when using this policy-imposition resource: the DNU remains a law until 2006 and any decision pertaining to its text or policy substance is exposed to the same strong presidential veto powers which require a two-thirds congressional majorities to override. The cause of recourse to DNU is congressional opposition to presidential NPL through delay and tacit rejection, but the excessive

use of DNU is explained by its iron-clad constitutional design favouring the President, which guarantees its success.

I will next show how the constitutional design of the DNU totally in favour of the President distorts the intentions of the latter. It leads to a higher volume of approved DNU than the volume of approved NPL in the final body of approved presidential legislation.

Thus far I have revealed the structural causes that explain the increasing trend in DNU issuing and the high success-rate of this policy-imposition resource of the Argentine President. The partisan veto-players in the Congress make the recourse to DNU necessary when they oppose the presidential NPL, while the institutional veto power favouring the President leads to a steep increase in DNU issuing and a high DNU success-rate since 1983. I have also shown that the constitutional reform of 1994 has strengthened the presidential DNU power rather than constraining it.

The veto-player configuration of the institutional policy-making structures of Argentina favours the DNU to such an extent that it distorts the intentions of the President. Comparing the volume of issued DNU to the volume of issued NPL reveals the policy-making intentions of the President, more precisely the extent to which the Argentine President is willing to undermine the legislative function of the Congress in order to impose his or her own policy views when using DNU.

However, another comparison becomes more relevant at this stage of the argument: namely between the volume of approved DNU and the volume of approved NPL. The picture that is revealed is devastating for the Argentine democracy: the DNU end up constituting a higher than initially intended percentage of successful policy initiatives. In other words, the policy-making “grinder” of partisan and institutional structures of accountability distorts the presidential intentions, as reflected in the ratio between approved DNU and approved NPL (see Table 7 below).

Table 7: Volume issued DNU and NPL compared to volume of successful DNU and NPL

Presidency	I. DNU issued/NPL issued	II. DNU Succ/NPL Succ.
Alfonsín	DNU: 2% (11) NPL: 98% (590)	DNU: 3% (11) NPL: 97% (401)
Menem	DNU: 18% (248) NPL: 82% (1170)	DNU:26% (246) NPL: 74% (693)
De la Rúa	DNU: 24% (52) NPL: 76% (166)	DNU:30% (49) NPL: 70% (114)
Saá	DNU: 60% (6) NPL: 40% (4)	DNU:100% (6) NPL: 0% (0)
Duhalde	DNU: 54% (151) NPL: 46% (127)	DNU:68% (150) NPL: 32% (72)
Kirchner	DNU: 46% (231) NPL: 54% (274)	DNU:60% (231) NPL: 40% (155)
Total	DNU: 23% (699) NPL: 77% (2331)	DNU:33% (693) NPL: 67% (1435)

All Argentine Presidents issued a lower ratio DNU/NPL than the ratio of approved DNU/approved NPL. The most important observation is that this trend increases over time from President Alfonsín to President Kirchner.

President Raúl Alfonsín promoted 2% of his policy initiatives by DNU and 98% by NPL. After going through Congress, the volume of approved DNU in the total volume of approved presidential legislation became 3% (50% higher than the volume of issued DNU) while the volume of approved NPL is 97% (almost the same as the initial intention of 98%).

President Menem promoted 18% of his policy initiatives by DNU and 82% by NPL. The volume of approved DNU compared to the volume of approved NPL is 26% vs.. 74%. The difference between his intention to rule by DNU (volume of issued DNU of 18%) and the actual outcome (volume of approved DNU of 26%) is an increase of 44%.

The same holds true for all other Presidents. The outcome is that the Argentine Presidents promote only 23% of their policy views by DNU since 1983 (Column I in Total row in Table 7 above), while the country ends up being ruled by DNU 33% (Column II in Total row in Table 7 above). This constitutes a noticeable 50% difference between intentions and outcome.

The cause is not congressional acquiescence to DNU, as I have shown earlier, but the constitutional definition of this policy-imposition resource of the President (it would be misleading to consider the DNU a policy-bargaining resource since its constitutional definition

totally favours the President in relation to the Congress, precluding any bargaining by total imposition).

4. Conclusion: excessive Decree issuing and inexistent Executive accountability

In this chapter, I have shown that the Argentine Presidents issued an increasing number of DNU since the emergence of democracy in 1983 because their NPL was met with resistance by Congress, which makes use of gate-keeping and delay powers in order to force the President to negotiate policy. Nevertheless, the DNU was excessively used (more than made necessary by the congressional resistance to the presidential NPL) because the Constitution grants the President more power in relation to the Congress when using this resource.

I have further shown that the very high success-rate of the DNU (particularly when compared to the success-rate of presidential NPL) is owed to the constitutional definition of this important Presidential resource.

Most importantly, I have shown that the institutional veto-player structure of accountability completely in favour of the President leads to a higher volume of approved DNU in the total body of approved presidential legislation (i.e., approved DNU/approved NPL) than the volume of issued DNU compared to the volume of issued NPL. The outcome is an inexistent Executive accountability of the Argentine President to the Congress.

The findings of this chapter can be further improved by exploring the partisan structures of Argentina, given their reticence to change the constitutional design that excessively favours the President. The Argentine political parties had set up the specialized congressional Committee dealing with DNU 12 years after the constitutional reform of 1994, proving utterly incapable or totally unwilling to hold the President to account.

This chapter did not focus on the role of the Argentine Congress in the process of policy-makings, despite the existence of literature dealing with the topic: its share of legislative production, the success-rate of legislative congressional initiatives, the incidence of presidential veto on legislation initiated and passed by Congress and the success of the latter in overriding the presidential veto on its legislative initiatives turned into law (Mustapic y Goretti, 1991; Mustapic

and Goretti, 1993; Mustapic y Ferreti, 1995). The reason is the concern of this chapter with presidential accountability to the Congress in Argentina as a function of the success-rate of DNU, which has a specific theoretical relevance, as I have shown earlier in the thesis.

The absence of Executive accountability is the outcome of an institutional veto-player structure of accountability in favour of the President to such an extent that it reinforces the tendency towards low Executive accountability induced by the partisan veto-player structure of accountability, instead of constraining it, as in the Italian case. The Argentine legislative coalitions simply cannot afford to push the negotiation game too far and hold the President accountable for his policy views, given that the President can always escape negotiation constraints bypassing the Congress with a DNU and vetoing any further possible legislative action against it.

Given the scarcity of their legislative resources in relation to the President and the weak institutional veto power of the Congress, the Argentine legislative actors do make recourse to any other resource that would improve their bargaining position. They condition their legislative behaviour on electoral support whenever upcoming elections force the President to be more open to the demands of the legislative coalitions (Llanos, 2001, 2002). Besides this circumstantial accountability, the Argentine legislative coalitions hardly have any power resources that would impose Executive accountability.

According to the coalition classification elaborated in the literature and theoretical review chapter, Argentina has weak Type 1 congressional coalitions that cannot ensure stable support for presidential policies. The incapacity to reach negotiated policy outcomes is compounded by the paucity of legislative resources of legislators in their direct relationship with the President. Although the coalition type present in Argentina is the same to the Italian one until 1993, the major difference between the two countries resides in the constitutional resources available to the partisan veto-player structure of accountability when dealing with an Executive decree. The political parties disperse the policy agenda mapping-out the Executive-Legislature relations in different ways in Italy and Argentina.

The Italian partisan veto-players do make use of their solid legislative resources (rule of tacit rejection of DL and no Executive veto on the decision of the Parliament) and hold the Executive accountable for policy promoted by Decree, although they cannot offer it stable legislative support.

The Argentine partisan veto-players cannot offer constant congressional support, but they are not capable to hold the President to account for DNU either, given the rule of tacit approval and the strong presidential veto power on any decision of the Congress. As long as no credible legislative threat can be assembled against the President, the fragmentation and polarization works in favour of the latter, offering legitimacy to the bypassing of the Legislature with DNU whenever the legislative coalitions become excessively demanding.

Romania: excessive Decree issuing and low Executive accountability

1. Introduction

This chapter explores the level of accountability of the Romanian Executive branch of government (Cabinet) by establishing the success-rate (amending and rejection) of *Ordonanta de Urgenta a Guvernului* (or OUG, the Romanian name of the Executive Decree exercised based on constitutional decree authority) in Parliament.

This chapter is organized as follows: the first section explores the influence of partisan configurations in the Romanian Parliament on the propensity of the Executive to issue a large volume of OUG since 1992. I show that the Romanian political party system generates two types of legislative coalitions, exactly as in the Italian case: either weak, having a high level of fragmentation and polarization (Type 1 coalitions according to the classification in the literature and theoretical review), or strong, with a low level of fragmentation and polarization, therefore capable of passing through the Parliament any type of legislative proposal (Type 2 “dictatorial” coalitions according to the classification in the literature and theoretical review chapter).

The two coalition types that the Romanian party system generates lead to a weak partisan veto-player structure of accountability. Romania is the only study case which also presents the Type 3 “balanced” type of coalition between 1992 and 1996 (according to the classification in the literature and theoretical review chapter). As I have explained in the literature review section, this coalition type can reach policy decisions only after negotiation and compromise, given its structure. Firstly, no senior coalition partner can impose its views on the junior partners. Secondly, the close ideological proximity among coalition partners allows them successfully to conclude policy negotiations. However, the Romanian party system did not replicate this type of coalition across the years since 1996 until 2007 (the last year for which this thesis has accounted for empirical information regarding the Executive legislative initiatives), given its fluid nature, as I will explain later.

The second section will present how the legal status of the OUG defined in the Romanian Constitutions of 1991 and 2003 affects the capacity of the Romanian Parliament to hold the Executive to account by rejecting and/or amending the OUG. I argue that the lax definition of the OUG in the 1991 Constitution allows the Executive to easily bypass the Parliament in the process of policy-making. Furthermore, the Constitution of 2003 strengthens the capacity of the Romanian Executive to rule unaccountable to the Parliament: the legal status of the OUG is better defined, but in favour of the Executive.

The third section offers some tentative conclusions about the dynamic relation between the Romanian Parliament and the Cabinet. The Romanian legal system favours the Executive without necessarily granting it the formal excessive policy-making powers by Decree that the Argentine President enjoys. Furthermore, the Romanian constitutional system does not deny the Parliament the capacity to react to an excessive use of OUG, as in the case of Argentina. It remains to be seen to what extent the Romanian Parliament makes use of its institutional veto-player power and its success in holding the Executive accountable for policy promoted by OUG by rejecting and amending these acts.

The empirical information this chapter is based on contains data for legislation initiated by the Romanian Executive through OUG and NPL between 1992 and 2007 in both the Chamber of Deputies and the Senate. I have used the data for Cabinets in power after November 1992 given that the OUG is regulated by the Constitution of December 1991. The Cabinet governing between September 1991 and November 1992 had been a technical one, put in power with parliamentary support after the violent street events of September 1991 under special circumstances. Furthermore, this technical Cabinet could not use OUG for the first part of its mandate given the inexistence of constitutional provisions. I chose to collect and interpret data for Executive-initiated legislation in both Chambers of the Parliament for reasons explained earlier in the thesis.

2. Legislative partisanship and the partisan veto-player structure of accountability

2.a. The Romanian Parliament: weak, dictatorial and balanced legislative coalitions

An important feature of the Romanian political landscape is the high number of effective parties in Parliament, revealing a highly fragmented Legislature throughout the 1990s and early 2000s. Romania has constantly had a high number of parties that accessed the Parliament, particularly until 2004 (Stefan and Grecu, 2004): 13 parties entered the Parliament after the elections of 1992 and 1996. The introduction of 5% thresholds for individual parties and 10% for electoral alliances in 2000 reduced the number of parties in the Parliament to only 8, while the Parliament elected in 2004 still had 7 political parties³⁸.

The high number of parties in Parliament is already indicative of coalition governments, but in the context of ideologically polarized politics of post-Communism it shows that Romania has experienced fragmented Executive coalitions, with a generally high level of polarization. This has been particularly compounded by the excessive number of splits of political parties after gaining parliamentary representation.

It would be difficult to argue that Romania has a structured party system, leading to predictable coalition alliances based on ideological orientation, generating a constant number of active parties in the Parliament, according to the classic definition of a political party system (Sartori, 1976). The number of parties competing in elections has varied across the years, with many exits and entries from and into the legislative arena. The Romanian partisan establishment has experienced a high number of fusions and splits, highly influenced by the interests of political leaders, renaming and changes in their declared ideological orientations (Stefan and Grecu, 2004).

Emblematic for the fluidity of the still inchoate Romanian party system is the turning of the early 1990s FSN (Frontul Salvării Naționale, or the Front of National Salvation) from a strongly

³⁸ I draw extensively on Stefan and Grecu, 2004, when referring to the number of parties and their ideological polarization, as well as the number of partisan splits and fusions. I have also combined this information with empirical information on the composition of the legislative coalitions supporting the Executive available on the official website of the Romanian Chamber of Deputies (www.cdep.ro).

leftist party, which inherited the political legacy of the pre-1990s Romanian Communist Party, into two major political parties which currently occupy the centre-left of the Romanian political establishment (PSD, the Social Democratic Party) and the centre-right (PD-L, the Democratic-Liberal Party). The latter emerged as the outcome of a fusion between the PD (Partidul Democrat, or the Democratic Party) and a leader-centred splinter from the PNL (the National Liberal Party) in late 2007. The process of organizational and ideological transformation of the left-right ideological divide lasted 17 years and is still an ongoing process.

Similar to the Italian case, the Romanian political establishment organizes coalitions that govern the country based on direct negotiations among parties, in order to find a coalition formula whose members' share of legislative seats would at least in theory ensure some form of governance stability.

The Romanian political parties derive their power and ensure their access to the Executive office from their bargaining capacity and not from their electoral performance, leading to a democracy used by political parties for their exclusive interests (Barbu, 2003: 259). The examples of the centre-right executive coalitions (1996-2000 and 2004 – present) are illustrative in that sense: taken singly, the parties in the Executive had lower electoral scores than the main opposition party (the social democratic PDSR in 1996, renamed PSD in 2000)³⁹.

This type of coalition formation is specific to multi-partisan politics in parliamentary democracies, where the proportional representation electoral system with closed lists generates partisan fragmentation, which in turn leads to coalitional games in which the policy-platforms are less important than the distribution of government positions, managerial posts with state-run enterprises and public utility companies.

The life of an Executive coalition had been 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. The government performance counted less for the cohesiveness of the Executive coalition than the political and economic interests of the parties in the coalition. The more fragmented and polarized the Executive coalition, the more difficult to conclude policy negotiations and reach decisions. Given the high fragmentation and low ideological definition of the Romanian partisan establishment, coalition instability has characterized most of the cabinets that governed the country.

³⁹ Data from the official website of the Romanian Chamber of Deputies (www.cdep.ro).

Table 1: OUG and NPL issuing, success and amending rates since 1992⁴⁰

Coalition	I. OUG issued	II. NPL issued	III. NPL Success
VACAROIU 19.11.1992 - 11.12.1996	(19)	Info not available	(369)
CIORBEA 11.12.1996 - 15.04.1998	39% (102)	61% (160)	91% (145)
VASILE 15.04.1998 - 21.12. 1999	58% (260)	42% (189)	77% (146)
ISARESCU 21.12.1999 - 28.12. 2000	78% (306)	22% (86)	91% (78)
NASTASE 28.12.2000 - 28.12.2004	47% (680)	53% (767)	95% (725)
TARICEANU I 28.12.2004 - 02.03.2007	51% (362)	49% (343)	95% (327)
TARICEANU II 03.03.2007- 19.12.2007	57% (145)	43% (109)	94% (103)
TOTAL Romania 1992-2007	48% (1874)	52% (2023) (aprox.)	94% (1893)

As Table 1 above reveals, Romania has been ruled extensively by OUG since 1992 until the present day: the Executive promoted 48% of its policy initiatives through OUG and 52% by NPL (see row Total in Table 1 above).

Secondly, the centre-right coalitions of Vasile, Isarescu and Tariceanu I and Tariceanu II, have many veto-players as I will explain later, governed mainly by OUG, particularly in times of extensive economic reforms (1996-2000) (see row Total in Column I in Table 1 above for each coalition).

Thirdly, the increased use of OUG is not correlated to the level of success of Executive-initiated NPL, as in the case of Italy (see Column III in Table 1 above). All Romanian Executives enjoyed high NPL success-rates, despite the fragmentation and polarization of the Parliament.

This can be explained by the policy irrelevant content of these acts, given that close to 100% of policies are promoted by OUG. I will return to this important aspect later. As I will show later, the success-rate of OUG is very high, with an average amending rate (particularly compared to the Italian case, where the DL are heavily amended and frequently rejected, particularly through tacit rejection). This is already indicative of a Parliament that is acquiescent of the Executive

⁴⁰ Data collected directly from the Library and the website of the Romanian Chamber of Deputies (www.cdep.ro).

practice of governance by OUG, although it could make use of its institutional resources to reject them.

2.b. Partisan veto-players, legislative coalitions and governance by Emergency decree

Despite the fluidity of partisan politics and the low importance of ideological orientations when organizing cabinets, coalitional patterns do emerge. Romania had been governed by seven Executive coalitions since 1992, all the outcome of post-electoral negotiations and/or intra-coalition reshuffling (see Table 2 below).

With the exception of the first Executive coalition under observation (Vacaroiu 1992 – 1996), the centre-left has generated one strong and cohesive coalition (Nastase 2000-2004), with a low number of veto-players, able to pass legislation without having to negotiate with the opposition (I will explain the functioning of this particular coalition later in this chapter).

The centre-right has generated five coalitions, all highly fragmented and ideologically polarized. The last centre-right coalition (supporting the Executive Tariceanu II in power since March 2007 until December 2008 when new elections took place) organized a minority Executive which governed in a climate of continuous political instability.

Table 2: the political composition of coalitions governing Romania since 1992.

Coalitions	Political composition
1. VACAROIU 19.11.1992 – 11.12. 1996 (minority government with external support)	FDSN (34.3%) PUNR (8.8%)+PRM (4.7%)+PSM (3.8%)+PDAR (only Senate representation) TOTAL : 51.6%
2. CIORBEA 11.12.1996 – 15.04.1998	PNTCD (23.9%)+PNL (7.2%)+PNLCD (1.7%) + PER (1.4%)+FER (0.3%)+PAR (0.8%)+PD (12.5%)+PSDR (2.9%)+UDMR (7.2%) TOTAL: 57.9%
3. VASILE 16.04.1998 – 21.12.1999	PNTCD (23.9%)+PNL (7.2%)+PNLCD (1.7%) + PER (1.4%)+FER (0.3%)+PAR (0.8%)+PD (12.5%)+PSDR (2.9%)+UDMR (7.2%) TOTAL: 57.9%
4. ISARESCU 22.12.1999 – 28.12. 2000	PNTCD (23.9%)+PNL (7.2%)+PNLCD (1.7%) + PER (1.4%)+FER (0.3%)+PAR (0.8%)+PD (12.5%)+PSDR (2.9%)+UDMR (7.2%) TOTAL: 57.9%
5. NASTASE 29.12.2000 – 28.12. 2004	PSD (40%)+PSDR (3.1%)+UDMR (7.8%)+PUR/PC (1.7%) TOTAL: 52.6%
6. TARICEANU I 29.12.2004 – 02.03.2007	PNL (19.3) +PD (14.46%)+UDMR (7%)+PUR/PC (5.7%) TOTAL: 46.46%
7. TARICEANU II 03.03. 2007 – December 2008 (minority government)	PNL (19.3%) + UDMR (7%) TOTAL: 26.3%

The centre-right has also governed the country between 1996 and 2000, a period of extensive economic reforms and political turmoil, organizing three different coalitions literally among the same political parties, but with different Prime-Ministers (see Table 1 above for the Cabinets of PMs Ciorbea, Vasile and Isarescu) in a continuous attempt to find a coalition formula that would appease the discontent of the major partners in order to remain in power.

The centre-right legislative coalitions supporting the Romanian Executive had a high number of veto-players, lacking policy congruence, while some of the veto-players exhibited a low level of policy cohesion (namely dissimilarity of policy positions among the units of each veto-

player). Therefore, none of the conditions necessary for reaching efficient policy decisions is met when the Romanian centre-right coalitions organized the Cabinet.

The centre-right Cabinets that governed Romania between 1996 and 2000 are highly illustrative (see Table 2 above): they exhibited a high level of fragmentation and polarization, being comprised of eight political parties and one association of the Hungarian minority living in Romania that acted as a political party (under Romanian law, cultural associations of minorities can run electoral lists).

The centre-left of the Romanian political establishment has managed to impose one “dictatorial” coalition reflecting the outcome of elections (Type 2 coalition according to the classification in the literature and theoretical review chapter), while the centre-right has generated five highly fragmented and weak coalitions (Type 1 coalitions according to the classification in the literature and theoretical review chapter), organized as an outcome of inter-partisan post-electoral negotiations, not reflecting the popular vote. The only Executive coalition that governed Romania having to negotiate to ensure its staying in power, while also being able to conclude negotiations is the legislative coalition supporting the Vacaroiu cabinet (1992-1996), for reasons that I will explain in the next section. This had been a Type 3 “balanced” coalition according to the classification in the literature review and theoretical chapter.

As it comes out of empirical investigation, the Executive coalition that governed Romania between 1992 and 1996 has issued a strikingly low number of OUG, when compared to the volume of its NPL (see Table 3 below).

Table 3: Legislative output of the Vacaroiu Government.

Coalition	I. OUG issued	II. NPL issued	III. NPL success
Vacaroiu: 19.11.1992 - 11.12.1996	5% (19)	95% aprox. (info not available)	369

The information regarding the volume of issued NPL of the Vacaroiu Executive (Column II in Table 2 below) is not available anywhere, given the low institutionalization of the Romanian political system in the early 1990s. However, the information on the volume of successful NPL is available, given that it is considered legislative output of the Parliament based on legislative

proposals coming from the Executive⁴¹. Even in the eventuality that all the issued NPL had been approved and the issued NPL is equal to approved NPL, the volume of OUG issuing is still low compared to NPL issuing (an approximate 5% OUG and 95% NPL). Therefore, the Vacaroiu Cabinet is the only one among units of analysis in all three country cases which did not attempt to undermine the legislative function of the Parliament through an excessive use of OUG.

Paradoxically, the early 1990s politics and the low Executive determination towards economic reforms and political liberalization hardly qualify Romania to the status of a democracy, save for the regularly organized elections. However, the Vacaroiu Cabinet issued significantly less OUG given that it had been supported by a legislative coalition that needed to bargain in order to reach policy decisions and had the capacity to do so given its low polarization and moderate fragmentation (Type 3 “balanced” coalition according to the classification in the literature and theoretical review chapter). The close ideological proximity of the coalition partners facilitates policy negotiations while the dependency of the senior partner on the junior coalition partners makes negotiation unavoidable, as I will show later.

Table 4: the political composition of the Vacaroiu Executive.

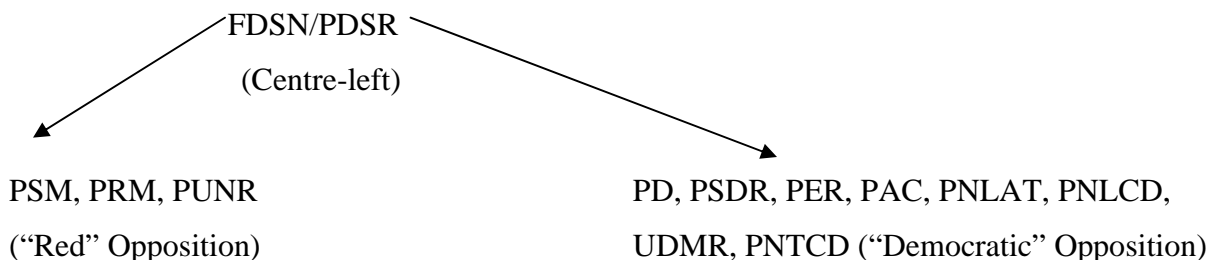
<p>VACAROIU Cabinet 19.11.1992 – 11.12. 1996 (minority government with external support)</p>	<p>FDSN (34.3%) PUNR (8.8%) PRM (4.7%) PSM (3.8%) PDAR (only Senate representation)</p> <p>TOTAL : 51.6%</p>
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FDSN, the party that won the elections in 1992, had garnered 34.5% of votes, but the configuration of power allowed it to form a mostly informal but effective legislative alliance with PUNR, PRM, PSM and PDAR, which offered external parliamentary support in exchange for policy compromises, joining the Executive only for brief periods of time (see Table 4 above).

Despite the large number of parties accessing the Parliament (13), the presence of “two oppositions” (on the one hand the “Red” group of leftist-nationalist parties of PUNR, PRM, PSM and PDAR, on the other the “democratic” opposition of PD and the parties member of the

⁴¹ Information available in the legislative database of the Romanian Chamber of Deputies (http://www.cdep.ro/pls/dic/legis_acte_parlam)

Democratic Convention electoral alliance) allowed FDSN to negotiate policy with those parties that had been ideologically close to had remained for the whole mandate without changing the prime-minister or losing their position of primacy in the Executive (see scheme below).



Initially, FDSN started with a minority government having a strong technocratic component: 11 ministers coming from the winning party FDSN and 10 ministers from the technocratic elite inherited from the central administration of the pre-1989 communist regime (Radu, 2000: 55). After insuring the parliamentary support of the leftist-nationalist parties of the Red Opposition, it had been able to pass legislation that allowed it to go through the particularly harsh winter of 1992-1993 facing dire economic circumstances.

FDSN proposed a governing agenda in accordance with its own ideological orientation, but also pleasing its non-reformist legislative partners. The minority executive presented its economic program in Parliament on March 4, 1993. Its policies had been characterized by excessive social protection, excessive involvement of the State in the economy, strict and discouraging measures for private economic initiative, with an economic target of 0% economic growth for 1993, 70% inflation and the privatization of an estimated 5-7% of the State owned enterprises (Radu, 2000: 54-55).

The presence of “two oppositions” and the ideological proximity of FDSN to one of the two opposition blocs, offered the minority Executive the possibility to negotiate policy and conclude negotiations after policy compromise. FDSN soon discovered that a minority government with external parliamentary support is more advantageous than a full executive coalition that would offer Executive positions to its allies. Consequently, FDSN developed a strong interest in maintaining the initial Executive composition (Radu, 2000: 55).

This coalitional logic had been confirmed by the voting on the first motion of censorship introduced by the democratic opposition in Parliament on March 19, 1993: 260 votes against the

motion and only 192 in favour of Cabinet removal. The results indicated that the Executive could count on 11 more MPs compared to the moment of its investiture in the autumn of 1992. The voting on the censorship motion revealed that the “Democratic opposition” had been extremely vocal in terms of political declarations, but highly ineffective when confronted with the legislative bloc supporting the Executive.

The first year of minority government passed without significant changes in the alliance supporting the Executive. Throughout 1993, FDSN changed its name to PDSR and engaged in various reshuffles among its own cabinet members and the technocrats holding some ministerial positions, but it did not invite its legislative allies to take over Executive positions. As the economic reforms became stringent, the Prime Minister Nicolae Vacaroiu declared that the next year of 1994 would be “the year of privatization”, much to the displeasure of its staunchly anti-reformist legislative allies. Two of the supporting parties, PSM and PUNR, engaged in increasingly threatening rhetoric alluding that they would withdraw their parliamentary support.

The political context of the first year of minority government revealed an Executive skilful in outplaying the “Democratic opposition” by negotiating with the “Red opposition”, but still under the pressure from two parliamentary blocs.

The “democratic opposition”, very vocal but rather ineffective in terms of parliamentary action, simply pressured the Executive with motions of censorship and incendiary political statements. The “Red” opposition supported the minority Executive from Parliament in exchange for policy compromises: statist economic policies, international political isolationism and the containment of the demands for cultural and political rights for the Hungarian minority, which had been perceived as the major danger to Romanian national unity. A new censorship motion introduced by the “Democratic opposition” failed in the Parliament on December 17, 1993, but the very close voting results (236 against the motion and 223 in favour of bringing down the Executive) indicated the diminished legislative support for the minority Executive (Radu, 2000: 56).

The strong legislative pressure forced FDSN (later renamed PDSR) to demand presidential intervention in negotiating with all political parties in Parliament in order to decide on a new legislative coalition formula that would lend its legislative support to the faltering Executive. The “Democratic” opposition (PD and the parties of the Democratic Convention) demanded that the Executive should change its structure and composition in exchange for parliamentary support.

The reaction of PDSR had been to offer Executive positions to one of its “Red” allies, the anti-Hungarian nationalist PUNR, on February 2, 1994. However, PDSR delayed the formal appointments as much as it could, offering the same positions to the “democratic” opposition, using the perspective of the anti-Hungarian PUNR joining the Executive as blackmailing method against the “Democratic opposition”.

The decreased support for the Executive had been revealed once more on June 30, 1994, when its ally PDAR (which had only Senate representation) supported a new censorship motion introduced by the “Democratic” opposition. The attempt to remove the Executive failed again (227 votes pro-Executive and 208 against the Executive) but the very close vote as well as the defection of PDAR are indicative of an Executive that can survive even without the support of one of its legislative allies (although one that had only Senate representation) but is increasingly forced to make policy compromises in order to ensure its survival.

PDSR eventually kept its promise and offered executive positions to PUNR in August 1994 and the immediate reaction of its other allies had been to demand similar positions (Radu, 2000: 59-60). PDSR managed to buy out its allies by offering positions in the Executive, so that the Privatization Law passed through Parliament containing all policy provisions put forth by the Executive, with full support of its legislative allies, after significant negotiations.

The last test of 1994 had been a new censorship motion initiated by the “Democratic opposition”, which failed with 249 votes against and 206 for. It is important to notice that the privatization process failed lamentably in 1994, with only about 25% of its target being accomplished (Radu, 2000: 60-61). The major reason is the low determination to implement market-oriented reforms on the part of PDSR and the staunch opposition to any significant reforms on the part of its legislative allies. This is highly indicative of an Executive ruling under close control of the Parliament, given the policy compromises that it has to make.

The period 1995-1996 marks a new dynamic of the coalition supporting the Executive, with elections in sight in 1996. The Executive signed a formal protocol with its allies on January 20, 1995. In practice, the coalition partners engaged in contradictory rhetoric, nevertheless supporting the Executive in Parliament and from their newly gained ministerial positions. PRM, PUNR, PDAR and PSM (all anti-reformist “Red” opposition parties) started to give up on their Executive positions towards the end of 1995, invoking various reasons, but fearing electoral punishment in the upcoming elections of 1996. PRM left the Executive on October 19, 1995,

PSM at the beginning of 1996. Denouncing the signing of good neighbourliness treaty between Romania and Hungary, PUNR gave up its Executive positions on August 31, 1996 (Radu, 2000: 64-65). All of them continued to offer the external legislative support to the minority Executive.

All these resignations from Executive positions did not lead to the downfall of the Cabinet for two reasons: the ideological incompatibility between the allies of PDSR and the “Democratic opposition” led to the impossibility of a parliamentary collaboration against the Executive, while the “Democratic opposition” itself became increasingly disinterested in the resignation of the Executive with elections approaching.

Generally, the “Red opposition” had been constructive, pressuring the Executive for policy concessions but nevertheless supporting it. This is the major explanation for the passage through Parliament of the most important laws at the end of 1995 and in 1996: the Law for Accelerating Privatization (the vote of PSM had been decisive), the Education Law (PUNR voted against given some concessions for own language education rights granted to Hungarians), the Budget Law passed with substantial support after policy negotiation and compromise (245 supporting votes and 108 against) (Radu, 2000: 65).

The Executive responded to the legislative pressures coming from all sides with a large number of cabinet reshuffles. There had been three reshuffles in 1996 alone and seven throughout the mandate since 1992, with no less than 40 ministers and under-ministers changed. It is interesting to note that all these reshuffles had been implemented at the proposal of the Prime Minister by presidential decree, without any debate in Parliament, due to the interpretation of Article 85 of the Constitution to the effect that only the change of the Prime Minister requires a vote in the Parliament. This shows an Executive determined to get its way without Parliament’s intervention and negotiations, if possible. Given the opportunity to bypass the Parliament through presidential intervention in the reshuffling process, the Executive opted to do so. This is highly significant for the argument of this thesis. The Vacaroiu Executive could not bypass the Parliament on policy-making matters, given its dependence on the “Red Opposition”, but it did not hesitate to bypass it when it needed approval for cabinet reshuffles of ministerial and sub-ministerial positions, by turning to the President of the country and interpreting the Constitution according to its own interest.

To sum up, the presentation of coalitional dynamics for 1992-1996, FDSN (renamed PDSR) understood that a simple legislative coalition supporting its minority government suffices for its

non-reformist governing program given its capacity to negotiate with the “Red Opposition”. It offered executive positions to its legislative allies only when pressured to do so.

A few factors had a significant influence in making this tactic possible. Firstly, PDSR managed to ensure the support of the non-reformist parties in Parliament given their close ideological orientation. Secondly, the collaboration between the two legislative groups representing the Opposition had been impossible given their antithetical ideological orientation: the nationalist PUNR and PRM could not collaborate with UDMR, which represented the Hungarian minority. PDSR itself could not establish any collaboration with PD, although both originated in the FSN, given the different positions of their leaders towards economic reforms. PNTCD, the leading party of the electoral alliance CDR, had a staunchly anti-Communist position and could not offer its support for any Executive built around PDSR, considered the inheritor of the pre-1990 Communist Party.

Empirical information constantly shows a PDSR making policy concessions to its junior allies in the Parliament. This is explained by the total number of legislative seats of only 51.6% of those parties supporting the Executive. PDSR itself held only 34.5% of legislative seats. The very narrow Executive majority increased the blackmailing potential of all the parties supporting the Executive, despite their individually low number of seats. Had any of PSM (3.8%), PUNR (8.8%) or PRM (4.7%) withdrew its support for the Executive and voted against it along with the PD-CDR democratic opposition, the fate of the Executive would have been sealed.

Therefore, the 1992-1996 coalition has a major partner (FDSN/PDSR) that could not impose its will on the junior partners given their capacity to precipitate Executive downfall. The senior partner had to negotiate in order to reach policy decisions and its ideological proximity to the junior partners facilitated the negotiations.

In terms of partisan veto-players, the average number (three veto-players) and their ideological proximity to the senior coalition partner (all parties are of leftist ideological orientation in terms of economic policy and all display a certain nationalist discourse, which is nevertheless extreme in the case of PRM and of PUNR), allowed for an increased capacity to reach policy decisions after negotiations.

One more aspect should be highlighted here. Although the Vacaroiu Executive did not implement significant economic or political reforms, it nevertheless had to confront an increasingly unstable economy with a weak budget. It did initiate some legislation to privatize

the state industries only late in its mandate, mostly forced by the economic context and going against its own orientation and legislative allies.

However, the large number of approved Executive-initiated NPL is equally high to that of the next Cabinet (1996-2000), which had implemented extensive economic and political reforms. It could be reasonably argued that the Vacaroiu Executive could have issued a large volume of OUG, given the high agenda-setting power of these acts (as I will show in the next section on the institutional veto-player structure of accountability) and then further reject legislative action by issuing other OUG changing the policy views of the Parliament, a tactic used by the Executive coalitions of 1996-2000 (as will be shown next).

However, the very nature of the Executive coalition would have made this tactic suicidal. Confronted with an Executive bypassing them, the legislative “Oppositions” (the Red and the Democratic one) could have easily joined forces to throw out an Executive whose major partner (PDSR) had only 34.3% of the legislative seats. Negotiation and policy compromise had been the only means of reaching policy decisions between 1992 and 1996 made necessary by the low number of legislative seats of the Executive party (FDSN/PDSR) and made possible by the close ideological proximity to the “Red Opposition”.

I will next explore the nature and functioning of the coalition that supported the first centre-right reform-oriented Cabinets between 1996 and 2000. This period had been marred by legislative instability and coalitional dissent, which translated into an increased need on the part of the Executive to overcome its internal divisions by an increased issuing of OUG.

The Executive has issued a strikingly large volume of OUG between 1996 and 2000 (61%) (see Table 5 below), compared to the Vacaroiu Executive presented earlier (5%). Furthermore, the OUG issuing increases gradually, according to the increased coalitional instability.

Table 5: OUG and NPL output for the reformist coalitions of 1996-2000.

Coalition	I. OUGs presented	II.NPL issued	III.NPL success
CIORBEA 11.12.1996 - 15.04.1998	39% (102)	61% (160)	91% (145)
VASILE 15.04.1998 - 21.12. 1999	58% (260)	42% (189)	77% (146)
ISARESCU 21.12.1999 - 28.12. 2000	78% (306)	22% (86)	91% (78)
TOTAL 1996-2000	61% (668)	39% (435)	85% (369)

The legislative coalition supporting the Executive is made up of three different coalitions: CDR (*Conventia Democratica* din Romania, or the Democratic Convention of Romania, comprised of PNTCD, PNL, PNLCD, PER, FER and PAR), USD (*Uniunea Social Democrata*, or the Social Democratic Union, comprised of PD and PSDR) and UDMR, a Union of various associations representing the Hungarian minority.

The actual winner of the November 1996 elections had been PDSR, with 26.5% of the votes. This had been a modest electoral outcome compared to its 34.5% in 1992, but the Executive coalition had been decided as the outcome of political negotiations among all political parties that opposed PDSR. The latter could not form the coalition itself together with its former “Red” allies PUNR and PRM, given their low total of legislative seats of only 37.2%.

The negotiations aiming to form a legislative coalition that would support the Executive lasted for a whole month, from November 6 to December 6, 1996. The partners negotiated not only a common governing platform, but first and foremost all positions within the State, from parliamentary commissions to ministerial posts, which made the negotiations drawn-out and difficult.

The difficulty of forming a coalition had been compounded by the ideological opposition between the centre-left electoral alliance USD and the centre-right CDR, as well as with the blackmailing capacity of USD without whose support the coalition had been impossible to assemble (15.4% of seats in Parliament).

The major reasons in forming this ideologically polarized coalition had been the outmanoeuvring of PDSR (the actual winner of elections), preventing it from occupying government positions. The policy platform formally agreed upon had political and economic reforms at its core, but the actual strategy of implementation and the degree of social protection had constantly brought to the surface the ideological differences among the major partners.

The number of parties accessing the Parliament remained 13, indicating a high level of legislative fragmentation (Stefan and Greco, 2004). Interestingly, this fragmentation is entirely reflected in the composition of the coalition assuming Executive positions (see Table 2 on page 154 earlier), but not at the level of the parliamentary opposition.

The opposition is comprised of the ideologically closed PDSR, PRM and PUNR, former coalition partners between 1992 and 1996 (now totalling 37.2% of the seats in Parliament), which reverts the configuration of power between the legislative coalition supporting the

Executive and the parliamentary opposition, as compared to the previous coalition: a polarized and highly fragmented Executive coalition confronts an ideologically united and numerically strong opposition, in contrast to 1992-1996, when an ideologically closed Executive coalition with a low level of fragmentation confronted an ideologically divided and numerically weak “Democratic opposition”.

This interesting configuration will prove highly influential in terms of legislative action against the Executive towards the end of the Executive mandate, when the CDR-USD-UDMR coalition had lost its parliamentary majority because of a high defection rate among its MPs and a low party discipline in voting.

The constant internal bickering among the partners of the Executive coalition translated into a constant instability, reflected in the number of prime-ministers between 1996 and 2000: Victor Ciorbea (1996-1998), Radu Vasile (1998-2000) and Mugur Isarescu (2000), none of whom had been the president of the largest party in the coalition, the reform-oriented anti-communist PNTCD.

This heterogeneous coalition had a low capacity to reach policy decisions given that none of the coalition partners held a numerically strong enough position to impose its policy views on the others, either by threat of coalition break-up or by negotiation, as well as given the serious ideological polarization of the coalition. The weak nature of this coalition (given its high level of fragmentation and polarization) is reflected in a number of legislative indicators.

The number of important laws waiting in Parliament and the number of days required for passing them gradually increased across the years. Out of 449 laws awaiting approval in Parliament in 2000, 30 had been initiated in 1997, 143 in 1998 and 286 in 1999 (Pavel and Huiu, 2003: 363). The low capacity of promoting legislation in Parliament reflects the incapacity of the coalition partners to develop a cohesive strategy for effective governance: a law had been passed every 13-14 days during the first months after taking over the power in 1996, but the average waiting time increased to 90-100 days by the end of 1997.

In 1998, the year of the most serious conflict among the Executive coalition partners leading to the change of prime-minister Victor Ciorbea, the waiting time of legislation in the two chambers reached 150-170 days (Pavel and Huiu, 2003: 364). The legislative initiative on changing the Education Law to grant minorities increased rights to be educated in their own language racked up a record time of 750 days of waiting in Parliament, being opposed even by

some members of the parties present in the Executive coalition.

The laws promoted by different Executive coalition partners encountered a long waiting time in either one of the Chambers, according to the political affiliation of the Chamber's Presidents. When representatives of the Christian Democrats (PNTCD, the major partner in the CDR alliance) proposed legislation, the waiting time in the Chamber of Deputies (presided by Christian Democrats) was substantially shorter than in the Senate (presided by a Democrat, one of the two parties that constituted the USD alliance, part of the Executive coalition): 13 days in the Chamber and 197 days in the Senate. The same had been valid for legislation proposed by the Democrats: it spent 64 days in the Senate and 543 days in the Chamber (Pavel and Huiu, 2003: 364).

Therefore, the 1996-2000 Executive coalition has no major partner that could impose its will on the other partners. Despite the need to negotiate, the conclusion of negotiations is difficult, and often impossible. 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). The actual number of veto-players is not significantly higher than for the previous coalition, but 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 halt.

It is also worth noticing the high determination of the 1996-2000 coalition towards economic reforms. The Executive coalition confronted major financial crises both in 1997 and 1999. It also tackled the long-delayed privatization process, confronting hundreds of strikes. A long list of difficulties faced this highly fragmented and polarized coalition, the first one genuinely dedicated to reforms and the integration of Romania in the European Union and NATO. Suffice it to notice the high number of newly created institutions (84) and existing but reorganized institutions (45) required by the new economic and political turn of the country (Pavel and Huiu, 2003: 575-578).

Many of the 668 OUG issued by the three Cabinets in power between 1996 and 2000 had been decided on by the next Parliament (2000-2004), given the absence of a constitutional provision regarding the legislation that remains undecided from the previous Legislature. In this particular configuration, the Opposition itself can become a veto-player, particularly that the

Coalition lost its majority by the end of its mandate, given the numerous party splits: at the end of the legislative term, the number of parties in the Parliament increased from 13 to 17, given that four new political parties emerged splitting from the existing ones (Radu, 2000: 327-328).

However, for political calculations, the leftist opposition preferred to oppose the Executive rather than negotiate policy. The electoral fortunes of all parties in power had been decreasing so steeply that the Opposition had no interest in negotiating policy, preferring more obstructionist legislative tactics and electoral rhetoric. The recourse to OUG had been the only legislative strategy available to this Executive coalition exhibiting a high number of veto-players, particularly given its ideological heterogeneity. Instead of waiting for the approval of its NPL (which could take months or even years), it preferred to issue a large number of OUG, which ensured immediate legal effect and the capacity to govern the country. The complicated legislative procedures (which I will describe in the next section) and the cohesive legislative opposition, which did not have any interest to negotiate policy with a faltering Executive, led to a situation where the Executive tended to issue an increasing volume of OUG.

An allegedly “dictatorial” culture of politics in Romania does not determine the behaviour of the most democratic coalition that ever ruled the country. The democratic credentials of the major parties in the coalition are incontestable: PNTCD and PNL are historical Romanian parties banned by the communist regime whose leaders spent most of their life as political prisoners, both staunch supporters of political and economic liberalization. The UDMR representing the rights of the Hungarian minority living in Romania has long fought for any form of political liberalization that would ensure higher chances of success of its policy claims for increased minority rights. The leaders of PD had advocated stronger political and economic reforms in the early 1990s, eventually splitting from the leftist conservative FSN/FDSN to form a new reform-oriented party in 1991.

I will next explain the functioning of the only Type 2 “dictatorial” coalition that governed Romania since 1992. The Executive coalition that governed Romania between 2000 and 2004 has also used OUG extensively, although at lower rates than the previous Executive coalition (see Table 6 below).

Table 6: OUG and NPL output of the Nastase Executive.

Coalition	I.OUG issued	II.NPL issued	III.NPL Success
Nastase 28.12.2000 - 28.12.2004	47% (680)	53% (767)	95% (725)

The Nastase Executive issued less OUG than the previous fragmented and unstable coalitions (47% of the total volume of its own legislation, compared to 61% issued by the CDR-USD coalition). Nevertheless, the volume of issued OUG constitutes almost half of the Executive legislative initiatives. What explains the similar legislative behaviour of Executive coalitions that are radically different in terms of structure and political identity? It is worth exploring the partisan legislative structure of the unit of analysis in order to explain its legislative behaviour.

The number of effective parties in the Parliament decreased significantly to only 8, with a number of effective parties of 4.08 with the introduction of a higher electoral threshold in 2000⁴². The lower legislative fragmentation is visible at the level both of opposition and of the Executive coalition. Even though the latter still consists of four political parties, the electoral weight of the junior partners is less important than in the case of the 1992-1996 coalition (see Table 2 on page 154 earlier for political composition of the balanced Vacaroiu Cabinet). The senior coalition partner (PSD) has 40% of the seats in the Parliament after 2000, governing with significantly less important junior partners PSDR (3.1%), UDMR (7.8%) and PUR (1.7%). Furthermore, the legislative opposition is significantly weaker between 2000 and 2004, as I will show later.

Firstly, the major difference between the junior partners of the Nastase Executive and those of the previous left Executive of Vacaroiu (1992-1996) resides in the level of ideological orientation: none of the junior partners of the Nastase Executive is as ideologically demanding as Vacaroiu Executive's junior partners, as I have explained earlier for the 1992-1996 Executive coalition. UDMR is not concerned with economic policy issues as long as its demands for minority rights are satisfied. The senior partner itself is more dedicated to economic reforms and privatization than in the early 1990s. Furthermore, the smaller PUR and PSDR are effectively annexes of PSD, without whom they would not have accessed Parliament.

Secondly, the Executive is again facing two "Oppositions" in the Parliament. However, it is

⁴² My own calculation, using the Laakso and Taagepera (1979:3) formula for number of effective parties in Legislature.

not forced to negotiate with either of them given its comfortable majority based on its own 40% of legislative seats. On the other hand, the EU integration process had already turned the nationalist, xenophobic PRM into a non-desirable coalition partner, even in terms of simple external parliamentary support, while PD and PNL had a low percentage of legislative seats (8.9% and 8.7% respectively) and were ideologically opposed to the primarily social democratic Executive. Therefore, the 40% of legislative seats granting PSD very strong negotiation power over the ideologically disinterested junior partners led to the formation of an Executive coalition which need not negotiate policy and exhibits a high capacity to pass through Parliament its own legislative initiatives.

The coalitional configuration should make the use of OUG unnecessary. Why would an Executive able to pass any legislative proposal through the Parliament (given its stable legislative support) still govern by OUG? The Nastase Executive is the Romanian equivalent of the Berlusconi Executives in the Italian study case. It has a low number of partisan veto-players, a high level of policy congruence and coalition cohesiveness. It issues a large number of OUG simply because it need not negotiate policy and the opposition does not have the capacity to force it to negotiate. Furthermore, when confronted with the need to adopt policy in a fast and efficient manner, this type of Executive coalition is in the position to meet any urgency requirement. The period of 2000-2004 had been particularly demanding in terms of adoption of legislation requested by process of European Union integration. The recourse to the strong bargaining tool of OUG by a “dictatorial” type of coalition comes to no surprise.

Thus far I have explained the functioning of the two types of legislative coalitions present in Romania. However, both of them (the weak and fragmented, as well as the “dictatorial” one) issue a large volume of OUG even when the success-rate of their NPL is high.

I will next explain the functioning of the legislative coalitions supporting the two Cabinets in power between 2004 and 2008 (Tariceanu I and II). The elections of 2004 have brought back in power a centre-right coalition exhibiting the same features as the previous CDR-USD alliance that governed the country between 1996 and 2000: high fragmentation and polarization. The number of parties that entered the Parliament had been 7, while the number of effective parties in Parliament had been 4.85⁴³.

⁴³ My own calculation using the Laakso and Taagepera (1979:3) formula for number of effective parties in the Legislature.

The political realignments (both numerically and ideologically) are important: the centre-right had been reconfigured after the demise of its leading party (PNTCD) which did not pass the electoral threshold since 2000. The previously social-democratic PD took over the newly vacant ideological space and joined the European Popular Parties, re-making itself into the leading centre-right force of the Romanian political establishment. The ideologically versatile PUR/PC entered the Parliament in an electoral alliance with PSD, but deserted it in order to join the spoils of the Executive. UDMR had been interested to govern with any political party, regardless of ideological orientation, as long as it could promote its minority rights platform and could join the Executive positions.

The Romanian PR electoral system with closed lists and the fluidity of the centre-right part of the political spectrum (high number of fusions, splits, exits, ideological redefinition) have again generated an Executive coalition which does not reflect the electoral results, being the outcome of post-electoral coalition negotiation and manoeuvring. Table 7 below indicates the percentage of parliamentary seats of the Executive and the Opposition. The difference up to 100% is made of independent MPs and MPs belonging to a special parliamentary group of national minorities other than the Hungarian UDMR (5.4%). They are versatile in terms of legislative behaviour; and position themselves neither with the Executive nor with the Opposition, voting on an issue by issue basis according to political and economic incentives.

Table 7: partisan configuration Executive - Parliament: 2004-2008.

EXECUTIVES 2004 – 2008	Political composition of Parliament	
<p>TARICEANU I: 29.12.2004 – 02.03.2007</p>	<p>Executive</p> <p>PNL (19.3) PD (14.46%) UDMR (7%) PUR/PC (5.7%)</p> <p>TOTAL: 46.46%</p>	<p>Opposition</p> <p>PSD (34%) PRM (14.5%) Ethnic minorities and independent MPs (5.4%)</p> <p>TOTAL:48.5%</p>
<p>TARICEANU II: 03.03. 2007 – 2008 (minority government)</p>	<p>Executive</p> <p>PNL (19.3%) UDMR (7%)</p> <p>TOTAL: 26.3%</p>	<p>Opposition</p> <p>PSD (34%) PRM (14.5%) PD (14.46%) PUR/PC (5.7%) Ethnic minorities and independent MPs (5.4%)</p> <p>TOTAL: 68.66%</p>

With such a shifting political landscape, the post-electoral coalitional negotiations had been open to any outcome after the elections of 2004. As is salient in Table 7 above, the 2004 elections had been won by the social-democratic PSD, in an electoral alliance with the ideologically versatile PUR/PC. The newly elected President of the country running on a PNL-PD ticket had feared a cohabitation with a social-democratic PSD Executive and outmanoeuvred it in post-electoral negotiations forming a Cabinet, given the important role of the President of the country at this particular stage of political negotiations (similar to the function of the Italian President). The President managed to buy out the versatile 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.

Interestingly, the political configuration indicates a parliamentary Opposition which holds more legislative seats than the Executive (see composition for Tariceanu I in Table 7 above). This is the outcome of the status of the extremist-nationalist PRM, which had become an undesirable coalition partner for all Romanian political parties, including the social-democratic PSD, due to the European integration process and the new membership of the Romanian political parties in the European political establishment according to ideological orientations.

PSD had not been willing to form a government with PRM, but it had been outmanoeuvred by the President of the country, so that all potential coalition partners prefer to govern with PNL-PD. The fate of the Executive hinged on the 5.4% percentage of legislative seats of the Ethnic Minorities (except the Hungarians, which form a distinct group) and individual MPs parliamentary group, as shown in Table 5 above, whose members had been engaged individually in legislative negotiations.

Nevertheless, this frail composition is conducive of Executive instability. Compounding the numerical difficulties, the ideological orientations of the coalition partners and/or their political interest in distancing themselves from an Executive of which they are part fearing electoral loss led to constant internal bickering, legislative instability and the eventual desertion of the Executive by PD and PUR/PC in March 2007.

The incapacity of the coalition partners 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 minority Executive Tariceanu II (see Table 8 below).

Table 8: OUG and NPL for the Romanian Executives since 2004.

Coalition	I.OUG issued	II.NPL issued	III.NPL Success
TARICEANU I 28.12.2004 - 02.03.2007	362 (51%)	343 (49%)	327 (95%)
TARICEANU II 03.03.2007 – 19.12.2007	145 (57%)	109 (43%)	103 (94%)
TOTAL 2004-2007	507 (53%)	452 (47%)	430 (95%)

The Cabinets Tariceanu I and II have issued more OUG (53%) than NPL (47%), despite the high approval rate of its legislative proposals through NPL (95%). The Tariceanu II Executive formed after PD and PC/PUR deserted the coalition in March 2007. It had been based on only 26% of the seats in the Parliament (the combined legislative seats of junior partners PNL and UDMR as shown in Table 7 on page 170 earlier) and is emblematic for the legislative instability generated by the PR electoral system and the fluid centre-right of Romanian politics. It could not be removed from power because of political calculations. The leading Opposition party (the social democratic PSD, formerly FDSN and PDSR), which held the highest percentage of

legislative seats, had been more interested in keeping the Executive in power than in replacing it. Taken alone, neither PD (14.46% of legislative seats) nor PRM (14.5% of legislative seats) have the capacity to oust the Executive. The minority Executive did not need to negotiate policy with any of the parties in the Parliament in order to stay in power.

In this section I had explored the coalitional dynamic of legislative alliances supporting the Romanian Executive as well as the interaction between the Executive and the Opposition. Except the “balanced” coalition of the Vacaroiu Executive (1992 – 1996), all the legislative coalitions in the Romanian Parliament had extensive recourse to OUG, despite the overall high success-rate of their NPL. Why would coalitions that have vastly different levels of fragmentation and polarization (both the “weak” and the “dictatorial” coalitions) use OUG extensively even when the success-rate of their NPL is particularly high? I will attempt to explain this empirical and theoretical puzzle in the next section focusing on the institutional veto-player structure in Romania, as far as the OUG is concerned.

3. Institutional veto-player power: the legal status of the OUG

Only two years after the collapse of a communist regime, the Romanian political establishment had to produce a Constitution that would regulate the functioning of the Romanian political system according to democratic principles, but still allowing the Executive the legal possibility to react swiftly and efficiently in times of economic or political emergency. The Romanian Constitution of 1991 regulated the Executive Decree power along two major dimensions: delegated decree authority (DDA) and constitutional decree authority (CDA).

The former allows the Executive to issue decrees (ordinary Government Ordinances, *Ordonanta Guvernului*, or OG) only based on special law of delegation during times of legislative recess. This type of decree practice had been turned into a routine, during the vacations of the Parliament, when a law of delegation is passed clearly stipulating the policy areas and the deadlines when the Executive can rule by OG as long as the Parliament had been in recess. This type of Decree is not of interest for this thesis as explained in the previous chapters. However, the Romanian Executive can issue decrees (Emergency Government Ordinances, or

OUG) in exceptional cases of urgency and necessity (Chapter IV, Article 114, paragraph 4 of the 1991 Romanian Constitution)⁴⁴. The OUG has legal effect only after being sent to the Parliament for approval (as opposed to the case of Argentina, where the DNU does not have to be sent to the Congress before acting as full law before 1994). If the Parliament is in recess, it has to be convened immediately to discuss the OUG. The rejection or approval of the OUG is done through the issuing of a law.

The necessity to send the OUG to the Parliament before it can have legal effect grants it the status of a special legislative proposal: although it has immediate legal effect under the pretence of emergency, it still has to be approved in the Parliament before it formally becomes a full law. This provision grants the Parliament institutional veto-player powers only in the presence of further provisions regulating the treatment of the OUG, such as the rule of tacit rejection in the Italian case. In the absence of any further constraints, the legal status of special legislative proposal does not constitute any institutional veto-player advantage for the Parliament, since it does not bear on the actual chances of success of the OUG.

The need to convene the Parliament once an OUG is issued if the Parliament is in recess turned out to be irrelevant. No Romanian Executive issued OUG during the parliamentary vacation, since it could legislate by simple OG, based on a law of delegation. Furthermore, deciding the emergency nature of a situation has always been entirely at the discretion of the Executive, the 1991 Constitution did not stipulate what happened to an OUG that stayed in the Parliament for years without any decision, had no provision regarding the re-issuing of OUG that had been rejected in Parliament, and it did not mention policy areas that were the reserved domain of the Parliament. Therefore, according to the 1991 Constitution, the OUG can be issued at will, on any policy issues, can be re-issued without any constraints if rejected or heavily amended. Although it did not enjoy the formal veto powers of the Argentine President on any legislation coming out of Parliament, the Romanian Executive enjoyed total informal veto power through OUG, given the inexistence of precise and constraining constitutional regulations on the issuing or treatment of these acts.

Given these vague and general constitutional provisions regulating the OUG, the Romanian Executives used it increasingly throughout the years, as they had to confront the difficult economic situation (300% yearly inflation in 1993), the necessary economic reforms and

⁴⁴ http://www.cdep.ro/pls/dic/act_show?ida=1&tit=3&idl=2

privatization of State run industries (commencing significantly since 1996) or situations of civil unrest and immediate danger of anarchy (such as the uprising of the coal miners in early 1999 threatening a coup d’etat). Table 9 below shows that the Romanian Executive turned to the OUG as a favourite policy-making instrument, particularly since 1996. The OUG issuing rate is high overall (48%) (see Column I in Table 9 below), the success-rate of OUG is high (87%) and the amending rate low (41%) (see Column II in Table 9 below), particularly when compared to Italy.

Table 9: OUG issuing, success and amending rates since 1992⁴⁵.

Coalition	I. DL issued	II. OUG Succ.	III. OUG amend.	IV. NPL issued	V. NPL Succ.
VACAROIU 19.11.1992 11.12.1996	19	100% (19)	32% (6)	Missing info	369
CIORBEA 11.12.1996 15.04.1998	39% (102)	82% (84)	55% (46)	61% (160)	91% (145)
VASILE 15.04.1998 21.12. 1999	58% (260)	78% (203)	27% (55)	42% (189)	77% (146)
ISARESCU 21.12.1999 28.12. 2000	78% (306)	73% (224)	28% (62)	22% (86)	91% (78)
NASTASE 28.12.2000 28.12.2004	47% (680)	92% (627)	44% (301)	53% (767)	95% (725)
TARICEANU I 28.12.2004 02.03.2007	51% (362)	93% (336)	53% (178)	49% (343)	95% (327)
TARICEANU II 03.03.2007 19.12.2007	57% (145)	99% (143)	10% (15)	43% (109)	94% (103)
TOTAL Romania 1992-2007	48% (1874) aprox.	87% (1636)	41% (663)	52% (2023) aprox.	93% (1893)

The constitutional reform of 2003 regulated the OUG more clearly than the Constitution of 1991, without necessarily placing institutional constraints on its use or treatment. The major

⁴⁵ On the basis of personal data collection from the official website of the Romanian Chamber of Deputies (www.cdep.rom).

provision regards the deadline for approving or rejecting an OUG: it becomes full law by tacit approval if the Chamber where it had been initially sent does not act on it within 30 days (Chapter IV, Article 115, paragraph 5 of the 2003 Romanian Constitution)⁴⁶. This is exactly the opposite regulation compared to the tacit rejection present in the Italian study case, but even this major change is not relevant. The 2003 Constitution does not stipulate 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 major loophole persisting in the Romanian Constitution 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 volume of OUG without any decision, which remained in Parliament for years, sometimes being handed over from one legislative cycle to the next one. Whole chains of OUG had been issued and then forwarded to the Parliament, generating legal effects without parliamentary approval or rejection.

All other 2003 constitutional provisions regarding the OUG hardly constitute an impediment on its issuing or treatment. The Executive has to justify in the text of the OUG the emergency (something which it did anyway before the 2003 constitutional reform).

Also, the Executive cannot issue OUG dealing with constitutional laws, affecting the status and functioning regime of the major state institutions, the citizens' basic freedom and rights, electoral rights or public requisition of private property. Just as in the case of the 1994 Argentine constitutional reform, these aspects refer more to questions of political principle than actual legislative practice.

It comes as 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 (see Table 10 below).

⁴⁶ <http://www.cdep.ro/pls/dic/site.page?id=339&idl=2>

Table 10: OUG issuing, success and amending before and after the 2003 constitutional reform.

	I. OUG issued	II. OUG Succ.	III. OUG amend.	IV. NPL issued	V. NPL Succ.
Before reform	49% (1221) aprox.	83% (1018)	40% (406)	51% (1258) aprox.	93%(1167)
After reform	46% (653)	95% (618)	42% (257)	54% (765)	95% (726)

The explanation for the continued trends in OUG issuing and treatment is the continuation of the institutional and partisan veto-player structures of accountability, regardless of some irrelevant constitutional changes. 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).

Furthermore, the presence of a high number of effective parties in Parliament, as I have shown in the previous section focusing on partisan veto-players, turns the passage of legislation into a prolonged and uncertain process. Hundreds of pieces of legislation have passed from one Parliament 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 Parliament for its NPL, the Romanian Executive preferred to promote legislation by OUG, which at least had immediate legal effect. The OUG followed the same institutional course in Parliament as the NPL. The OUG might as well be rejected or amended, as is the case with NPL. However, even though the Romanian Executive does not enjoy the formal/constitutional veto powers of the Argentine Presidents on any legislation coming out of Legislature, it can still amend it by issuing OUG promoting its own policy views. The outcome is an Executive which usually issues new OUG changing the content of previously issued OUG, changing the content of laws passed in Parliament, or amending the amendments made by the Parliament to a particular OUG. In a disorganized legislative process, the Executive is unaccountable to the Parliament in the absence of constitutional provisions regulating how the OUG can be used.

This explains why the OUG is issued at increasingly high rates, particularly given the inexistence of constitutional constraints regarding the issuing and the legislative amending

and/or rejection. From a strictly legal standpoint, the OUG has equal chances of success or failure as the Executive-initiated NPL, since it follows the same legislative course without any special provisions until the reform of 2003, when the 30-day deadline had been introduced.

However, from a political standpoint, the OUG allow the Executive to govern the country without any delays, given the difficulty of passing policy in Parliament. From the same political standpoint, the OUG grants the Executive important but informal institutional veto-player powers, since it allows it to change any legislation coming out of Parliament, including amended OUG, in the absence of any formal provisions that would legally deny such legislative behaviour.

It is entirely up to the Parliament to reject or further change an OUG that amends its decisions. However, rejecting or amending an OUG can be costly, since this legislative act will have already generated legal effects and therefore can expose the political parties to the difficulties of continuously reversing legislation already in effect for years. It can also 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 NPL (which is not always the case in Italy), what explains its alleged need to issue such a large volume of OUG? The high success-rate of legislative proposals initiated by the Executive through NPL shown in Table 9 on page 174 earlier is misleading. Almost all policy relevant legal initiatives had been promoted by OUG. A cursory evaluation of the policy content of OUG and NPL of the Executive indicate that nearly 100% of the latter are 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.

A similar trend, although not of equal amplitude, is found in the Italian case, as I had shown in the country case chapter, where the policy relevant measures are increasingly promoted by DL, while the normal procedure legislative proposals are mostly *leggine*, pieces of legislation of narrow policy importance. The Executive-initiated NPL in the case of Romania is highly successful because it is irrelevant in terms of policy.

The continuation of the institutional and partisan policy-making structures ensured the prominence of the OUG as a preferred policy promotion instrument of the Romanian Executive.

Table 10 on page 176 earlier indicates that the issuing rate is almost the same (46% after the reform compared to 49% before), the amending rate stays almost the same (42% after the reform compared to 40% before).

The only change is the success-rate of OUG, which increases from 83% before the reform to 95% after the reform, proving the strengthening of Executive capacity to govern without Parliamentary review through the rule of tacit approval (see Column II in Table 10 on page 176 earlier).

Therefore, the Romanian OUG grants the Executive strong institutional veto-player powers in relation to the Parliament, particularly after the constitutional reform of 2003 and the introduction of the rule of tacit approval. The institutional veto-player power granted by the OUG had been informal before the constitutional reform, emerging out of legislative practice, without a clear constitutional definition. The Romanian OUG stands in contrast to the Italian DL, which does not offer the Italian Executive strong institutional veto power, given the institutional veto-player structure organized in favour of the Parliament, mainly through the rule of tacit rejection.

It is already clear that the OUG is a strong institutional veto-player power of the Romanian Executive given its vague constitutional definition. Using legislative proposals through NPL would be irrational, particularly when promoting important highly contentious policies, given the uncertain prospects and long duration of legislative debate, particularly in times of political and economic crisis. It comes to no surprise that almost 100% of relevant policies are promoted by OUG.

Thus far the empirical research revealed a large volume of OUG even when the success-rate of Executive-initiated NPL is high. Furthermore, the success-rate of OUG is high while the amending rate is low. These indicators show that the Romanian Executive is successful in its attempt to rule in a low accountability to the Parliament, as opposed to the Italian case study. This is explained by the constitutional provisions regarding the use and treatment of OUG. The constitutional definition of the OUG does not necessarily grant the Romanian Executive strong institutional veto-player powers. However, the vague definition allows the Executive to use it at will, any way it deems fit, making any parliamentary recourse against an OUG a costly action, as I have shown earlier.

I have compared the volume of issued OUG to the volume of issued NPL in order to reveal the intentions of the Romanian Executive in undermining the legislative function of the Parliament. However, at this point of the argument another comparison is needed: namely the ratio between the approved OUG and the approved NPL. This ratio reveals the willingness of the Parliament to comply with the intentions of the Executive.

The picture reveals that the Romanian Parliament is acquiescent to Executive will, as far as the intentions to rule by OUG are concerned (see Table 11 below).

Table 11: Volume issued OUG/NPL and volume of successful OUG/NPL.

Coalition	I. OUG issued/NPL issued	II. Success OUG/Success NPL
VACAROIU 19.11.1992 - 11.12.1996	19/ Missing info	OUG: 5 % (19) NPL: 95% (369)
CIORBEA 11.12.1996 - 15.04.1998	OUG: 39% (102) NPL: 61% (160)	OUGs: 37% (84) NPL: 63% (145)
VASILE 15.04.1998 - 21.12. 1999	OUG: 58% (260) NPL: 42% (189)	OUG: 59% (203) NPL: 41% (146)
ISARESCU 21.12.1999 - 28.12. 2000	OUG: 78% (306) NPL: 22% (86)	OUG: 74% (224) NPL: 26% (78)
NASTASE 28.12.2000 - 28.12.2004	OUG: 47% (680) NPL: 53% (767)	OUG: 46% (627) NPL: 54% (725)
TARICEANU I 28.12.2004 - 02.03.2007	OUG: 51% (362) NPL: 49% (343)	OUG: 51% (336) NPL: 49% (327)
TARICEANU II 03.03.2007 - 19.12.2007	OUG: 57% (145) NPL: 43% (109)	OUG: 58% (143) NPL: 42% (103)
TOTAL Romania: 1992-2007	OUG: 48% (1874) NPL: 52% (2023)	OUG: 46% (1636) NPL: 54% (1893)

Overall, the intentions of the Romanian Executive to undermine the legislative function of the Parliament are not met with resistance: the ratio of issued OUG/issued NPL is closely reflected in the ratio of approved OUG/approved NPL (compare Column I to Column II in Table 9 above). The difference between the OUG issuing volume of 48% for the whole period under

observation (see row Total in Column I in Table 9 above) and the OUG success-rate of 46% (see row Total in Column II in Table 9 above) for the same period is insignificant. The difference is insignificant or inexistent when comparing the same ratio for each Executive coalition taken alone (compare Column I to Column II in Table 11 above).

4. Conclusion: excessive Decree issuing and low Executive accountability

The empirical information for the Romanian case study indicates a low Executive accountability in relation to Parliament: the OUG rejection and amending rates are low.

The cause that explains the low accountability is the lax constitutional regulation of this valuable institutional veto-player power of the Executive. In the absence of any regulations regarding the conditions of its use and treatment, the legal status of a legislative proposal (although one with special status given its immediate effect) does not ensure a high accountability, as in the case of Italy.

The status of a legislative proposal does not grant institutional veto power to the Parliament when not accompanied by other constitutional constraints, such as the Italian rule of tacit rejection given the 60 days constitutional deadline for decision in the Parliament. Furthermore, the Romanian political parties opted for the rule of tacit approval since the 2003 constitutional reform, instead of tacit rejection, formalizing an organization of the Executive-Legislature subsystem that favours the former.

The OUG is used at will by the Romanian Executive, which is supported by either Type 1 “weak” or Type 2 “dictatorial” coalitions. Given that an OUG can amend any legislation, including previously issued OUG or any Parliament amendments to OUG, it becomes a favourite resource of the Romanian Executive, insuring a strong but informal influence on the policy-making process. The level of influence is so high that it allows the Executive to rule without stringent Parliamentary oversight, as proven by the ratio of the volume of approved OUG (46%) compared to approved NPL (54%) (see Column II in Table 11 on page 179 earlier).

However, most of the policy relevant measures are promoted by OUG, while the bulk of NPL is of narrow policy importance. The relevance of this empirical finding is that most of the

important policies in place in Romania had been promoted by OUG, particularly since 1996, when the Executive engaged in serious economic and political reform for the first time after the collapse of the communist regime in 1989.

The 1992-1996 Executive coalition of Prime-Minister Vacaroiu is the only unit of analysis in this thesis that meets the criteria of an Executive that cannot impose its policy views on the Parliament. The cause is its structure: the senior partner of the coalition cannot govern without the support of the junior partners, while it is ideologically close enough to them to be able to conclude negotiations. It issued a significantly low number of OUG.

The institutional structure of accountability is organized in favour of the Parliament in Romania, which holds ample resources to control the Executive. However, the lax definition of the OUG allows the Executive to use it at will, making it very costly and inefficient for the Parliament to reject these acts: continuously reversing legislation in place for years can be politically costly, while rejecting legislation when it can be easily reinstated by the use of another OUG is highly inefficient. From an informal legislative practice standpoint, the Romanian Executive can easily prevail in the policy-making process through recourse to OUG.

Accountability across country cases: a comparative interpretation of empirical research findings

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%) (see Table 1 below).

Table 1: Level of Executive accountability function of Decree success and amending rates across country cases.

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)

The empirical information in Table 1 above 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).

As I have extensively explained in the literature and theoretical review chapter, the level of Executive accountability measured as a function of success and amending rates is determined by the constitutional definition of the Decree.

The high level of Executive accountability to the Parliament in Italy is ensured by the strong institutional veto-player power of the latter 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 institutional veto-player power of the Parliament 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 in the country case chapter. The re-issuing of lapsed DL emerged as surrogate of veto power against the decision of the Parliament throughout the decades. As I have also shown, this peculiar legislative behaviour of the Italian Executive does not ensure the success of a DL, given that it cannot influence the decision of the Parliament in any way.

The Argentine President governs without congressional oversight as far as the legislative treatment (amending and rejection) of the DNU is concerned. This is ensured 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 the 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 but 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 the Parliament. The Romanian Constitution of 1991 does not formally prevent the amending or rejection of OUG through a strong Executive veto power, but it does not deny the Executive the possibility to use it in any way it deems necessary. The informal legislative practice permits an OUG to languish 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 the Parliament is not the outcome of formal constitutional

provisions, as in the case of Argentina, but arises informally out of legislative practice: the Executive uses 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%) as shown in Table 1 on page 182 earlier. 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 put, 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 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 fragmented and polarized legislative coalitions or Type 2 “dictatorial” legislative coalitions. Type 1 coalitions issue Decrees to overcome legislative opposition to their NPL, while Type 2 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 thesis 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 through the years, given the fluid nature of the Romanian political party system, as I have shown in the country chapter.

The mandate of President Alfonsín (1983-1989) of Argentina could also be a Type 3 “balanced” congressional coalition, given the low volume of Decree issued. Further research is required into the relation between President Alfonsín and his own party, between the presidential party and the congressional opposition, before any further evaluation. This thesis does not explore the composition and the dynamic of the Argentine legislative coalitions that had been in

Congress during the mandate of President Alfonsin. Only this unit of analysis is not currently explained by the model of partisan and institutional veto-players. This is a shortcoming of this thesis, which can be improved by future research on the topic.

However, the legislative behaviour of partisan coalitions defined in terms of partisan veto-players does not explain the excessive recourse to Decrees, namely the issuing of more Decrees than necessary given the legislative opposition to Executive-initiated NPL.

Table 2: 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)

Romania stands out in Table 2 above as 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 (-,656), as I have already shown in the chapter 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 in the country case chapter. 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 shown in the chapters focusing on each country case, 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 in the chapters focusing on 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 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 is abuse of this potentially powerful resource through excessive issuing.

In what follows, I will present in a comparative manner how the constitutional reforms illustrated in all three country cases influenced the tendency of the Executive to rule without legislative review by issuing a large volume of Decrees and most importantly the level of Executive accountability to the Legislature measured as a function of Decree success and amending rates. Table 3 below presents in a comparative manner, for each of the three country cases, the percentage change of each indicator used to measure the two dimensions of governance by Decree, namely the volume of issuing and the level accountability as success and rejection rates, before and after the constitutional reform.

Table 3: The effect of constitutional reforms on the tendency to issue Decrees and the Decree success and amending rates across country cases.

Country case	Difference in issuing	Difference in success-rate	Difference in amending
Italy	- 1%	+ 31%	+ 6%
Argentina	+17%	0%	0%
Romania	-3%	+12%	+2%

The Italian country case is based on the comparison between the legislative production of the Italian Executive during the most unstable period of legislative politics (the Pentapartito: 1980-1992) and the legislative production of the Executive after the constitutional reform of October 1996. The Pentapartito (1980-1992) is the coalitional period when Italy confronted the highest volume of Decree issuing since 1947 (except the Transition period, when exceptional circumstances led to governing by technical cabinets with parliamentary support). The Italian Supreme Court addressed the problem of Decree issuing and re-issuing after it reached significant proportions in the early 1990s, aiming to constrain the large volume of Decree issuing and the accompanying high re-issuing rates (as I have shown in the country case chapter). This is the reason why I chose to compare the effects of the constitutional reforms to the volume of Decrees and their success-rate under the Pentapartito.

As empirical information indicates, the most substantial changes after the constitutional reform are the significant increase of 17% in the volume of Decree issuing in Argentina (from 13% to 30%) and the success-rate of Decrees in the case of Italy (a 31% increase from 52% to 83%) and Romania (a 12% increase from 83% to 95%). None of these changes translates into a substantial improvement of the level of Executive accountability to the Legislature in any of the three country cases. Argentina has formalized the previously para-constitutional strong institutional veto power of the President in 1994, when the DNU had been included in the Constitution. However, as I have explained extensively in the country case chapter, the constitutional reform did not grant the Argentine Congress any power that would allow it successfully to reject and amend the presidential DNU. To the contrary, the strong presidential veto on any piece of legislation passed in Congress has been maintained, insuring a low level of Executive accountability by making the congressional rejection or amending of a DNU very difficult, if not impossible.

Furthermore, the Argentine political parties delayed the setting up of a specialized congressional Committee that would deal with presidential policy promoted by DNU, according to the new constitutional requirements. This reticence on the part of the Argentine political parties to hold the President to account ensured that the DNU remained a full law (and not a special legislative proposal) until 2006, for almost 12 years after the constitutional reform, therefore denying the Congress even the possibility to consider it. The formalization of DNU power through the constitutional reform has led to an increased use of DNU, given the strong institutional veto-player powers that it grants to the President, but not to an accompanying increase in the level of Executive accountability. A further exploration of the nature of Argentine political parties, of their interests vested in the current institutional configuration of the country and the functioning of the party system in this country would explain this peculiar behaviour which lowers the quality of the Argentine democracy by subduing the Congress to presidential policy preference.

The constitutional reform implemented in Italy in October 1996 has banned the re-issuing of unsuccessful DL, but it did not change the volume of issued DL as compared to the least stable period of legislative politics (the Pentapartito: 1980-1992). However, it had direct consequences for the success-rate of DL: it increased with 31% from 52% to 83%. The Italian Executive has issued only the DL it had been certain of approval in the Parliament after the constitutional reform given the impossibility of reissuing (Di Porto, 2006). The increase of the DL success-rate is accompanied by an increase in the amending rate (although not as ample), therefore maintaining the level of Executive accountability to the Parliament overall high. A high success-rate of DL accompanied by a high amending rate indicates that the Italian Parliament is capable and willing to hold the Executive to account even when the success-rate of DL is increased, as long as the former closely controls the latter's policies.

The constitutional reform implemented by Romania in 2003 has formalized the otherwise strong Executive institutional veto-player power by introducing the rule of OUG tacit approval: if not decided within 30 days once forwarded to Parliament, the OUG is automatically considered approved. The informal institutional veto-player power has been formalized with the immediate outcome of a 12% increase in the OUG success-rate, which constitutes a decreased level of Executive accountability to the Parliament, particularly when more than 50% of OUG are not even amended, as opposed to the Italian case, where the amending rate is high (77%

between 1947 and 2006 and 83% after 1996). The constitutional reform had not been concerned with constraining the excessive use of OUG by constraining the issuing or by increasing the Parliament's institutional veto-player power. It did not grant the Parliament increased resources that would enable it successfully to reject or amend the OUG. The Romanian political parties attempted to solve only the problem of policy promoted by OUG that remained in Parliament undecided for years, sometimes passing from one Legislature to the next, after elections.

As I have shown separately for each country case in the respective chapters, at this point of the argument another comparison becomes more relevant: namely the ratio between the approved Decrees and the approved NPL. This ratio reveals the willingness of the Legislature in each of the three country cases to comply with the intentions of the Executive (see Table 4 below).

Table 4: 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)

In the case of Italy, the strong institutional veto-player power in favour of the Parliament leads to a situation where the intentions 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 favour 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 favour of the President distorts the intentions of the latter, 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. The institutional veto-player structure of Argentina makes the presidential legislative behaviour 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 unable to reject or amend presidential policy promoted by DNU. The empirical findings shown in Table 4 above 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 latter.

To sum up the comparative section of this chapter, it becomes obvious that the political parties play a fundamental role in setting the parameters of Executive accountability to the Legislature as explained in the literature (Strøm, Müller and Bergman, 2003). Firstly, the coalition types that the party system generate in the Legislature induce a trend towards low Executive accountability by making the recourse to Decree either necessary to overcome the legislative fragmentation and polarization, or a rational policy promotion strategy when the Executive is supported by Type 2 “dictatorial” coalitions, as I have argued earlier. Secondly and most importantly, the political parties craft Constitutions that define the conditions of issuing and treatment of a Decree, as well as the strength of the Executive reaction on the decision of the Legislature. They organize the Executive-Legislature arena by dispersing the institutional veto-player power in favour of either one of the two branches of government.

The continually high volume of Decree issuing after the constitutional reform indicate the persistence of the partisan veto-player structure of accountability. Political party systems are resilient parameters of the political systems of all three country cases, continuing to produce problematic legislative coalitions, which induce the trend towards a low Executive accountability by making the recourse to Decree necessary. However, the level of accountability itself is determined by how political parties define the legal status of the Decree, as well as the conditions of its issuing and treatment.

VI. FINAL CONCLUSIONS: NO LONGER ELECTED DICTATORS

This thesis explored 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 procedure legislation (NPL).

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

I have attempted to show 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 the Legislature's 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 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 confronted in the Legislature.

The thesis offered an alternative explanation to the assumption that new democracies are ruled by Executive decree as an 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 of democracy revealed the role of institutional and partisan structures in generating a peculiar style of governance and their capacity to keep it under control.

This thesis has attempted to improve the findings of existing literature focusing on emergency Executive decrees from the perspective of democratic consolidation. I have conceptualized accountability according to its radial structure, 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. The improvement of previous research findings required

the combination of different strands of literature, particularly given the need to compare different political systems.

I have offered a conceptualized accountability by exploring its radial structure and revealing the importance of the “punishment” dimension (Schedler, 1999). Conceptualizing accountability according to its radial structure allows for operationalization and measurement, particularly when the concept is applied to the policy-making process between Executive and the Legislature. From this perspective, accountability is as much a dimension of institutional control, as it is of societal control in the policy-making process through the capacity of political parties to expose the legislative initiatives of the Executive to broad policy scrutiny.

I have shown that the Executive decrees are policy-making resources and their rejection or amending in Legislature represents a form of policy control, in the framework of extended accountability, as defined in the concept formation chapter (Stark and Bruszt, 1998). As empirical information presented in this thesis revealed, the use of Decrees of urgency and necessity bypassing the Legislature in the process of policy-making, requiring ex post legislative scrutiny, are an attempt to evade policy scrutiny, but not necessarily an infringement with the principle of separation of powers within the State. The radial structure conceptualization of accountability facilitates the measuring of the capacity of the Legislature to hold the Executive to account as a function of Decree amending and rejection rates, as I have argued in the chapter focusing on conceptual definition.

Another contribution of this thesis to the existing literature is the exploration of the cause of issuing a large number of emergency Executive decrees. 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 thesis 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 to understanding causality: Executives use emergency Decrees when confronting legislative opposition to their policy views promoted using normal procedure legislation (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 existing literature attempted empirically to test 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 existing 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 is a contribution of this thesis to the existing literature. The structure and functioning of this type of coalition can be deduced logically from the comparison of Type 1 “weak” and Type 2 “dictatorial” coalitions. If the first is unable 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 able 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 successfully to 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 for 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 latter 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 diminished leverage on the Executive in presidential systems, where the presidential tenure 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 threat of removal from office 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 this thesis 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 Executive decrees can be more instrumental than taking simple notice of a large number of these acts 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 to account. 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 radically different country cases of Argentina and Italy prove beyond any doubt that the rejection and amending capacity is influenced directly by the legal provisions defining the legal status of Decrees and the conditions of their treatment in Legislature (amending and rejection).

The Executive may end up issuing an increased volume of Decrees over time, preferring this particular bargaining resource if legally defined to ensure a higher success-rate than the NPL. The stronger the institutional veto-player power in favour of the Executive when using the Decree, the more likely the latter will prefer it to other resources.

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 issue 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 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 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 ensures 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.

Comparing across political regimes legislative coalitions and legal/constitutional definitions of emergency Decree and NPL is made possible by the conceptualization of accountability according to its radial structure and the institutional and partisan veto-player model of policy-making (Tsebelis, 1995, 2000, 2002).

I have attempted to improve the literature that eloquently identified the two dimensions of accountability, namely institutional control (capacity to terminate the mandate of the Executive before elections) and policy control (capacity to expose the policy initiatives to broad institutional scrutiny through rejection and amending) (Strøm et al., 2003) by arguing that these important dimensions of accountability are present both in parliamentary and presidential systems, only with a difference in the mechanisms of imposition. The amending and rejection of Decrees is a form of political accountability in the framework of policy control function.

I have argued that in presidential systems the institutional control function is reduced to a substantially diminished form: the impeachment procedure. However, the policy-making function is correspondingly enhanced, through increased policy scrutiny for the Presidential legislative initiatives sent to the Legislature for consideration and approval. This explains why the Argentine Congress is opposing the Executive-initiated NPL more than the Romanian and Italian Parliaments oppose the legislation initiated by the Cabinets that they support, as I have presented in the country case comparison chapter.

In parliamentary systems, the institutional control function is substantially stronger, since the Parliament has a variety of means to remove an Executive that is made of members of the Parliament and is entirely dependent on its support. The policy-control function is correspondingly weaker than in presidential regimes, given the origin of the Executive in Parliament. It is assumed that a Parliament supporting an Executive has no incentive to amend the latter's policies to the same extent as Congresses in presidential regimes, since the Parliament itself delegated the Executive to implement the program 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 Executive is held accountable by Parliament with varying degrees of success, according to the legislative resources granted to the latter by Constitution.

As I have extensively argued in the conceptual definition chapter, the amending and rejection of Executive decrees is a legitimate form of accountability understood as a policy control

function. I have further attempted to improve the literature focusing on delegation and accountability in parliamentary systems (Strøm et al., 2003) by using the partisan and institutional veto-player model that allows for comparing the level of Executive accountability across political regimes (Tsebelis, 1995, 2000, 2002). The capacity of the Legislature to hold the Executive to account is primarily determined by how political parties disperse institutional veto-player power between the two branches of government when defining the legal status of the Decree and the conditions of its legislative amendment and rejection.

Therefore, the different levels of Executive accountability function of Decree success and amending rates are explained by the differences and similarities among the different constitutional provisions defining the legal status of the Decree and treatment of Executive decrees in the Legislature.

This thesis 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 on which this thesis is based 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 this thesis do not warrant stronger claims regarding the interaction between congressional coalitions and a President's 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 to account by rejecting or at least amending these powerful legislative bargaining resources. Presidents who enjoy total institutional veto-player power through Decrees will make use of this powerful resource excessively, namely more is made necessary by the legislative opposition to presidential NPL.

The Argentine case represents a relevant example of such a situation, explained extensively in the relevant chapter. The Argentine President need not negotiate policy when using the Decree. Therefore the coalition types in the Argentine Congress (Type 1 "weak") explain only the necessity to issue Decrees, but the excessive issuing is explained the specific legal status of the Decree. It follows logically that the less institutional veto-player power the President enjoys when using Decrees, the more he or she has to negotiate policy with the congressional coalitions, while the negotiation itself will be influenced by the legislative coalitions types defined earlier.

The findings of this thesis can be further improved by bringing into the 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).

This thesis compared different coalition types in the country cases of Romania and Italy, defined in terms of bargaining problems the Executive confronts in the Legislature. All three coalition types are present in these two country cases. Furthermore, the Italian and the Romanian Cabinets have substantially different institutional veto-player power when using the Executive decree. This diversity in the nature of the units of analysis (coalition types) and the level of institutional veto-player power allows for theoretically relevant comparisons.

The second issue that remains only partly explained by the coalition typology put forth in this thesis is that of minority Cabinets in political systems where the Executive mandate is entirely dependent on legislative support. According to the coalition typology extensively defined in the literature and theoretical review chapter, 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 II indicate in the 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 and 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.

As I have extensively explained in the country case chapter, 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 the dark, where minority Cabinets were not removed from power out of political calculations. If agreement on the coalition formula had been impossible, then Cabinets in “crisi al buio” were terminated by calling early elections.

A more focused analysis on the legislative production of these units of analysis could improve this thesis in explaining the need to issue Decree even when the Executive is not supported by Type 1 “weak” and Type 2 “dictatorial” legislative coalitions.

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 must be considered, particularly how political and electoral calculations shape their legislative behaviour and the subsequent relation to the Executive. This thesis can be further improved by focusing on a larger sample of units of analysis (Executives) which have minority legislative support.

The current research findings can also be further improved along two methodological dimensions. Firstly, the increase in the number of the units of analysis in the observation sample would allow for a more accurate correlation between the success-rate of Executive-initiated NPL and the tendency of the Executive to issue Decrees. This can be done by organizing empirical information on the volume of Decrees, volume and success-rate of NPL for shorter periods of time (i.e., weeks or months).

Secondly, a content analysis of Decrees and Executive-initiated NPL would establish the importance of policy promoted by each one of the two constitutional resources of the Executive. It might turn out that the most relevant policy measures are indeed promoted by Decree, while the least important ones (such as international treaties) are promoted by NPL. As I have already shown in the case of Romania, it is expected that the stronger the institutional veto-player power of the Executive when using the Decree, the higher the tendency to promote the most important (and therefore more divisive) policies through Decree rather than NPL.

The important role that political parties play in dispersing the institutional veto-player power between the two branches of government offers a different perspective on the theoretical claims of the “delegative” democracy argument. A causal link might be established between the political parties and the excessive issuing of Decrees, but that remains to be explored.

The theoretical claims that could be derived from such a possible causal link might explain the excessive issuing of Decrees through a partisan and institutional culture, but not necessarily through popular political culture. The public approval for Executives bypassing Legislature might be strong occasionally, particularly in times of serious economic situations or political turmoil, but the partisan and institutional causes that ensure the perpetuation of such practice are clearly stronger, as this thesis has revealed. The role that political parties play in shaping the Executive-Legislature agenda is fundamental, as supported by the comparison between the Italian political parties, on the one hand and the Romanian and Argentine political parties, on the other.

The exploration of partisan life in the new democracies (party system and representation capacity of political parties) could reveal significantly more about the diminished capacity of Legislatures to hold the Executive to account, along the argument of literature already reviewed (Strøm, et al., 2003). Political parties appear to be pivotal in influencing the dynamic of delegation and accountability.

As I have shown in the literature review chapter, the ability of political parties to capture and disperse the policy agenda is considered an indicator of their cohesiveness (Strøm, 2003: 651). This specific ability in turn is influenced by the institutional system and type of party system present in any country. The stronger the cohesion of political parties, the stronger is their capacity to activate the accountability mechanisms (Strøm, 2003: 652). Given that citizens are directly voting for political parties and trust them to control the Executive, the stronger the disconnection of parties from society, the weaker are their cohesiveness and capacity to hold the Executive to account.

Therefore, a possible improvement of the “delegative” democracy argument would be the measuring of the cohesiveness of the political party system, in order to establish an accurate measure for the level of Executive accountability: electoral party strength, organizational party strength, party in government strength. The lower the scores along these three dimensions, the weaker the cohesiveness of political parties, the lower the accountability of the Executive in relation to the Legislature, as I have showed in the literature and theoretical review chapter.

To sum up, governance by emergency Executive decree based on constitutional decree power (or at least endorsed by the Justice system) is induced by the type of legislative coalitions the Executive has to manage, while it is kept under control by the type of constitutional regulations that define the legal status of the Decree, as well as the conditions of its treatment in Legislature. The political parties have to be both willing and capable to hold the Executive to account by imposing policy negotiation as the only possible alternative for reaching policy decisions. Given that political parties can act only as part of legislative coalitions when influencing the policy initiatives of the Executive, I have shown that the actual capacity of the congressional coalitions to hold the President to account determine the bargaining strategies they use when dealing with Executive-initiated legislation (either through normal procedure or by Decree).

The Executives which enjoy strong Decree powers, such as the Argentine Presidents, relegate the Legislatures to rubberstamp institutions when using this particular constitutional resource,

whereas the Executives which enjoy moderate Decree power use it as a bargaining tool, rather than a method of bypassing the Legislature. It can be concluded that the level of Executive accountability to the Legislature's function of Decree success and amending rates is determined across country cases by the constitutional definition of the legal status of this legislative instrument of the Executive and the conditions of its treatment in Legislature.

The bargaining power of the Executive when using the Decree should be understood across country cases as a matter of degree (more or less) rather than in a dichotomous manner (existent/inexistent). The Executive in some countries enjoys stronger institutional veto-player power when using the Decree than the Executive in other countries, while the Decree power itself is used differently within the same country, according to the structure of the legislative coalition supporting the Executive. The immediate consequence is that the level of accountability can be understood accordingly, as a matter of degree (more/less accountable).

Despite all the institutional malfunctioning or their low quality, many of the new democracies have endured and did not return to authoritarianism. Comparing an established democracy (Italy) to two new democracies (Argentina and Romania) reveals that the quality of a democratic regime is first and foremost determined by its policy-making structures (partisan and institutional), which do not operate independent of each other, as I have shown.

All three country cases are multi-party democracies and in all of them political parties have a major influence on how policy decisions are made. Authoritarian legacies might exist in the case of Romania and Argentina and they might have varying degrees of influence on how policy decisions are made. However, a causal mechanism needs to be established between such legacies and the policy-making process. The factor with causal explanatory power might be popular political culture, but it might as well be partisan life and/or institutional structures. This thesis has attempted to explore the latter, building on the insights of existing literature and combining different approaches to explain the complex interaction between the Executive and the Legislature as mediated by political parties.

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