

## THIRD CHAPTER

### CONFIDENCE VOTE

The US Constitution empowers Congress to ratify numerous appointments. With this precedent, the congressional ratification of some appointments made by the Executive became general in Latin American presidential systems. However, a distinction must be made between the ratification of the incumbents of certain positions, and the vote of confidence for the members of the cabinet.

Ratification is a decision by Congress to confirm a person in the exercise of a political, technical, judicial, command or representative function. This ratification is based, above all, on the verification that a minimum of professional and ethical requirements are met to carry out the position in question. Confidence, on the other hand, is only expressed in terms of ownership or the performance of political functions; it implies a responsibility for the recipient and generally involves congressional support for a program or set of government measures.

The expression of trust makes society see that between the organs of political power there are shared commitments that facilitate cooperation and, therefore, the adoption of state policies. This has an additional dimension when the state faces challenges, internal and external, that force it to make decisions whose magnitude demands the participation of all currents and trends. On these occasions, a vote of confidence is a manifestation of the unity of the state.

A common aspect of ratification and voting of confidence is that both forms of control are exercised at the initiative of the government. Unlike the motion of censure that, as will be seen, comes from within the Congress, the declaration of confidence corresponds to a petition directed by the government to Congress. In some cases, this request is mandatory, such as when the president presents his work plan to the representative body, the approval of which depends on the integration of the cabinet.

The vote of confidence is foreseen, for example, in the Constitutions of Peru and Uruguay in Latin America; from Belarus, Georgia, Russia, Tur-

key<sup>31</sup> and Ukraine, in Europe, and from Armenia, Azerbaijan, Iran, Kazakhstan and Pakistan in Asia.

## I. HAITI

Article 158. The Prime Minister, in agreement with the President of the Republic, chooses the members of the ministerial cabinet and appears before Parliament to obtain a vote of confidence regarding the general policy statement. Voting takes place by public scrutiny and requires an absolute majority in each of both chambers. In the event that any of the chambers deny trust, the procedure must be restarted.

This precept contains two different hypotheses: on the one hand, it establishes that the ministers are appointed by agreement of the president and the prime minister; on the other, that the prime minister may request the confidence of the chambers only on the occasion of a general policy statement. The appropriate thing would have been that both provisions were part of separate precepts. According to the first part, the appointment of all the ministers, or any of them, does not imply that the confidence of the Congress is required. As regards the prime minister, he is appointed by the president from among the members of the majority party in Parliament; if no party has a majority, it must consult with the presidents of the Senate and the Chamber of Deputies (article 137). The prime minister and the other members of the government cannot hold a parliamentary mandate (article 164). In addition, the president can remove the prime minister freely (articles 137 and 137.1).

In the next chapter, relative to censorship, it will be seen that article 129.3 refers to “a vote of confidence or censorship”. The dilemma does not imply that both institutions exist, as the question of trust is always raised by the government or by some of its members and therefore cannot be promoted by those who challenge them. Everything indicates that when this reference is made to trust in the context of the censorship regulation, it is a repetitive expression, but not a double institutional option.

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<sup>31</sup> In Turkey the president is elected by the Parliament (article 101); However, he has great influence in government decisions because he can freely veto those that he does not share and call legislative referendums (Article 104). This work includes the Turkish case, which from another perspective could be considered parliamentary, considering that it is in the borderline situation, similar to the cases examined in the sixth chapter.

## II. PERU

Article 130. Within thirty days of taking office, the President of the Council attends Congress, in the company of the other ministers, to present and debate the general policy of the government and the main measures required by its management. He raises the question of trust.

If Congress is not in session, the President of the Republic calls an extraordinary legislature.

Article 132. Congress makes effective the political responsibility of the Council of Ministers, or of the ministers separately, by means of a vote of no confidence or the rejection of the question of confidence. The latter is only raised by ministerial initiative.

...  
The disapproval of a ministerial initiative does not oblige the minister to resign, unless he has made a question of confidence in the approval.

Article 133. The President of the Council of Ministers may raise a question of trust before Congress on behalf of the Council. If trust is denied him, or if he is censured, or if he resigns or is removed by the President of the Republic, the total crisis of the cabinet occurs.

As can be seen, a first problem is that the Constitution sets a 30-day term for the President of the Council of Ministers to appear before Congress and raise the question of trust but leaves the time open for Congress to pronounce.<sup>32</sup> This imprecision generates insecurity in ministerial management, since it is not possible to foresee when the decision of Congress will take place. In general, deliberative bodies have a period to analyze and decide, and the legal relevance of parliamentary silence can even be established. As will be seen in the case of Uruguay, the deadline is 72 hours.

In other presidential systems, a reasonable limit is also set for Congress to decide. In Russia, for example, it is one week (article 111.3); in Egypt there is a reflection period of three days, at the end of which the corresponding decision must be taken (article 126); in Pakistan, the president appoints the prime minister from among the members of the National Assembly, which must pronounce on the same day the presidential proposal is presented to him (article 91). In semi-presidential systems, precise rules are also set. In Portugal, for example, the prime minister has ten days from his

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<sup>32</sup> César Delgado has proposed that the ideal term would be 15 days. “La investidura: ¿confianza en la política del gobierno o en el presidente de la República?”, in Landa, César and Faúndez, Julio, *Desafíos constitucionales contemporáneos*, Lima, Pontificia Universidad Católica del Perú, 1996, p. 103.

nomination to present the government's program, and the National Assembly has three days to pronounce itself (article 192).

A government program is not submitted to Congress, but only the general policy and the "main measures" that will be adopted for its application. In any case, it allows Congress to know and rule on a government proposal that carries an implicit question of confidence. In the draft of the Constitution formulated by Congress in 2002, it was specified that the government should examine "the main political and legislative measures" required for the development of its program (article 182), thereby offering Congress the opportunity to assess their own participation in the actions of the national government.

According to article 133, the President of the Council of Ministers can raise a question of confidence, and the first and last paragraphs of article 132 provide for another hypothesis: that the ministers make a certain matter - including a bill - a question of confidence. On the other hand, ministerial initiative is exercised frequently, but it is the minister's discretion to make it a matter of trust. The refusal of confidence, which proceeds by a simple majority, causes the resignation of the cabinet or the minister, as the case may be.

In the Peruvian case, the singular phenomenon occurs that the vote of confidence appeared after the motion of censure, which has been in place since 1856, while confidence was introduced by the Constitution of 1933.

The conduct of political agents has been an essential factor for this type of institution to function. Domingo García Belaunde rightly warns that political parties bear a great responsibility for the success or failure of parliamentary controls.<sup>33</sup>

### III. URUGUAY

Article 174.

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The President of the Republic may request an express vote of confidence from the General Assembly for the Council of Ministers. To this end, it will appear before the General Assembly, which will pronounce itself without debate, by the vote of the absolute majority of the total of its components

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<sup>33</sup> From his point of view, "The great challenge facing the political parties and the Peruvian political class is to make the good performance that the Peruvian political system currently has - started some five years ago - work, be operational and above all that it is an effective instrument of government". See "Evolución y características del presidencialismo peruano", presentation presented at the Meeting of the Ibero-American Institute of Constitutional Law, "La democracia constitucional en América Latina y las evoluciones recientes del presidencialismo", Universidad Externado de Colombia, Bogotá, April 23-25, 2008.

and within a period of no more than seventy-two hours that will run from the receipt of the communication from the President of the Republic by the General Assembly. If it does not meet within the stipulated period or, meeting, no decision is made, it will be understood that the vote of confidence has been granted.

In this case, it is noted that the vote of confidence is not essential, and it is up to the president to request it. This vote does not give rise to a debate, and thirdly, once the 72-hour period has expired, if the Assembly has not spoken, its silence will be considered approving by the Council of Ministers.

From the Peruvian and Uruguayan constitutional experiences, the following conclusions can be drawn:

- a) It is advisable to set a reasonable time to cast the vote of confidence. Between three and five calendar days may be adequate, to avoid tensions that harm political coexistence and to protect the different ministers from intrigues that affect the viability of the ratification of the cabinet as a whole;
- b) it is convenient to establish the effects of congressional silence once the term established for voting has elapsed;
- c) it is prudent to avoid a debate on minor government decisions, which can lead to peculiarities that distract the assembly and prevent it from analyzing issues related to general policy positions;
- d) it is necessary to distinguish whether trust is placed in the chief of staff or in the group of ministers. The Peruvian scheme has reduced the political dimension of the President of the Council of Ministers, affecting the effectiveness of his performance. In the other cases in which the Constitutions establish similar figures (Argentina and Venezuela permanently, and Chile, Guatemala, and Nicaragua circumstantially),<sup>34</sup> the vote of confidence does not proceed.

In other constitutional systems there is a wide range of modalities regarding the question of trust.

#### IV. ANGOLA

Article 88. The National Assembly may:

...

- n) vote on motions of confidence or censure of the government.

<sup>34</sup> See Valadés, Diego, *El gobierno de gabinete*, Mexico, UNAM, 2004, esp. pp. 47 et seq.

Article 99.

...

3. The prime minister and the members of the government will attend the plenary sessions of the National Assembly when there is a debate on motions of confidence or censure in the government, or when the National Plan or the general budget of the State is discussed.

Article 116.

...

5. The government may request a vote of confidence from the National Assembly, the approval of which will be required by the majority of the members present.

Article 118. The following are causes for removal from the cabinet:

...

g) Failure to obtain the vote of confidence requested by the government from the Assembly.

The doctrine agrees as to the presidential nature of the Angolan system. The president appoints the prime minister after listening to the parties that make up the National Assembly and removes him freely (article 66 a and c); his hierarchical position in the constitutional structure of power is explained in the fifth chapter, related to the dissolution of the Congress. On the other hand, although he must listen to the parties to appoint the prime minister, the other ministerial appointments are not subject to any approval process.

The question of confidence and the motion of censure have a collective effect; no individual cabinet member can be the subject of a parliamentary decision. This structure of political controls inhibits their frequent use, although it can help to attenuate the authoritarian notes of a concentrated presidential system, provided that other assumptions of democratic pluralism also exist.

## V. ALGERIA

Article 80. The head of government submits his program to the approval of the National People's Assembly, which discusses it in general terms.

The head of government can adapt his program, in light of the debate that has taken place.

The head of government presents to the Council of the Nation a communication on his program, and the Council can issue a resolution.

Article 81. In the event of disapproval of the government program by the National People's Congress, the head of government presents his government's decision to the President of the Republic, who appoints a new head of government in accordance with the provisions of the Constitution.

Article 82. If the approval of the National People's Assembly is not obtained on a second occasion, the Assembly will be dissolved by right.

The existing government will remain in office to handle ordinary affairs, until the election of a new National People's Assembly, which must be elected within a maximum of three months.

Article 84. The government presents annually to the National People's Assembly a declaration of general policy.

...

The head of government may request a vote of confidence from the National People's Congress. If the motion is not voted, the head of government will present the resignation of his government.

In that case, the President of the Republic, before accepting the resignation, may make use of the provisions of article 129.

In Algeria, the President of the Republic, elected by universal suffrage, appoints and removes the head of government, and presides over the sessions of the Council of Ministers (article 77). At the proposal of the head of government, he appoints the other members of the cabinet (article 79). The Parliament is integrated by the Popular Assembly and by the Council of the Nation, the central authority in matters of control rests with the former. The Assembly does not express an investiture vote, but only approves or rejects the program or the general declaration proposed by the head of government who, on the other hand, is free to incorporate into the program the parliamentary observations that he deems appropriate, but if he does not persuade to the Assembly to support him, he must present his resignation. In this case the process is repeated under the leadership of a new prime minister, and if the result is the same, the dissolution of the Assembly occurs by operation of law. Note that the Constitution rewards the conciliatory effort of the ministry and Parliament and imposes on the president the obligation of new elections if a satisfactory solution is not reached. In the case of approval of the program, a simple majority of the deputies present is sufficient.

## VI. ARMENIA

### Article 55. The President of the Republic:

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4) In accordance with the distribution of seats in the National Assembly and the consultations held with the parliamentary fractions, he will appoint as prime minister the person who enjoys the confidence of the absolute majority of the deputies; If this proves impossible, the President of the Republic will designate as Prime Minister the person who has the confidence of the greatest number of deputies.

### Article 75.

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The government can present a question of confidence simultaneously with the approval of a bill. If, within twenty-four hours of the request for confidence, a minimum of one third of the total number of deputies does not promote a resolution proposal denying trust to the government, or if no resolution is produced by the majority of the total number of deputies, denying the confidence, within the period established in article 84, paragraph 3, the government's initiative will be considered adopted.

The government will not promote a vote of confidence associated with a bill on more than two occasions during the same session.

### Article 90.

The government will present the draft budget to the National Assembly at least ninety days before the beginning of the fiscal year, and may request that it be voted on before the end of the term of the previous one, with the amendments that are adopted. The government can raise a question of confidence in relation to the budget. If the National Assembly does not deny the trust in accordance with the provisions of article 75 of the Constitution, the budget will be deemed approved. If the National Assembly denies confidence in the government regarding the budget, the new government will submit a bill to the Assembly within ten days after the approval of its program. This project must be discussed and voted on by the National Assembly within the next thirty days, in accordance with the procedure established by this article.

In Armenia there is an intermediate system that to a certain extent follows the French model. However, it confers important powers on the president, in relation to the government. For example, it is a unique case in which the president can promote a motion of censure (article 84.2), in addition to validating different government decisions, such as the removal of regional governors (article 88.1). The president can also convene and preside over



the cabinet in cases related to foreign affairs, security, and defense, and even suspends acts of government or challenges them before the Constitutional Court (article 86).

Regarding the appointment of the prime minister, a double mechanism is envisaged: first, it is required that he have an absolute majority of the total number of members of the Assembly, but if this option is not feasible, then the president can designate who have a simple majority. This provision increases the influence of the president in relation to the government. The Constitution does not establish the term for the president to exercise this power, so it is left to political practices. Such flexibility is suggestive because it offers ample margins for negotiation. On the other hand, when considering the possibility of the president using a simple majority, an incentive is introduced for the Assembly to reach an agreement that allows it to appoint the prime minister. This has the advantage that the official thus appointed is in a reasonable position to advance a government program with sufficient parliamentary support.

Articles 75 and 90 put in the hands of the government a valuable instrument to pass bills. The link between a bill or budget and the question of trust can be a risky maneuver for a government, but it also gives it the possibility of operating successfully even when it is in the minority in the Assembly. For this reason, the precept itself limits the application of this mechanism, regarding the approval of laws, to a couple of occasions per session. In this way, the government is allowed to prioritize its legislative actions and avoid the risk of a systematic blockade by the Assembly. Thus, the great government proposals are not interrupted, and neither is the political function of the opposition, nor the political value of the agreements, sterilized.

## VII. AZERBAIJAN

Article 95. Of the competence of the *Milli Mejlis* [Parliament] of the Republic of Azerbaijan.

The Milli Mejlis of the Republic of Azerbaijan is competent in the following matters:

...

9) Give consent to the nominated candidate for the post of Prime Minister of the Republic of Azerbaijan, at the proposal of the President of the Republic;

...

11) Appoint the Attorney General at the proposal of the President of the Republic, and authorize his removal at the request of the President;

....

14) Give its confidence to the Cabinet of Ministers of the Republic of Azerbaijan;

Article 118. Appointment of the Prime Minister of the Republic.

The Prime Minister of the Republic of Azerbaijan will be appointed by the President of the Republic in coordination with the Milli Mejlis of the Republic.

The president will discuss the candidacy for the post of prime minister no later than one month after he has assumed office, or two weeks after he has resigned from the cabinet of ministers of the Republic.

The *Milli Mejlis* of the Republic shall give its consent to the candidate for the post of Prime Minister no later than one week after his candidacy has been submitted. If this deadline is not met, or consent is denied on three successive occasions, the President of the Republic may freely appoint the Prime Minister.

The Constitution facilitates the possibility of negotiating agreements with the political forces over the course of a month, which runs from the moment the president appoints the prime minister until the moment he submits his appointment to parliamentary confidence. The term is reduced to two weeks if it is a question of a prime minister who replaces another who has resigned, and in relation to the ministers the moment in which the appointment of him must be submitted to the parliamentary confidence is not specified. In turn, legislators have one week to cast their vote, and in the case of not doing so, parliamentary silence is considered to be effective and the president is free to retain the same prime minister, or to designate another, which would no longer have to be submitted to the investiture vote.

The final part of article 118 could involve a risk for Parliament and the President, if the power it confers is misused. It is established that when on three successive occasions trust is denied to as many proposals, the president is free to make the direct appointment of the prime minister. Apparently, this provision could induce the president to formulate three unviable proposals, to finally carry out the one that might interest him the most. The file, however, would not be functional, because the country would be without a head of cabinet for a prolonged period, and the president himself would be exposed as he did not have parliamentary support after three consecutive attempts. The constitutional mechanism, therefore, does not aim to encourage misconduct by the president or the Parliament, because the political costs for both organs of power may outweigh the advantages of repeatedly denying trust, and of using the freedom of appointment which results at the end of that process.

## VIII. BELARUS

Article 84. The President of the Republic may:

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6) Appoint the Prime Minister of the Republic of Belarus with the consent of the House of Representatives;

Article 106. The Executive Power in the Republic of Belarus will be exercised by the government; the Council of Ministers of the Republic will be the central organ of the administration of the State.

The government will report to the President of the Republic and will be accountable to Parliament.

The Prime Minister shall be appointed by the President of the Republic with the consent of the House of Representatives. The House will decide within two weeks to follow the nomination of the prime minister's candidacy. If the House rejects the proposed candidate on two successive occasions, the president will directly appoint an interim prime minister, dissolve the House and call new elections.

The prime minister will lead the activities of the government. For this purpose he must:

...

3) Submit the government program to Parliament, within two months of its appointment. In the event of being rejected, he must present a second program in the following two months.

The prime minister can ask the House of Representatives for a vote of confidence in relation to the government program or on some other matter that the House should know. If the House does not grant its confidence, the president may accept the resignation of the government or dissolve the House of Representatives, within the following ten days, and call new elections. If the resignation of the government is not accepted, he will continue in office.

The president is empowered to freely dismiss the government, or to remove any of its members.

The Belarusian Constitution empowers the president both to freely choose the candidate for prime minister that he proposes to Parliament, and to remove him at any time. As for the other members of the cabinet, the president has full freedom in the appointment and replacement of them. To avoid governmental paralysis, the representatives are obliged to confirm or deny the appointment over the two weeks following the nomination; in the case of a double rejection, the president, in addition to appointing an interim, must dissolve Parliament.

In this way, the president has an important instrument of persuasion, since it is not often that parties are exposed to an election before a sitting president, who generally has an influential propaganda apparatus.

Likewise, the Constitution gives the prime minister a reasonable period of two months to present the government program; in case of rejection, he must formulate another over the following two-month period. Dissolution is not foreseen when the second program is not approved either unless it is linked to a request for trust.

It must be borne in mind, in this and in all cases in which a government program is presented, that congresses and parliaments cannot modify it. Their attribution consists of approving or not a project that the government formulates and submit to a vote. This allows the negotiation stage to be prior to the formal presentation of the program and ensures that the agreed terms are not modified as a result of the vote. The approval of government programs becomes a very useful mechanism to build consensus, regardless of the ministerial positions that the parties receive in the cabinet.

## IX. RUSSIAN FEDERATION

Article 111.

1. The President of the Government of the Russian Federation shall be appointed by the Head of State of the Federation, with the prior consent of the Duma.

2. Proposals on the candidacy for the Head of the Federal Government will be presented within two weeks, at the latest, after the inauguration of the elected president of the Federation or the resignation of the federal government, or within one week from the date of rejection of the candidacy for the post by the Duma.

3. The Duma will examine the candidacy for the Headquarters of the Executive presented by the President of the Federation for one week from the date of its presentation.

4. If the candidate for the Presidency of the Government of the Russian Federation is rejected three times by the Duma, the President of the Federation shall appoint the head of the federal government, dissolve the Duma and call new elections.

Article 117.

4. The Prime Minister of the Russian Federation may submit a motion of confidence to the government in the Duma. If the State Duma does not admit it, the president, within seven days, must order the resignation of the government or the dissolution of the State Duma and fix new elections.

According to article 11 of the Constitution, “state power” is exercised by the president, the Federal Assembly —made up of the Federation Council and the State Duma—, the government of the Federation and the Court of the Federation. Article 80 indicates that the president is head of state, although in its third section it establishes that it corresponds to him to set “the essential guidelines of the internal and external policy of the country”, for which he presides over the sessions of the federal government (article 83), and article 81 determines that the election of the president is by direct universal suffrage. Presidential powers include approving the structure and integration of the government (article 112), annulling cabinet decisions, if it considers that they contradict the Constitution, and issuing binding decrees for the government (articles 113 and 115). There is no doubt, therefore, that the president is in a situation of political and legal superiority in relation to the government. Although he is formally only head of state, the constitutional system itself confers on him powers of leadership over the government.

The Constitution took characteristic elements of the semi-presidential systems but conferred a clear preponderance to the president of the Federation. The investiture of the head of government depends on the parliamentary confidence, but not that of the rest of the cabinet; all, in turn, can be removed by the president (article 117.2). In addition, the president decides the request for a vote of confidence for the government, giving him powerful control over the ministry.

## X. GEORGIA

### Article 80.

1. After the oath of the President, the previous government will resign before him. The President can postpone accepting the resignation and keep the government in office, until the appointment of a new one.

2. Within seven days of the resignation, resignation or removal of the government, the President of Georgia will consult with the different parliamentary factions to select a candidate for prime minister. Within three days after the conclusion of the consultations, the president shall submit the composition of the government to the confidence of Parliament.

3. Within the week following the presidential proposal to integrate the government, Parliament must vote on the confidence requested for the composition of the government and for the government program. Confidence must be granted by the majority of the total members of Parliament. The members of the government will be appointed within three days, from the vote of con-

confidence. The Parliament may not grant the requested confidence or raise the question of disqualification with respect to any member of the government in particular. The challenged person may not be part of the government.

4. In the event that the composition of the government or the government program does not obtain the confidence of Parliament, the President of Georgia shall submit a new composition of the government to Parliament within one week.

5. In the event that the composition of the government or the government program does not obtain the confidence of Parliament for three successive times, the president may nominate a new candidate for prime minister within a period of five days, or appoint the prime minister without the consent of Parliament, and the Prime Minister will designate the members of the government with the approval of the President, within the next five days. In this case, the president will dissolve Parliament and call extraordinary elections.

#### Article 81.

...

4. The Prime Minister can raise a question of confidence in the government when he introduces the budget, the tax law or changes in the structure, competence or functions of the government. The Parliament will grant its confidence by the majority of the total of its members. In the event that Parliament does not declare confidence in the government, the president will remove the government or dissolve Parliament within the following week, and will call extraordinary elections.

5. Any vote of confidence must be carried out within a period of 15 days from his proposal. In the event that no vote is taken in that period, it will be understood that the trust has been granted.

6. An initiative of law declared relevant can be considered as a matter of confidence by the government.

#### Article 81 (1).

1. When confidence has been granted to the government and its program and there are changes in the composition of the government, of up to a third of its members and a minimum of five ministers, the President must submit the new composition to Parliament, to request your confidence, within the next week.

2. The declaration of confidence, in the case of the previous section, will follow the procedure established by article 80.

In 1991 Georgia adopted a strictly presidential constitution. The 1995 Constitution modified the structure of power and was oriented towards a strong parliamentarism of its form of government. Regarding the control instruments, the regulation of censorship and dissolution, as can be seen in

the corresponding chapter, introduced novel modalities whose results have not been successful. Regarding trust, this is a complex rule. The tensions generated by the coexistence of a former autonomous Soviet republic, Abkhazia, a former autonomous region, Ossetia, and Georgia itself, were reflected in a constitution that has sought to regulate dissent without sponsoring consensus. The transcribed standards denote the extent to which the details related to trust were reached. Such an arrangement encourages permanent confrontation, with only three possible consequences: stagnation, because of mutual blockade; the surrender of the president and the advent of an assembly government, or the subordination of Parliament to a president who unscrupulously uses the instruments of political coercion. Either of these extremes is negative from the perspective of the constitutional state because it introduces distortions in the behavior of political agents and affects governance. Rules like these, of apparent rigor, often lead to the breakdown of institutional life.

## XI. IRAN

### Article 87.

The President must obtain the vote of confidence of the Assembly for the Council of Ministers, as soon as he is integrated. During his term, he may also request a vote of confidence for the Council of Ministers in important and controversial cases.

### Article 133.

The ministers will be appointed by the president and will appear before the Assembly to request his confidence. When changing the Assembly, another vote of confidence will not be necessary. The number of ministers and their powers will be set by law.

### Article 136.

The President can remove the ministers and ask the Assembly to trust the new ministers. In the event that half of the members of the Council of Ministers change after the government has received the vote of confidence from the Assembly, the government must request a new vote of confidence.

The peculiarities of the Iranian constitutional system are discussed later in the chapter on censorship. Regarding trust, there is a procedure that encourages stability in relations between the political organs of power. The president retains, in all cases, the power to remove the ministers, but he must have the parliamentary confidence to integrate the Council of Ministers

and to appoint those who will replace those who leave. If the change involves more than half of the ministers, a new vote of confidence is required for the group. This constitutional requirement acts in favor of the stability of the ministers, unless the president has slack in the number of votes required in Parliament. It should be noted that the president has the power to request a vote of confidence for the Council of Ministers in cases that are considered “important” or “controversial”.

Control standards should not lead to a deficit in the ability to govern a country; they should only help ensure that the exercise of power is not carried out in a cryptic and irresponsible way. From this point of view, the objective is reasonably posed in the Iranian case, regardless of the way in which the organs of power operate in practice, depending on the cultural and political environment.

## XII. KAZAKHSTAN

Article 44.

1. The President of the Republic of Kazakhstan shall:

...

3) Appoint the Prime Minister of the Republic with the consent of Parliament; remove him; determine the structure of the government of the Republic at the proposal of the prime minister; appoint and remove the members of the government, as well as form, suppress or reorganize the central areas of the Executive that are not part of the government; receive the oath of the members of the government; preside over government sessions when matters of special importance are discussed; entrust the government to present initiatives to the Majilis [assembly] of Parliament; revoke or suspend completely or partially the effects of governmental acts.

Article 53. Parliament, in a joint session of its two chambers, shall:

...

6) Receive the report of the prime minister about the government program and approve or reject it. A second rejection of the program adopted by a two-thirds majority of the total votes of each chamber implies that the government has not been trusted. If that majority does not meet, the government program will be deemed approved.

Article 67. The Prime Minister shall:

...

2) Within the first month of his appointment, present the government program to Parliament and, if rejected, present a new project within the following two months.



The political strength of the Kazakh president is evident in the structure of the vote of confidence. However, through this institution some unique aspects are also introduced, which at least formally improve the conditions of parliamentary control. Parliament only decides on the appointment of the prime minister, and not the other members of the cabinet, but also approves or rejects the government program. In this case, in addition, the second rejection requires a majority of two thirds of the total votes, with which the government has ample room for maneuver.

### XIII. LIBERIA

The Constitution of Liberia largely follows the American model; establishes that the president is head of state and government, elected by direct universal suffrage (article 50), and appoints ministers with the ratification of the Senate (article 54), but is free to remove them (article 56). The vice president, who is also elected, is a member of the cabinet and can assist the president in the tasks delegated to him (article 51). The only parliamentary instrument that appears in this Constitution is that related to the ratification of the ministers.

### XIV. TURKEY

#### IV. Information and control media of the Grand National Assembly of Turkey

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##### B. Vote of confidence for the investiture.

Article 110. The complete list of the Council of Ministers is submitted to the Grand National Assembly of Turkey. If the Great Assembly is in recess, it must be summoned to sessions.

The program of the Council of Ministers will be read before the Grand Assembly by the prime minister or by another minister; at the latest within the week following the integration of the Council, and the confidence of the Assembly will be requested. Confidence discussions will take place after the reading of the program and after two days of recess; To proceed to the vote, a day of recess will be allowed to elapse, from the conclusion of the debates.

##### C. Vote of confidence in the exercise of the function.

Article 111. If the prime minister considers it necessary, and after having discussed it in the Council of Ministers, he can raise the question of trust before the Grand Assembly of the Nation of Turkey.

The examination of the question of confidence will be carried out after a day of recess of the Assembly, and can only be voted after another day of recess, from the end of the debate.

The question of trust can only be denied by the absolute majority of the total members of the Assembly.

The double distinction of the vote of confidence, for the investiture and for the performance of the government, is common in almost all the systems that have incorporated this institution. In the case of Turkey, the corresponding regulation appears in two different precepts, which has advantages in terms of clarity.

Another relevant aspect is that trust is not requested for the prime minister but for the entire Council of Ministers. Whenever the program is accepted or rejected, the approval of the cabinet is implicit when the same happens with that program. This means that the Assembly cannot distinguish or discuss the Prime Minister or another member of the Council, individually. It seems an appropriate measure because there are no loopholes to generate instability. If the composition of the government and its corresponding program offer aspects that in a dominant way inspire confidence in legislators, even if they have isolated questions regarding people or points included or omitted in the program, the natural thing will be that they give their vote in favor of conferring the trust, or at least they do not issue it against. This offers the prime minister an ample space to negotiate people and content, and thus compose the necessary support to govern.

## XV. TURKMENISTAN

Article 67. It corresponds to Parliament:

...

4) Approve the action plans of the Cabinet of Ministers and adopt censure motions for that Cabinet.

This is the simplest possible expression of trust: it does not involve cabinet members or involve their removal if the program is not worthy of approval. Nor is it provided, casuistically, what happens when the program is not approved in a successive series of votes. This system has the advantage that it leaves aspects that are integrated with parliamentary practice unregulated. The open texture of some institutions, such as trust, allows gradual adjustments to be made to what is most convenient for each system.

Of course, it also has some disadvantages, above all because it leads to the interpreter introducing biases that favor the president or Parliament, to the detriment of a relationship as symmetrical as possible. Norms of this court are functional when they rule in a context of high political culture, where the conduct of political agents is subject to scrutiny and evaluation by an experienced citizenry. The issue of censorship is discussed in the next chapter.

## XVI. UKRAINE

Article 85. The authority of the Verkhovna Rada [Assembly] of Ukraine includes:

...

11) Know and approve the program of activities of the Cabinet of Ministers of Ukraine;

In the case of Ukraine, as in the previous one, of Turkmenistan, trust for the investiture is not foreseen. Likewise, in both constitutional systems censorship is contemplated, as will be analyzed in the fourth chapter.

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In a constitutional state, the institutions that regulate dissent and sponsor consensus are indispensable. Among the former are electoral norms, as regards contests for power, and mechanisms of political control, as regards discrepancies in power. The second, concerned with cooperation, are rarer, and therefore have a special relevance.

Among the institutions studied in this work, censorship and parliamentary dissolution are directly related to political responsibility; they are, therefore, part of the rules of dissent. On the other hand, the participation of the ministers in the rostrum and, above all, do, trust, are institutions that contribute to cooperation between political agents. Questions and interpellations are located in an intermediate territory, which can serve the same purpose of finding points of convergence, as well as those of identifying objectionable weaknesses. The possibility of questioning and challenging the members of a cabinet opens the space to various unknowns. If the exchange results in points of contact between the government and Congress, the opportunities to cooperate multiply; otherwise, obviously, they are reduced. In any case, questions and interpellations serve, as will be seen, to build solid

cabinets, due to the deliberative capacity and the suasion aptitude of its members. It often happens that from close and systematic communication between the holders of the organs of power, agreements emerge that, without this proximity, would be more difficult to forge.

When a body of political representation, such as a Congress, expresses its support for a government program, a political decision, a person or a group of people, its position is constructive; it is making common cause with the government and, to that extent, it contributes to governance. Trust allows political forces of different orientations to share objectives. When expressions of trust are produced in a context of plurality, they acquire the meaning of institutional cooperation and radiate to the community the conviction that leaders know how to distinguish between the freedom to fight for power and the responsibility to exercise it.

If the cooperation institutions are well built and operate in an environment of political equilibrium, they facilitate the adoption of programs and public policies that contribute to the general well-being, they allow to reasonably meet the demands that the citizenship poses to the bodies of power and limits, as much as possible, distortions of corruption and abuses of power. Hence the importance of this institution, which is generally seen only as one more form of control.