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Ministerstwo Nauki  
i Szkolnictwa Wyższego

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## **Political ministerial responsibility in Greece and Italy**

**Keywords:** ministerial responsibility, government, Greece, Italy

**Słowa kluczowe:** odpowiedzialność polityczna, rząd, Grecja, Włochy

### **Abstract**

The paper briefly reviews what is encompassed in the term ministerial responsibility in Italian and Hellenic constitutional system. In this respect, the paper seeks to define the key concept of political ministerial responsibility, and also the distinction between collective and individual ministerial responsibility in the frame of the Hellenic and Italian parliamentary system. It then presents an overview of the substantive and procedural rules on such responsibility found in the Constitution of Greece, Constitution of Italy, Hellenic Parliament's Standing Orders, Italian Parliament's Order. This is followed by an assessment of basic concerns related to the actual application of the institution of ministerial responsibility. In conclusion, the paper presents some normative reflections on the issue.

### **Streszczenie**

## **Polityczna odpowiedzialność ministrów w Grecji i we Włoszech**

Niniejszy artykuł dotyczy zagadnienia politycznej odpowiedzialności ministerialnej w greckim i włoskim systemie konstytucyjnym. Analizie została poddana kluczowa kon-

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cepcja politycznej odpowiedzialności ministrów, a także rozróżnienie między solidarną i indywidualną odpowiedzialnością ministerialną w ramach greckiego i włoskiego systemu parlamentarnego. W kolejnej części artykułu zostały omówione przepisy materialne i proceduralne w odniesieniu do omawianego problemu, zawarte w Konstytucji Grecji, Konstytucji Włoch oraz w regulaminach parlamentarnych obu państw. Zostały przedstawione podstawowe problemy związane z faktycznym stosowaniem instytucji ministerialnej odpowiedzialności oraz kilka uwagę natury normatywnej omawianego zagadnienia.

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## I. Introduction

The institution of the responsibility of the state government highest officials constitutes an eminent component of modern parliamentary democracy since democracy makes no sense without accountability and responsibility of the state authorities<sup>3</sup>. The responsibility of ministers in particular forms a fundamental constitutional guarantee of the democratic principle itself<sup>4</sup>.

In legal theory, ministerial responsibility is traditionally classified into political responsibility and (*stricto sensu*) legal responsibility, where criminal liability<sup>5</sup>

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<sup>3</sup> According to Ulr. Scheuner (as cited by B. Lutterbeck, *Parlament und Information, Eine informationstheoretische und verfassungsrechtliche Untersuchung*, München–Wien 1977, p. 161): “Verantwortung und Kontrolle bilden Grundelemente einer demokratischen Verfassungsordnung”. Also, see P. Pararas, *Σύνταγμα 1975 – Corpus, III, άρθρα 81–92, Κυβέρνηση – Δικαστική εξουσία I*, Athens–Thessaloniki 2004, p. 141.

<sup>4</sup> According to N.I. Saripolos, the responsibility of public authorities is “the most powerful guarantee to ensure the compliance to the Constitution” [as translated] (as cited by Ant. Manitakis, *Ελληνικό Συνταγματικό δίκαιο*, vol. I, Athens–Thessaloniki 2004, pp. 439–440). See also Ar. Manesis, *Αι εγγυήσεις τηρήσεως του Συντάγματος*, vol. II, Athens 1965, p. 505.

<sup>5</sup> On criminal ministerial responsibility in Greece, see An. Loverdos, *Η ποινική ευθύνη των μελών της Κυβέρνησης και των Υφυπουργών στο κοινοβουλευτικό πολίτευμα*, Athens–Komotini 1995, P. Pararas, *op.cit.*, pp. 221–247, Ath. Raikos, *Συνταγματικό Δίκαιο*, vol. I-B, Athens–Komotini 2009, pp. 958–966, 971–1010. For a focus on the institution of criminal ministerial responsibility before and after the Constitutional Revision of 2008, see K. Mavrias, *Συνταγματικό δίκαιο*, Athens 2014, pp. 590–618. For a comparative law study on criminal ministerial liability, see S. Steinbarth, *Das Institut der Präsidenten- und Ministeranklage in rechtshistorischer und rechtsvergleichender Perspektive*, Baden-Baden 2011, Eur. Besila-Vika,

and civil liability<sup>6</sup> are to be found. Although each type of responsibility is autonomous, distinct and separate institution as far as it concerns the purpose of each one, the procedure to be followed, and the sanctions, which may be imposed on Ministers, they have common historical roots in British parliamentary practice in the Middle Ages<sup>7</sup>. Even now, they share the same political aspiration: to impose sanction to the Ministers for improper political manipulations that have damaged the state, to ensure a proper exercise of state powers and to reduce the risk of their abuse<sup>8</sup>. Nevertheless, the modern approach to the institution of political ministerial responsibility acclaim it as a non-criminal institution who apply to acts and omissions of the Cabinet (acting either individually or collectively) which are prejudicial to the public interest.

The legal nature of political responsibility is expressed by the fact that there are legal provisions setting out the relevant procedures and leading to serious legal consequences<sup>9</sup>. On the opposite side stands the so-called informal or diffuse political responsibility, which lies beyond the legal sphere, and denotes the influence of governmental and ministerial maneuvers on the public opinion and implies political scorn. This type of responsibility indicates the political consequences, the political cost of the acts and omissions of the government and its members, which could lead to dissatisfaction of the citizens and, at its strongest form, to losing elections. In this paper, only legal

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*Ο θεσμός της ποινικής ευθύνης των Υπουργών στο ελληνικό και συγκριτικό συνταγματικό δίκαιο*, Athens 1985, N. Soilentakis, *Υπουργοί στο Ειδικό Δικαστήριο (1821–2000)*, Athens 2005.

<sup>6</sup> See K. Mavrias, *Συνταγματικό...*, op.cit., pp. 617–618, Ath. Raikos, *Συνταγματικό...*, op.cit., pp. 966–967.

<sup>7</sup> See I. Aravantinos, *Πραγματεία περί ευθύνης των ηγεμόνων και των υπουργών*, Athens 1880, pp. 47–137, An. Loverdos, *Κυβέρνηση, συλλογική λειτουργία και πολιτική ευθύνη*, Athens–Komotini 1991, pp. 77–80. For a focus on the historical development of the responsibility of public authorities, see Eur. Besila-Vika, *Ο θεσμός...*, op.cit., pp. 7–8.

<sup>8</sup> See A. Loverdos, *Η ποινική...*, op.cit., pp. 33–36, 40–46, P. Mantzoufas, *Η σχέση πολιτικής και ποινικής ευθύνης των μελών της Κυβέρνησης*, <https://www.constitutionalism.gr/1832-i-shesi-politikis-kai-poinikis-eytynis-twn-melwn-tis-Kybernnshs>; Z. Loncar, *Ministerial Responsibility: Regulations and Practical Issues in the Republic of Serbia, Croatian and Comparative Public Administration*, pp. 1171–1198 (1172).

<sup>9</sup> See G. Witte-Wegmann, *Recht und Kontrollfunktion der Großen, Kleinen und Mündlichen Anfragen im Deutschen Bundestag*, Berlin 1972, p. 112, Eur. Besila-Vika, *Ο θεσμός...*, op.cit., p. 9, K. Georgopoulos, *Επίτομο συνταγματικό δίκαιο*, Athens–Komotini 2001, p. 372.

political responsibility as it is set out in Greek and Italian public law is being presented and analyzed.

## II. Political ministerial responsibility in Greece

Under the Hellenic system of representative democracy, ministers are responsible to Parliament. Political ministerial responsibility, also called parliamentary responsibility, requires a parliamentary system<sup>10</sup>. In such an institutional environment, where the Cabinet is dependent on Parliament's confidence, political ministerial responsibility confirms that the Cabinet is accountable for the confidence it enjoys as well as for the entire governmental activity it undertakes *due to* Parliament's confidence. Under the operation of the principle of the Cabinet's accountability, which forms the core of the parliamentary system, the Cabinet is obliged to explain the way it used the confidence of the Parliament.

All Hellenic constitutions, even the revolutionary ones, lay down rules for the institution of ministerial responsibility. The first Hellenic constitution to include explicitly the institution of political ministerial responsibility is the Constitution of 1844<sup>11</sup>. Since then all Hellenic constitutions<sup>12</sup> contain rules pertaining to political responsibility. Regardless of constitutional revisions in Greece, the institution of political ministerial responsibility was not subject to any significant changes.

In the current Constitution of Greece<sup>13</sup> the political responsibility of the Cabinet is regulated in Article 85. Its first sentence stipulates that "The members of the Cabinet and the Undersecretaries shall be collectively responsible for general Government policy, and each of them severally for the actions or

<sup>10</sup> See K. Mavrias, *Συνταγματικό...*, op.cit., p. 617.

<sup>11</sup> Art. 82 of the Hellenic Constitution of 1844: "There cannot be any written or oral King's command that would lead to exemption of the ministerial responsibility" [translated].

<sup>12</sup> The Constitutions of the Greek State, which have been voted since 1845, are the following ones: Constitution of Greece (1864), Constitution of Greece (1911), Constitution of Greece (1925), Constitution of the Hellenic Republic (1927), Constitution of Greece (1952), and Constitution of Greece (1975).

<sup>13</sup> The Constitution of Greece translated in English, French and German is available at: <http://www.parliament.gr/en/Vouli-ton-Ellinon/To-Politevma/Syntagma/>.

omissions within his powers, according to the provisions of statutes on the liability of Ministers”<sup>14</sup>.

As a starting point of the analysis of political responsibility, it is clear that the subject matter of that institution is establishing whether the ministers’ actions are politically opportune. Political responsibility does not necessarily assume a violation of a disposition of a legal norm (which, on the contrary, is a prerequisite for criminal and civil liability). Ministers may be considered politically responsible not only for some unlawful action under the criminal or civil legislation but also for any ministerial action, which is inconsistent with the political trust they had been vested with.

According to the constitutional provision of Art. 85, political responsibility is applied to the “members of the Cabinet”, i.e. the Prime Minister and the Ministers<sup>15</sup>, and to the undersecretaries (who are considered as members of the Cabinet)<sup>16</sup>. In other words, political responsibility in Greece is formed as cabinet collective responsibility, also known as collective ministerial responsibility, and also as individual ministerial responsibility.

Collective ministerial responsibility is based on the principle of collective action of the Government. All members of the Cabinet share the obligation of determining and directing the general policy of the country<sup>17</sup>. Therefore, Ministers are collectively responsible for acts and omissions in the area of competence of the Cabinet<sup>18</sup>. When Parliament withdraws its confidence for the Cabinet, the Cabinet has to resign, no matter whether all Ministers were actually involved in the decision that caused the motion of censure, or not.

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<sup>14</sup> The constitutional provision of Art. 85 first sentence has been criticized for being “technically unfortunate”, since political responsibility regulated by law (statute) is unconceivable. It is obvious that political and criminal ministerial responsibility are unfortunately blended in this constitutional provision. On this issue, see K. Mavrias, *Συνταγματικό...*, op.cit., p. 584.

<sup>15</sup> See Article 81 par. 1 first sentence of the Constitution of Greece: “*The Cabinet, which shall be composed of the Prime Minister and the Ministers, constitutes the Government*”.

<sup>16</sup> According to Art. 83 par. 2 of the Constitution, Undersecretaries exercise the powers vested in them by joint decision of the Prime Minister and the competent Minister. On political responsibility of Undersecretaries, see P. Pararas, op.cit., pp. 211–212.

<sup>17</sup> See Art. 82 par. 1 of the Constitution: “*The Government shall define and direct the general policy of the Country, in accordance with the provisions of the Constitution and the laws*”.

<sup>18</sup> On the precise scope of ministerial responsibility, see M. Kalyviotou, *Κοινοβουλευτικός έλεγχος, Συνταγματικό πλαίσιο και όρια*, Athens–Thessaloniki 2017, pp. 113–206.

In this respect, there is a constitutional convention that all members of the Cabinet support all governmental decisions made in Cabinet.

Individual ministerial responsibility states that each Minister is responsible for his actions or omissions as well as of his subordinates at the Ministry (and the Ministry's agencies and departments) and of persons under his supervision<sup>19</sup>. In case of any wrongdoing or mistake, the Minister can be called to correct the situation, to apologize, and even in some cases to resign from a cabinet position. The charge of political responsibility may result, at its most extreme form, that the Minister concerned loses his office or is made to resign either by the Prime Minister or because of a motion of censure to resign<sup>20</sup>. If parliamentary confidence is withdrawn from one member of the government, resignation is obligatory, theoretically, for this member only. Due to the collective responsibility of the government and the solidarity of its members, resignation will usually be collective<sup>21</sup>.

Let it be noted that although the subject matter of political responsibility may not be precisely regulated, the procedure for establishing this responsibility is adequately regulated. In Greece political ministerial responsibility is an institution that is formulated through certain (parliamentary) procedures set out in Articles 84 and 85 of the Constitution and specified in the provisions of the Hellenic Parliament's Standing Orders<sup>22</sup>.

The procedural model for holding the cabinet and its ministers politically responsible adopted in Hellenic constitutional system is the institution of parliamentary control. The Government is submitted to parliamentary control according to the Constitution, following the procedure set out in the Parliament's Standing Orders. The rules on parliamentary control cover the initiation of proceedings, the legitimate options of all "actors" involved in parliamentary control, other procedural elements, and the potential (parliamentary) results.

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<sup>19</sup> Ibidem.

<sup>20</sup> See Ph. Spyropoulos, Th. Fortsakis, *Constitutional Law in Greece*, the Netherlands 2009, pp. 141–142.

<sup>21</sup> See Ph. Spyropoulos, Th. Fortsakis, op.cit., p. 112. Since now in Greece there has not been adopted any motion of censure.

<sup>22</sup> The Hellenic Parliament's Standing Orders (Section of parliamentary business) translated in English is available at: <https://www.hellenicparliament.gr/en/Vouli-ton-Ellinon/Kanonismos-tis-Voulis> (15.09.2018).

Given that parliamentary oversight seeks to record Governments' acts and decisions and to highlight their impact to public interest in order to hold the executive accountable for the development, implementation and review of governmental policy, there are two main control instruments:

(A) Means of parliamentary control aiming at the access of Parliament to information on the governmental actions and omissions. Such means are principally the following<sup>23</sup>:

1. Questions<sup>24</sup>. MPs have the right to submit written questions to Ministers regarding any matter of public importance. Ministers must reply in writing within a set period of time and, if not, the question may be discussed before the Plenum. Questions aim at keeping the Parliament updated on specific issues.
2. Current questions<sup>25</sup>. MPs have the right to submit written questions to Ministers as well as the Prime Minister on issues of current political significance. Current questions are answered and debated in the Plenum<sup>26</sup>. Such questions not only provide information to the Parliament on topical subjects, but also aim at supporting political dialogue on such issues.
3. Application to submit documents<sup>27</sup>. MPs have the right to make a request, in writing, to Ministers to supply (within a set period of time) them with official documents related to issues of public importance. When answers require exchange of classified (diplomatic or military or national security-related) information, the Minister must not provide the required documents<sup>28</sup>. By these means of parliamentary control, the Parliament may acquire additional information on a given subject.

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<sup>23</sup> More detailed information on the institution of parliamentary oversight in Greece and, especially, on the constitutional aspects of its operation, can be found in M. Kalyviotou, *Κοινοβουλευτικός...*, op.cit., pp.113–206.

<sup>24</sup> See Art. 126 ff. of the Hellenic Parliament's Standing Orders.

<sup>25</sup> See Art. 129 ff. of the Hellenic Parliament's Standing Orders.

<sup>26</sup> Or in the Recess Section when the Plenum is in recess.

<sup>27</sup> See Art. 133 ff. of the Hellenic Parliament's Standing Orders. A means of parliamentary oversight that combines both questions and applications to submit documents is the "question with an application to submit documents" (see Art. 124 par. 4 of the Hellenic Parliament's Standing Orders).

<sup>28</sup> See Art. 133 par. 4 of the Hellenic Parliament's Standing Orders: "*The Minister must not submit documents regarding diplomatic or military or national security secrets*". In this case, the

4. Summons to the Ministers<sup>29</sup>. The Parliament by simple majority may call Minister(s) to appear in Parliament, either in Plenum or in parliamentary committees, in order to provide clarifications and explanations for specific actions or omissions. Summons to the Ministers to appear at the Plenum is a rather obsolete means of parliamentary control<sup>30</sup>. Still it represents the unique constitutional role of Parliament in holding the executive accountable for the governmental maneuvers.
5. Petitions<sup>31</sup>. Citizens (individuals or groups) may address Parliament in writing to make complaints or requests (even on private issues of restricted public interest). MPs may endorse such petitions. In such case, the competent Minister should reply within a set time period. If not, the petition may be discussed before the Plenum. Petitions enable the Parliament to obtain information on how public administration actually operates and may support political dialogue on how the Cabinet supervises it. All the above mentioned procedures are principal means of control of the individual ministerial responsibility.
6. Announcements and Declarations of the Government or Governmental Reporting<sup>32</sup>. The Prime Minister<sup>33</sup> may inform the Parliament about any major public matter. Reporting is followed by a relevant debate with the Presidents of the rest Parliamentary Groups, in order to express their views on the matter. Collective political responsibility constitutes the main viewpoint of the “actors” involved in this procedure.

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documents are delivered to the MP who submitted the application or the MP shall be invited to inspect their content at the offices of the Parliament.

<sup>29</sup> See Art. 66 par. 3 first sentence of the Constitution. This constitutional provision is concretized on the Standing Orders as far as it concerns only the parliamentary committees (see Art. 37 par. 5 and 41A of the Standing Orders), and not the Plenum. In other words, the institution of Summons to the Ministers may be employed before the Plenum by direct reliance on Art. 66 par. 3 first sentence of the Constitution. On that institution, see M. Kalyviotou, *Ερμηνεία επί του άρθρου 66*, [in collective work-Kommentar:] *Σύνταγμα, κατ’ άρθρο ερμηνεία*, Athens–Thessaloniki 2017, pp. 1260 ff., A. Dervitsiotis, *Η παρουσία των Υπουργών στη Βουλή*, Athens–Komotini 2007.

<sup>30</sup> The relevant procedure in parliamentary committees is frequently employed.

<sup>31</sup> See Art. 69 of the Constitution and Art. 125 of the Hellenic Parliament’s Standing Orders.

<sup>32</sup> See Art. 142A of the Hellenic Parliament’s Standing Orders.

<sup>33</sup> Also the Ministers. See Art. 142A of the Hellenic Parliament’s Standing Orders.

(B) Means of parliamentary control aiming directly at scrutiny and criticism of executive actions and omissions. Such means are principally the following:

1. Interpellations<sup>34</sup>. MPs have the right to individually or jointly address interpellations to any Minister(s) or to the Prime Minister asking to explain the scope and the motives of governmental actions or omissions. MPs may also submit interpellations when they deem that a Minister's reply to a question was inadequate or when they have not been given all the documents they have requested. Interpellations are debated in Plenary Sessions. Should there be more than one interpellation on the same subject the Parliament may decide on their simultaneous debate or even proceed into a general discussion. They are a powerful oversight tool of monitoring governmental maneuvers and revealing political responsibility of the Cabinet (collectively or individually).
2. Current interpellations<sup>35</sup>. MPs have the right to submit current interpellations to the competent Minister(s) on prominent current affairs. Such interpellations are debated in Plenary Sessions<sup>36</sup>. Current interpellations are usually being employed in order to exercise sharp and scathing parliamentary scrutiny of governmental policy.
3. Debate outside the Order of the Day<sup>37</sup>. The Standing Orders provide for those extraordinary debates (limited in number during every parliamentary session) initiated mostly (but not exclusively) by the parties in the Opposition. They refer to national matters or matters of general interest. Although their prime aim is to inform Parliament on such matters, they constitute high-level discussions, where only the Prime Minister (having to appear in person), one or two Ministers and the Presidents of the Parliamentary Groups may participate. Under these conditions the political debate is lively and this procedure becomes a field of intense parliamentary scrutiny. For that reason, these means of parliamentary control attract broad media attention.

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<sup>34</sup> See Art. 134 ff. of the Hellenic Parliament's Standing Orders.

<sup>35</sup> See Art. 138 of the Hellenic Parliament's Standing Orders.

<sup>36</sup> Or in specified sittings of the Recess Section.

<sup>37</sup> See Art. 143 of the Hellenic Parliament's Standing Orders.

4. Inquiry committees or Investigation committees<sup>38</sup>. The Plenum may establish investigation committees consisting of MPs, who are called to investigate issues of public interest, primarily when there are suspicions of offences committed by state government highest officials. Upon completion of the investigation, the committee assesses the collected evidence and drafts a reasoned report on its findings. It addresses the Plenum, while also elaborating on any minority views expressed. Although inquiry committees are laid down in the Constitution and the Standing Orders as a parliamentary information tool, they have a considerable political significance because they lead to intensive political dialogue on mistakes, wrong decisions or illegal actions or omissions of present or past members of the Cabinet.
5. Motion of no confidence or Motion of censure<sup>39</sup>. The most drastic tool of parliamentary control is the motion of censure. Parliament may, should at least fifty MPs make such a motion request<sup>40</sup> in writing including explicitly the issues to be debated, withdraw its confidence towards the Government or towards one of its members. If the Parliament approves (by absolute majority) the motion of censure, whomever the motion was against loses office. Thus, an approved motion of censure is the ultimate act of the control procedure on political responsibility of the government<sup>41</sup>. It also reveals that ministerial responsibility emerges from their democratic legitimation<sup>42</sup>, since it is connected to the Cabinet's dependence on parliamentary confi-

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<sup>38</sup> See Art. 144 ff. of the Hellenic Parliament's Standing Orders.

<sup>39</sup> See Art. 84 of the Constitution and Art. 142 and 141 of the Hellenic Parliament's Standing Orders.

<sup>40</sup> Unless signed by the absolute majority, a new motion of censure can only be introduced after a period of six months.

<sup>41</sup> On the censure of motion, see, among others, D. Filippou, *Η πρόταση δυσπιστίας ως μέσον άσκησης του κοινοβουλευτικού ελέγχου*, Thessaloniki 1990, pp. 25–26; K. Mavrias, *Ζητήματα λειτουργίας του πολιτεύματος*, Athens–Komotini 1993; K. Chryssogonos, *Συνταγματικό δίκαιο*, Athens–Thessaloniki 2014, pp. 519–521, 543–547.

<sup>42</sup> See J. Schmidt, *Die demokratische Legitimationsfunktion der parlamentarischen Kontrolle, Eine verfassungsrechtliche Untersuchung über Grundlage, Gegenstand und Grenzen der parlamentarischen Kontrolle unter besonderer Berücksichtigung der ministerialfreien Räume und der Privatisierung*, Berlin 2007, pp. 31–32.

dence. Consequently, only Parliament may assess the political opportunity of minister's actions or omissions.

Except for the inquiry committees, all other procedures (see b) are in principle means of control in the field of the collective ministerial responsibility without precluding the control of individual political responsibility.

In the light of the aforementioned considerations, parliamentary responsibility of the government in Greece is based on three constitutional institutions: the competence of Parliament to control government (through parliamentary control procedures), the obligation of government to be accountable to Parliament for its actions and omissions (by means of parliamentary oversight), and the obligation of government and its members to resign in case of approval of a motion of censure. Resignation of the Cabinet is the ultimate political penalty when the competence of Parliament to control the executive and the accountability obligation of government are applied.

It is interesting to highlight that the functionality and the effectiveness of the institution of political responsibility does not depend on whether a motion of censure takes place or not<sup>43</sup>. In other words, all procedural rules for making government ministers politically responsible are considered to be of major institutional importance<sup>44</sup>. Even “soft” control procedures, such as questions and applications to submit documents, serve the control of Cabinet's work and reveal the political responsibility of Ministers. The figures show that an average of at least 9000 questions, 3000 petitions, 800 current questions, and 50 interpellations and current interpellations are submitted by MPs per year in the context of parliamentary oversight in the Hellenic Parliament<sup>45</sup>. Since the political transition from dictatorship to democracy (1974) up to now, twelve motions of censure have been submitted and none have been approved.

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<sup>43</sup> See Chr. Sgouritsas, *Η οργάνωσις της κυβερνήσεως και η κοινοβουλευτική ευθύνη των υπουργών κατά το νέον Σύνταγμα της 3ης Ιουνίου 1927*, Athens 1931, p. 145.

<sup>44</sup> On other effective means of holding Cabinet responsible, see An. Loverdos, *Η ποινική...*, op.cit., p. 75.

<sup>45</sup> See F. Fitsilis/D. Koryzis, *Parliamentary control of Governmental actions on the interaction with European organs in the Hellenic Parliament and the National Assembly of Serbia*, [https://www.researchgate.net/publication/292869609\\_Parliamentary\\_control\\_of\\_Governmental\\_actions\\_on\\_the\\_interaction\\_with\\_European\\_organs\\_in\\_the\\_Hellenic\\_Parliament\\_and\\_the\\_National\\_Assembly\\_of\\_Serbia](https://www.researchgate.net/publication/292869609_Parliamentary_control_of_Governmental_actions_on_the_interaction_with_European_organs_in_the_Hellenic_Parliament_and_the_National_Assembly_of_Serbia), Table 3: Statistical data of parliamentary oversight in the Hellenic Parliament 2007–2015 (15.09.2018).

### III. Political ministerial responsibility in Italy

Under the tenets of Italian constitution from 1947 the government consists of Prime Minister and Ministers appointed by the President. Zbigniew Witkowski says, that „the cabinet may also consist of vice-presidents of the Council, Ministers without a portfolio, undersecretaries, Cabinet Council, cross-ministerial committees and extraordinary commissioners of the government”<sup>46</sup>. Prime Minister is responsible for leading the government. It entails taking care of unified political and administrative actions of the whole cabinet. What is more, he coordinates all ministerial activity. It is him who takes political responsibility for the whole government’s functioning. Ministers answer collectively for Cabinet’s actions and also individually. Prime Minister’s role among other members of the cabinet is then special, he is endowed with his own competences. His dominant position springs from the fact, that he can choose his associates. In practice, though, he needs to consult political parties that form the government. What is important to note, is that constitution does not say *expresis verbis* that he can dismiss Ministers, what has resulted in some problems with its interpretation.

Institution of political ministerial responsibility is not new to Italian constitutional doctrine. It was included in the Alberta Statute from the 4th March 1848, which, after the reunification of Italy, was in force on the whole Italian territory. It was the monarch who yielded all executive power (art. 5 of the Statute). He appointed and dismissed Ministers (art. 65 of the Statute), who were politically accountable to him (art.67 of the Statute)<sup>47</sup>. Ministers were to countersign legal acts issued by the monarch, and were politically responsible before the Senate<sup>48</sup>.

In the Italian constitution from 1947 political responsibility of the government is regulated by art. 95. Its second sentence stipulates that „ministers answer collectively for the Council of Ministers’ action and individually for

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<sup>46</sup> *Konstytucja Włoch*, wstęp i tłum. Z. Witkowski, Warszawa 2004, s. 30; I. Bokszczanin, *Rząd Republiki Włoskiej*, [w:], *Rządy w państwach Europy*, E. Zieliński, I. Bokszczanin, Warszawa 2003, s. 297–330.

<sup>47</sup> Alberta Statute, 4th March 1848 (Lo Statuto Albertiniano – Regno di Sardegna e Regno d’Italia), [www.quirinale.it/costituzione/Preunitarie-testi.htm](http://www.quirinale.it/costituzione/Preunitarie-testi.htm) (20.05.2014).

<sup>48</sup> A. Gaca, Z. Witkowski, *Podstawy ustroju konstytucyjnego Republiki Włoskiej*, Toruń 2012, s. 95–96; Z. Machelski, *System polityczny Włoch*, Warszawa 2010, s. 21–25.

business conducted in their ministries<sup>49</sup>. Moreover, according to art. 89 of the Constitution, ministers are legally responsible when countersigning documents issued by the President of the Republic, because „a writ of the President of the Republic shall not be valid unless signed by the proposing Minister, who shall be accountable for it. A writ having force of law and other writs issued by virtue of a law shall be countersigned by the President of the Council of Ministers”.

Collective ministerial responsibility is based on the principle of cooperation of all cabinet members when acting to fulfill the political agenda of the Council of Ministers. In accordance with the symmetric bicameralism principle, collective ministerial responsibility entails gaining the confidence vote of both Houses of Parliament. Lack of support for the government in one or both Houses of Parliament does not result in the obligatory demission of the cabinet (art. 94), „if it is voted in a regular voting procedure”<sup>50</sup>. It is different, if at least 1/10 of members of one of the Houses of Parliament submits a motion to call a non-confidence vote for the government (art. 94, par. 5 of the Constitution and the so called *mozione di sfiducia*). Another reason for the demission of the cabinet is failure to pass vote of confidence, linked to the acceptance of an important legislative project by the Parliament and connected with the political agenda of the government – the so called *questione di fiducia* – what is very precisely put down in law by the parliamentary rules (art. 116 House of Deputies Rules of Procedure and art. 161 of the Senate Rules of Procedure)<sup>51</sup>. Then, in 24 hours from the submission of the motion, a roll-call vote is organized, except for other agreement between parliamentary groups. It is worth noting, that this institution is used all too often in Italian constitutional practice. For example, it was used by II government of R. Prodi and IV cabinet of S. Berlusconi. E. Letty, on average, used the procedure *questione di fiducia* once a month. M. Renzi’s government, in the course of its first 29 months used it 62 times, among others, using it also to in-

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<sup>49</sup> Z. Witkowski, *Konstytucja Republiki Włoskiej*, wstęp i tłumaczenie, Warszawa 2004.

<sup>50</sup> A. Barbera, C. Fusaro, *Corso di diritto costituzionale*, edizione 3, Bologna 2016, s. 364; G. De Vergottini, *Diritto costituzionale comparato*, Padova 1993, s. 599–600.

<sup>51</sup> House of Deputies Rules of Procedure, <http://www.camera.it/files/regolamento/regolamento.pdf> (20.11.2018); Senate Rules of Procedure, [http://www.senato.it/documenti/repository/istituzione/Costituzione\\_e\\_Regolamento\\_Senato\\_2018.pdf](http://www.senato.it/documenti/repository/istituzione/Costituzione_e_Regolamento_Senato_2018.pdf) (20.11.2018).

roduce new electoral ordinance to Parliament<sup>52</sup>. Other instrument is a vote of confidence motion (with a motivation for it – *mozione di fiducia*) where a roll-call vote is organized after 3 days after it is presented (art. 115 House of Deputies Rules of Procedure). For example, two R. Prodi's governments resigned due to the lack of vote of confidence in the House of Deputies in 1998 and in the Senate in 2008.

Individual ministerial responsibility states that each minister is responsible for the actions of their department. Italian Constitution does not contain a provision about the possibility of dismissal of a Minister by the Prime Minister, like German Constitution or a Spanish one. In 1986, under art. 115 par. 3, to the House of Deputies Rules of Procedure a provision was added pertaining to the possibility of filing a motion for vote of no confidence for an individual Minister (*mozione di sfiducia individuale*). It has been used in the case of the Minister of Justice in the government of L. Dini-Filippo Mancuso in 1995. He filed a motion arguing such procedure is unconstitutional. Constitutional Tribunal did not support it (ruling nb 7 from 1996). Minister Mancuso is the only cabinet member who has been subjected to this procedure<sup>53</sup>.

During the cabinet functioning, especially while in crisis, changes on ministerial posts can occur. They are called *rimpasto*. If another cabinet member – Prime Minister or minister – is filling in the post before a new minister is appointed it is called *interim*. The procedural model for holding the cabinet and its ministers politically responsible adopted in Italian constitutional system is the institution of parliamentary control. Given that parliamentary oversight seeks to record Governments' acts and decisions and to highlight their impact on public interest in order to hold the executive accountable for the development, implementation and review of governmental policy, there are two main control instruments:

(A) Means of parliamentary control aiming at the access of Parliament to information on the governmental actions and omissions. Such means are principally the following:

1. Questions (*interrogazioni*). MPs have the right to submit written questions (art. 134 of the House of Deputies Rules of Procedure and

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<sup>52</sup> A. Barbera, C. Fusaro, *Corso di diritto...*, op.cit., p. 365.

<sup>53</sup> A. Barbera, C. Fusaro, *Corso di diritto...*, op.cit., p. 415.

art. 153 of the Senate Rules of Procedure) or oral questions (art. 129 of the House of Deputies Rules of Procedure and art. 148 of the Senate Rules of Procedure) to Ministers regarding any matter of public importance (art.128 of the House of Deputies Rules of Procedure and art. 145 of the Senate Rules of Procedure).

2. Questions with an immediate answer (*interrogazioni a risposta immediata*). MPs have the right to submit these questions to Ministers as well as the Prime Minister (on issues of current political significance. Current questions are answered and debated in the Plenum or in commissions (in Senate only in the Plenum) on each Wednesday. Such questions not only provide information to the Parliament on topical subjects, but also aim at supporting political dialogue on such issues (Art. 139 –bis of the House of Deputies Standing Orders and Art. 151-bis of the Senate).
3. Application to submit documents. MPs have the right to make a request, in writing, to Ministers to supply (within a set period of time) them with official documents related to issues of public importance.
4. Summons to the Ministers. The Parliament may call Minister(s) to appear in Parliament, either in Plenum or in parliamentary committees, in order to provide clarifications and explanations for specific actions or omissions.
5. Petitions. Citizens (individuals or groups) may address Parliament in writing to make complaints or requests (even on private issues of restricted public interest). All the above mentioned procedures are principal means of control of the individual ministerial responsibility.
6. Announcements and Declarations of the Government or Governmental Reporting. The Prime Minister and Ministers may inform the Parliament about any major public matter.

(B) Means of parliamentary control aiming directly at scrutiny and criticism of executive actions and omissions. Such means are principally the following:

1. Interpellations. MPs have the right to individually or jointly address interpellations to any Minister(s) or to the Prime Minister asking to explain the scope and the motives of governmental actions or omissions.
2. Debate outside the Order of the Day. They refer to national matters or matters of general interest.

3. Inquiry committees or Investigation committees. The Plenum may establish investigation committees consisting of MPs, who are called to investigate issues of public interest, primarily when there are suspicions of offences committed by state government highest officials.
4. Motion of confidence or Motion of no confidence.
5. Individual motion of no confidence.

#### IV. Conclusions

As the above paper illustrates, one of the main characteristics of political ministerial responsibility is that it inevitably concerns two spheres, the sphere of politics and the sphere of law, since it involves the subject matter of politically opportune ministerial action and in parallel it is regulated by the Constitution and the Standing Orders. The parliamentary procedure for making government ministers politically responsible demonstrates such character of the institution. It also underlines that political ministerial responsibility is based on the relations, which typically reflect the parliamentary system including the separation of powers. Thus, the institution of political ministerial responsibility is not solely, not even necessarily<sup>54</sup>, founded on Art. 85 of the Hellenic Constitution or Art. 95 of the Italian Constitution. Even if that provision was repealed, political ministerial responsibility would have adequate constitutional basis on the parliamentary system<sup>55</sup>, which states that the Cabinet derives its democratic legitimacy from its ability to command the confidence of the Parliament, and is also held accountable to the Parliament, and on the doctrine of the separation of powers and the principle of checks and balances<sup>56</sup>, under which the Cabinet has to justify itself to Parliament in respect of everything it does or causes the administration to do.

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<sup>54</sup> See also, H. Klein, *Kommentierung zu Art. 43 GG*, [in:] *Grundgesetz, Kommentar*, eds. Th. Maunz, G. Dürig, München, Supplement 2010, par. 35–118 (par. 35): „parlamentarische Verantwortlichkeit ist kein Spezifikum parlamentarischer Regierungssysteme, sondern ein essentielles Institut der repräsentativen Demokratie“.

<sup>55</sup> See Ph. Spyropoulos, *Ερμηνεία επί του άρθρου 45*, [in collective work-Kommentar:] *Σύνταγμα, κατ' άρθρο ερμηνεία*, Athens–Thessaloniki 2017, p. 1314.

<sup>56</sup> See K. Mavrias, *Σύνταγματικό...*, op.cit., p. 584, J. Schmidt, *Die demokratische Legitimationsfunktion...*, op.cit., p. 38.

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