

# Special Topic: Procedural Rules and Practices Grounding the Decisions of the Constitutional Court of Romania<sup>1</sup>

Simona-Maya Teodoroiu & Marieta Safta

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The significant powers given by the Romanian Constitution to the Constitutional Court represent various and effective instruments to achieve its main role, meaning to guarantee the supremacy of the Constitution. Since the Constitutional Court's decisions are generally binding, and given their role to 'remodel' the entire legal system, for the purposes of its constitutionalisation, it is vital to make them known and understood, also with reference to the underlying decision-making process. In this regard, the configuration of the procedure to settle the cases referred to the Constitutional Court represents in itself a framework ensuring the transparency in the decision-making process, in particular through the involvement in this process of public authorities representing the three State powers which are asked, according to the law, to express their written opinions in almost all cases judged by the Court. There are also other professionals, bodies, and authorities that may be requested to submit information and opinions and, furthermore, we have to underline the legal duty of publication of the decisions of the Constitutional Court in the Official Journal of Romania. This framework, as well as other instruments such as the system which provides for an online, direct access of the media, or the viewing/listening of Constitutional Court's public sessions, press releases, other tools and practices aiming at informing on the activity of the Constitutional Court provide openness and transparency to its activity.

'Legal reasoning has a logic of its own. Its structure fits it to give meaning to ambiguity and to test constantly whether the society has come to see new differences or similarities'.<sup>2</sup>

## I. Main powers and responsibilities of the Constitutional Court of Romania

The Constitutional Court of Romania is regulated in a separate title of the Constitution – Title V (Articles 142-147, as revised), containing provisions on the role and structure of the Court, the term of office of its members, the appointment of judges and the election of the President of the Court, the requirements that need to be met in order to act as judge, the incompatibilities, the independence and immovability of constitutional judges, the competence of the Court and the effects of its decisions.

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1 A short version of this study was presented by the first author at the 19th International Judicial Conference, held by The Furth Family Foundation, Michigan University – Faculty of Law and The International Foundation for Electoral Systems, in Washington DC, USA, May, 2016.

2 Edward H Levi, 'An introduction to Legal Reasoning', The University of Chicago Press, 1948, p 104 cited by Chaim Perelman, 'Ethique et droit', Ed Universitaires de Bruxelles, 2eme edition, p 598.