

Eka Kavelidze\*

## Understanding of the Vote of Non Confidence, as a Political-Legal Mechanism

*The vote of non-confidence is a very important mechanism, which is directly related to the realization of the principle of distribution of powers. Inter-relation of the Government and the Parliament and balancing of their authorities mostly depends on the vote of non-confidence. In the environment of strong Government, Parliament shall have real lever of influence over the Government, ensuring placement of the activities of the Government in certain frames. And for determination of the characteristics of the mechanism the status of executive and legislative bodies is of utmost importance. Nevertheless, alongside with the basic function, the vote of non-confidence can be used by political parties as the means of influencing certain political developments. Meanwhile, it is important to consider the vote of non-confidence as the mechanism for overcoming political crisis.*

**Key words:** *distribution of power, vote of non-confidence, constructive cote of non-Confidence, responsibility of the government, governmental control, strong government, collective responsibility, resignation of the government, political crisis, parliamentary majority, status of the parliament, balance of political forces.*

### 1. Introduction

Democratic governance is the problem of almost all contemporary states. Each of them tries to achieve the mentioned goal in its way, but they are all driven by the validity of the principle of distribution of power, the so-called “check and balances”, which is achieved by balancing the branches of power.

The main problem is the executive power, as the majority of levers of state governance are accumulated in its hands. Due to the above mentioned, presently, development and implementation of efficient mechanism of controlling/ balancing the government is an actual issue throughout the world. Constitutionalists recognize the vote of no confidence as such, which represents the most efficient, but ultimate mechanism for controlling the government.

Although the purpose of this mechanism is mostly expressed in control and deposition of government, the essence of the vote of no confidence, as political-legal mechanism will be discussed in the article. Number of different opinions and views are spread in legal literature on the mentioned institution regarding its essence, as well as its purpose and goal.

There are almost no differences in the opinion, that the mentioned mechanism is political one and law determined the procedures of its application. There are differences in modern assessment of the above mentioned mechanism, providing for different loading and meaning to the vote of no confidence.

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\* Doctoral Student, TSU Faculty of Law.

## **2. The Essence of the Vote of Non Confidence**

### **2.1. Main Purpose**

It is considered that the main purpose of the vote of no confidence, as it was mentioned in the introduction, is control of government, especially in the countries with parliamentary governance, where executive power is completely accumulated in the hands of the government. In such conditions it is necessary for the parliament to have the mechanism ensuring control and accountability of the government. Consequently, the principle – accountable government – is expressed the existence of the mechanism of controlling its political responsibility. The accountability of the government to the parliament, as a rule, is insured by the vote of no confidence. Besides, the opponents often use the vote of no confidence for the purpose of “defeat” the government; however, the stricter are the conditions of its utilization, the more counterproductive the vote of no confidence is for its initiator. The above mentioned is conditioned by the circumstance, that in the case of non-adoption of the resolution of no confidence, the parliament completes its operation ahead of the scheduled time. For this reason, this mechanism is assessed as dramatic alternative of government control.<sup>1</sup>

The motion of no confidence is mainly directed towards resignation of the whole composition of the government. However, constitution of some countries provides for its use against specific minister. The above mentioned regulation provides for accountability of ministers to the parliament according to the area of their operation. In this case, individual responsibility of ministers describes the “chain of responsibility”. However, holding the minister accountable individually is seldom successful in the environment, where the government enjoys significant support of the parliament. The above mentioned shall be taken into account also when the minister is called to be held accountable to the parliament<sup>2</sup>. Questions and interpellation to the minister is sometimes related to adoption of the resolution of no confidence, however, it seldom achieves dismissal of the government.<sup>3</sup>

Although the main purpose of the vote of no confidence is dismissal of the existing government, the mentioned mechanism can divert political crisis, conditioned by its application and election of a new candidate as a future prime-minister. The above mentioned, as a rule, happens by one voting procedure and is referred to as constructive vote of no confidence, country of origin of which, we may say, is Germany. Constructive motion of no confidence, presently, is the most efficient and painless process to replace the existing government, and, at the same time, appoint new prime-minister, so Constitutionalists arrived to the opinion that in the case of vote of no confidence it is better to use constructive vote, when new candidate of prime-minister will be nominated at the same time.<sup>4</sup>

The motion of no confidence, especially constructive vote, is regarded as the main characteristics of the countries with parliamentary governance. As an example, according to the opinion, spread in literature, the mentioned mechanism represents the characteristic feature of presidential and par-

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<sup>1</sup> *Lijphart A.*, *Parliamentary Versus Presidential Government*, Oxford University Press, 1992, 91.

<sup>2</sup> *Rosenfeld M., Sajo A.*, *The Oxford Handbook of Comparative Constitutional Law*, Oxford University Press, 2012, 664.

<sup>3</sup> *Ibid.*, 668.

<sup>4</sup> *Twomey A.*, *The Governor-General’s Role in the Formation of Government in a Hung Parliament*, The University of Sidney, Sydney Law School, Legal Studies Research Paper, № 10/85, 2010, 6.

liamentary governance: in parliamentary country the prime minister and his government are accountable to the parliament and may be dismissed by means of the vote of no confidence, and in the case of presidential governance the vote of no confidence is not used by the president, directly elected by people.<sup>5</sup> The vote of no confidence appears as the means of balance not only in the system of distribution of powers, but even in the forms of governance.

The vote of no confidence, as a rule, is regarded as the only mechanism, which will result into elections in parliamentary system ahead of expiration of the term of parliament's authority.<sup>6</sup> Such lack of faith is demonstration of the fact, that the leader of the government isn't governing the parliamentary majority. It leads to new elections, which, at certain extent, restore legislative as well as parliamentary governance. The vote of no confidence grants the parliament different flexibility, which is not inherent to the countries with presidential governance.<sup>7</sup>

## 2.2. Way of Overcoming the Crisis

The fact, that political crisis and the vote of no confidence are indivisible notions, is not the news. Sometimes the vote of no confidence causes crisis and sometimes – vice versa – political crisis results into the vote of no confidence. When the motion of no confidence is used as a result of political crisis, this mechanism has the capacity and levers of resolution of the above mentioned crisis, especially constructive vote of no confidence. Basically, this mechanism is used as the method of overcoming crisis in the countries with parliamentary governance<sup>8</sup>, following from the fact that constructive vote exists in the countries of just this type.

Application of the vote of no confidence means that the existing government has lost the trust from the parliament's side and the latter wants to dismiss the cabinet of ministers, i.e. executive power shall remain without governor for certain period. This fact, in itself, indicated to political crisis and vacuum, as formation of the new government and announcement of trust to it is related to certain time frame. The way of resolution of the mentioned problem is constructive vote of no confidence, which, on the one hand, provides possibility to transfer the executive power from one team to the other without delay; and on the other hand, the parliament's interest is satisfied and the existing government resigns, i.e. bears political responsibility for the implemented governance. For this reason, constructive vote of no confidence is regarded as efficient way of overcoming the crisis.

In addition to the constructive vote of no confidence, destructive motion of no confidence shall be mentioned in regard to crisis; i.e. the case, when the prime-minister is nominated and government is formed only after dismissal of the existing government. In this case, the mechanism represents the method of crisis resolution in the way that due to the tense political situation or deviation from political direction by the government, the parliament immediately dismisses the govern-

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<sup>5</sup> *Lijphart A.*, Patterns of Democracy, Government Forms and Performance in Thirty-six Countries, Yale University press, New Haven and London, 1999, 117.

<sup>6</sup> *Albert R.*, The Fusion of Presidentialism and Parliamentarism, Boston College Law School, Legal Studies Research Paper Series, Boston, 2010, 551.

<sup>7</sup> Ibid.

<sup>8</sup> Ibid, 564.

ment and thus the fundamental problem, causing confrontation, is eliminated. In the mentioned case the parliament, following dismissal of the existing government, begins to select the candidate prime-minister and government members. Questions may arise in regard to efficiency of this mechanism, as it doesn't provide for selection of candidate prime minister in advance. Nevertheless, the fact, that selection of the candidate prime-minister may delay initiation of the processes of motion of no confidence by the parliament, may be considered as favorable argument, as selection of the future leader of the government will require certain period, but meanwhile, dismissal of the existing government may be inevitably necessary. In this case, nomination of the candidate prime-minister may serve as hampering factor for quick and valid response by the parliament.

### **2.3. Chance of Oppositional Parties**

Vote of no confidence is a kind of action tool for the political parties, not having parliamentary majority, i.e. for the so-called minority. The mentioned parties don't have majority of seats in the parliament, however, they have the number of votes, required for initiation of the issue. It allows them to use the mentioned mechanism in their favor. Political parties are motivated to obtain the required number of votes and get the relevant positions. In the case of motion of no confidence the votes, directed against the governing power, as a rule, shall be used by the oppositional party. In the case of the vote of no confidence political forces shall focus on negative factors like weak economic policy or other political scandals. In other words, much more can be achieved by the motion of no confidence, than by arrangement of other political performance by unification of parties.<sup>9</sup>

The mentioned principle is acceptable for parliamentary opposition of many countries and they take this chance as far as possible. E.g. the vote of no confidence was used in Finland in 1998. Centrist opposition used the change to focus attention on poor situation of farmers in Finland.<sup>10</sup> The above mention indicates that the vote of no confidence obtained one more purpose/motivation – it enhanced public awareness by criticism of the government in regard to coalition policy.

Oppositional parties often apply to the vote of no confidence to weaken the image of the governing party. Due to the above mentioned, only little number of the motions of no confidence gets the required number of votes to make the government resign and appoint new parliamentary election. The Liberals' vote of no confidence against Conservative Party in Canada in 1979 was conditioned by high prices in the sphere of energy supply.<sup>11</sup> The vote of no confidence is often announced in order to draw attention to people's problems, for resolution of which the government has the ability and the competence. Even the vote of no confidence, having very little chance to get the required number of votes, manages to reveal certain problem. As the above mentioned examples show, oppositional parties often skillfully use the vote of no confidence, "packaged" in social problems, to cause damage to the governing party in the eyes of electors. The mentioned circumstance is particu-

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<sup>9</sup> Williams K.L., Somer-Topcu Z., Motion of No Confidence Can Negatively Impact Upon the Public's View of the Government, By Democratic Audit, 2014, <<http://www.democraticaudit.com/?p=5725>>, [22.11.2015].

<sup>10</sup> See *ibid.*

<sup>11</sup> Williams K.L., Somer-Topcu Z., Motion of No Confidence Can Negatively Impact Upon the Public's View of the Government, By Democratic Audit, 2014, <<http://www.democraticaudit.com/?p=5725>>, [22.11.2015].

larly topical during elections as, following the vote of no confidence, escalation of new political forces through elections is usually noticed.<sup>12</sup> The vote of no confidence is not the opposition's tool only for dismissal of the government. This mechanism helps them to create people's negative attitude towards the government, and the above mentioned helps oppositional parties to have favorable political position for elections.<sup>13</sup>

### 3. Basic Features of the Mechanism

#### 3.1. According to the Status of Executive Body

Use of the vote of no confidence, the terms of use and the results largely depend on the status of the highest body of executive power. The status of the government is a kind of factor, conditioning initiation of the vote of no confidence. Just according to the status of the government, the parliament decides whether to use the extreme mechanism of control towards it or not; or other mechanism is enough for its controlling and balancing its power.

Since the middle of the XX c., the idea of dominating status of legislative power among the branches of power, following to the existing political-legal relations diminished at certain extent and executive power obtained a kind of leading role in power triad. This circumstance was conditioned by the factor that financial, material and technical, technological, organizational, human and other resources are mostly accumulated in the area of competence of executive power.<sup>14</sup>

As a result of observation of the branches of power, special role of government in state system becomes obvious. It implements control of financial and other physical resources of the state. Consequently, it is distinguished from other state authorities by its significant competence, i.e. factually unlimited scope, referred to its governance, wide range of issues and valid authorities of resolution of these issues, strengthened by political support.<sup>15</sup>

The government in a collegial body of general competence of executive power, central point of the whole system of public administration, which ensures management of public administration without executive- regulatory activities, entrusted to it, manages the whole administration of the state; the whole public office, state finances, international relations, armed forces<sup>16</sup>, i.e. the whole executive power is under its management. The government is responsible and accountable to the parliament, however the factor, that it is supported by parliamentary majority, creates substantial opportunities for it to play central role in the course of legislative process. Practice shows that major-

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<sup>12</sup> *Williams K.L., Somer-Topcu Z.*, Motion of No Confidence Can Negatively Impact Upon the Public's View of the Government, By Democratic Audit, 2014, <<http://www.democraticaudit.com/?p=5725>>, [22.11.2015].

<sup>13</sup> *Williams K.L., Somer-Topcu Z.*, Motion of No Confidence Can Negatively Impact Upon the Public's View of the Government, By Democratic Audit, 2014, <<http://www.democraticaudit.com/?p=5725>>, [22.11.2015].

<sup>14</sup> *Kverenchkhiladze G.*, Constitutional Status of the Government of Georgia (comment to the Article 78 of the Constitution), Contemporary Constitutional Law, edited by *G. Kverenchkhiladze and D. Gegenava*, Vol. 1, *D.Batonishvili* Institute of Law, Tbilisi, 2012, 10 (in Georgian).

<sup>15</sup> *Demetrashvili A., Kobakhidze I.*, Constitutional Law, Tbilisi, 2010, 303 (in Georgian).

<sup>16</sup> *Melkadze O.*, Constitutionalism, Series of Political- Legal Literature, Vol. XXI, Mag, Universal, Tbilisi, 2008, 318 (in Georgian).

ity of bills, considered by parliaments, is submitted on legislative initiative of the government. E.g. their quantity, in relation with total number of considered bills reaches 80% in Germany.<sup>17</sup>

Andrash Shayo describes the strength of contemporary executive power as follows: “executive power is like a centaur: its lower part is bureaucracy, public administration, and the upper part – party politician, who, thanks to his elector, parliament, and, primarily, the party, expresses public interests. The strongest lower part of the body makes executive power the strongest branch, having the greatest chance for achievement of its goals”.<sup>18</sup> The opinion that the government is called to execute the laws, adopted by the legislative body (and this mechanism was established for this very purpose), is still actual at present stage, as the government formed as highest political body, directing public administration and implementing common national governance.

Increase of government’s functions and the level of independence in modern states, based on the principle of “checks and balances”, established in constitutionalism and with consideration of governance models, conditioned development of specific forms of implementation of control over the activities of the government in the form of political-legal responsibility.<sup>19</sup> For this reason, in the case of strong government, certainly, vote of no confidence is used. And following the above provided judgment, recently we see just such governments; consequently, the vote of no confidence is, or shall be used more frequently.

In the middle of the XVIII c., political responsibility of executive power – which is the most characteristic feature of parliamentary governance – meant that obtaining of support of parliamentary majority and relying on it was necessary for continuation of existence of the government.<sup>20</sup> The mentioned principle is still valid, however, more theoretically than practically. According to the present situation, the executive authorities have been given the power which once belonged to monarch. For this reason, Lloyd George considers that the parliament really doesn’t have control over the executive power, it’s a pure fiction.<sup>21</sup> In other words, mutual relation of the parliament and the government is not equal. In multi-party system, the weakness of the government depends not on the parliament, but on other parties, whose support is important. If modern party system is strong and well-disciplined, they will have better chances to change and form the government, than the parliament, as the institution.<sup>22</sup> And in such situation the possibility and even necessity of use of the vote of no confidence arises.

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<sup>17</sup> *Melkadze O.*, Constitutionalism, Series of Political- Legal Literature, Vol. XXI, Mag, Universal, Tbilisi, 2008, 134 (in Georgian).

<sup>18</sup> *Shayo A.*, Self-Limitation of Government, Introduction to Constitutionalism, with introduction by *S. Holmes*, translated by *M. Maisuradze.*, edited by *T. Ninidze*, “Airis” Georgia, Tbilisi, 2003, 235 (in Georgian).

<sup>19</sup> *Kverenchkhiladze G.*, Constitutional Status of the Government of Georgia (comment to the Article 78 of the Constitution), Contemporary Constitutional Law, edited by *G. Kverenchkhiladze and D. Gegenava.*, Vol. 1, David Batonishvili Institute of Law, Tbilisi, 2012, 12 (in Georgian).

<sup>20</sup> *Gardbaum S.*, Separation of Powers and Growth of Judicial Review in Established Democracies (or why Has the Model of Legislative Supremacy Mostly Been Withdrawn From Sale?), American Journal of Comparative Law, The American Society of Comparative Law, Vol. 62, Issue 3, 2014, 629, <[http://law.ucla.edu/~media/Files/UCLA/Law/Pages/Publications/CEN\\_ICLP\\_PUB%20Separation%20Powers.ashx](http://law.ucla.edu/~media/Files/UCLA/Law/Pages/Publications/CEN_ICLP_PUB%20Separation%20Powers.ashx)>, [24.11.2015].

<sup>21</sup> *Lijphart A.*, Parliamentary Versus Presidential Government, Oxford University Press, 1992, 91.

<sup>22</sup> *Gardbaum S.*, Separation of Powers and Growth of Judicial Review in Established Democracies (or why Has the Model of Legislative Supremacy Mostly Been Withdrawn From Sale?), American Journal of Comparative Law, The American Society of Comparative Law, Vol. 62, Issue 3, 2014, 634, <[http://law.ucla.edu/~media/Files/UCLA/Law/Pages/Publications/CEN\\_ICLP\\_PUB%20Separation%20Powers.ashx](http://law.ucla.edu/~media/Files/UCLA/Law/Pages/Publications/CEN_ICLP_PUB%20Separation%20Powers.ashx)>, [24.11.2015].

If the parliamentary majority and the government team represent one and the same political force (which is often the case, following from the parliamentary way of formation of the government), there is no need to use this radical mechanism of responsibility, if, of course, there is no internal political confrontation. And if diverse spectrum of political forces is represented in the parliament, the government, at certain extent, is under the danger of initiation of the motion of no confidence, as all political parties and coalitions will have a desire to staff the executive body with its members. The governments of minorities are vulnerable to other parties, the more so to the announcement of the vote of no confidence. Thus, the government of minority is in permanent readiness regime for elections.<sup>23</sup> Structural research, conducted in 2003 by several authors demonstrated that the procedures of the vote of no confidence reduce the governments of minorities, which are less stable.<sup>24</sup>

### 3.2. According to the Status of Legislative Body

The highest legislative and representative body – parliament – represents one of the figures of the principle of distribution of powers and the body, which is entitled to use the main mechanisms, checking the powers/responsibilities of the government. The above mentioned authority of the parliament is particularly actual and important in the countries, where the constitution knows the mechanism of the vote of no confidence.

As it was repeatedly stated above, the purpose of adoption of the vote of no confidence is dismissal of the government, which is the main expression of its political responsibility. The matter of usage/non-usage of the mentioned mechanism by the parliament also depends on its status. That the parliament is directly elected by people and, for this reason, is the body with high legitimacy, indicates to status of the parliament. The fact that this body is the legislative body, basic function of which, in addition to lawmaking activities, is staffing of the executive power and balancing and control of its activities, also indicated to its status.

However, unlike the above established facts, the status of the parliament is also determined by the balance of political forces, existing in the parliament, which indicated to the influence of the highest legislative body and its weight in the policy of public administration. The parliament may consist of one party, two or multiple parties, coalition, etc.; just the diversity of political spectrum conditions governance of parliament and making certain political decisions by it, primarily, initiation of the vote of no confidence.

In the middle of the XX c. the dominating theory in Britain, New Zealand and Canada was political constitutionalism. In the case of parliamentary governance, political constitutionalism doesn't deny the importance and strength of governmental power, but underlines, primarily, political influence as compared with legal. Practically, there are two limitation of political mechanism – strength

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<sup>23</sup> *Albert R.*, *The Fusion of Presidentialism and Parliamentarism*, Boston College Law School, Legal Studies Research Paper Series, Boston, 2010, 566.

<sup>24</sup> *Tergiman C.*, *Institution Design and Public Good Provision: an Experimental Study of the Vote of Confidence Procedure*, University of British Columbia and NYU's Center of Experimental and Social Sciences, Canada, 2013, 5.

and obligation of the parliament to have the government in its hands, which is expressed in individual and collective responsibility of the government and responsibility of the government to the electorate. Certain trend is noticed, that political responsibility stands above the legal responsibility of the government and they are more afraid of political responsibility as compared with legal.<sup>25</sup>

The main idea of the parliamentary system is that the cabinet shall have the parliamentary confidence. Also, the main rule of parliamentary confidence is to ensure highest credibility of deputies, elected by people, as the representatives are stronger. Formation of new cabinet paralyses the activities of executive power and parliament for several weeks and even months because conducting of complicated and long negotiations is inevitable for creation of new cabinet coalition. Thus, when the parliament is on the verge of application of the vote of no confidence, it, mostly, is resolved in favor of cabinet. Painfully formed parliamentary majority supports the cabinet, despite a lot of many questions, remaining towards it.<sup>26</sup>

In parallel to the above mentioned opinion, there is another, the most widely spread practice, according to which the government in parliamentary systems is accountable to the parliament, which means that if the government acts “unreasonably” and in unconstitutional way, the parliament refuses to support it, dismisses it and the need of formation of new cabinet will be put on agenda.<sup>27</sup> The vote of no confidence may be initiated by the parliament for the purpose of making sure in support of the parliamentary majority, in spite of complex program of the government, or due to one bill or the policy, implemented by the government. These motions somehow keep the members of the parliamentary majority, instigating confrontation, from voting against the government.<sup>28</sup> And the above mentioned circumstances indicate to the unity and strength of the parliament.

The initiation of the vote of no confidence is not a simple procedure and the above mentioned mechanism creates threat for the parliament itself, in addition to the government. So, its application requires really strong parliament. Often, the desires of the parliament are expressed in the vote of no confidence<sup>29</sup>, but a question arises here – is the parliament ready to take responsibility for realization of its desires? Because, in the case of adoption of the vote of no confidence, the parliament puts itself under the risk of termination of its authorities ahead of time. Dismissal of the parliament is excluded in the number of countries during one year after new elections (France, Spain), or, is possible after failure of formation of new cabinet and “failing” of the vote of no confidence (Germany).<sup>30</sup> Consequently, it is clear, that initiation of the vote of no confidence requires sufficient efforts and

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<sup>25</sup> *Gardbaum S.*, Separation of Powers and Growth of Judicial Review in Established Democracies (or why Has the Model of Legislative Supremacy Mostly Been Withdrawn From Sale?), *American Journal of Comparative Law*, The American Society of Comparative Law, Vol. 62, Issue 3, 2014, 630, <[http://law.ucla.edu/~media/Files/UCLA/Law/Pages/Publications/CEN\\_ICLP\\_PUB%20Separation%20Powers.ashx](http://law.ucla.edu/~media/Files/UCLA/Law/Pages/Publications/CEN_ICLP_PUB%20Separation%20Powers.ashx)>, [24.11.2015].

<sup>26</sup> *Lijphart A.*, *Parliamentary Versus Presidential Government*, Oxford University Press, 1992, 191.

<sup>27</sup> *Ibid.*, 36.

<sup>28</sup> *Rosenfeld M., Sajo A.*, *The Oxford Handbook of Comparative Constitutional Law*, Oxford University Press, 2012, 664.

<sup>29</sup> *Twomey A.*, *The Governor-General's Role in the Formation of Government in a Hung Parliament*, The University of Sidney, Sydney Law School, Legal Studies Research Paper, № 10/85, 2010, 18.

<sup>30</sup> *Rosenfeld M., Sajo A.*, *The Oxford Handbook of Comparative Constitutional Law*, Oxford University Press, 2012, 665.



unanimity from the parliament, so that this mechanism doesn't turn out to be a trap, in which it may find itself trapped.

In parliamentary system of governance the cabinet shall be formed the way to either enjoy the parliament's confidence or, minimum, its good will. Can we estimate the composition of the new government if we know the balance of strengths of different parties? If only one party has the majority of parliamentary mandates, prognostication is easy and one-party government will be formed. Such estimation, as a rule, is justified, but it is also possible that the majority forms coalition from one or several small parties. If none of the parties have the parliamentary majority, it represents a kind of blockage of the cabinet of the parliamentary minority, as the cabinet will be formed but who will be in majority?<sup>31</sup>

Another problem arises when the parliamentary majority starts to support the government instead of keeping the government accountable. In other words, mutual dependence grows into dependence. Executive power dominates over the parliamentary power to preserve the party unity in the case of attack of opposition parties. Loss of parliamentary independence instantly increased the influence of executive power, which already has little fear towards parliamentary accountability; consequently its realization already becomes virtual<sup>32</sup>, whereas the central point of the parliament is accountable government. It means that the government, created of the ministers and the prime minister is accountable to the newly elected legislative body and shall maintain its trust.

The theory of accountable government requires that the parliament shall possess power to express mistrust towards the government. When the government fails to obtain the parliament's trust, two things happen: the cabinet, the members of which failed to deserve trust, shall resign, or the government shall demand dismissal of the parliament and appointment of new election.<sup>33</sup>

Unlike the control, implementation of which is permitted by the doctrine of accountability of the government, the main purpose of parliamentarism is to neutralize, or, moreover, terminate the influence, which the executive power may abundantly produce over the legislative branch.<sup>34</sup> The purpose of the vote of no confidence is different in the case of two-party system and multi-party systems.

In the case of two-party system, the corresponding power of the parliament and the government is equal, where the increase of influence of the executive power means weak, dependant parliament. Party substitutes the parliament as central, non-executive political institution, where the prime minister has great change to lose to position in favor of leader of this party, through the vote of no confidence, arranged by the parliament.

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<sup>31</sup> *Lijphart A.*, Patterns of Democracy, Government Forms and Performance in Thirty-six Countries, Yale University press, New Haven and London, 1999, 92.

<sup>32</sup> *Gardbaum S.*, Separation of Powers and Growth of Judicial Review in Established Democracies (or why Has the Model of Legislative Supremacy Mostly Been Withdrawn From Sale?), American Journal of Comparative Law, The American Society of Comparative Law, Vol. 62, Issue 3, 2014, 632, <[http://law.ucla.edu/~media/Files/UCLA/Law/Pages/Publications/CEN\\_ICLP\\_PUB%20Separation%20Powers.ashx](http://law.ucla.edu/~media/Files/UCLA/Law/Pages/Publications/CEN_ICLP_PUB%20Separation%20Powers.ashx)>, [24.11.2015].

<sup>33</sup> *Albert R.*, The Fusion of Presidentialism and Parliamentarism, Boston College Law School, Legal Studies Research Paper Series, Boston, 2010, 550.

<sup>34</sup> *Ibid*, 540.

Consequently, contemporary party system made the parliament more dependent on it, rather than vice versa.<sup>35</sup> Following from the above stated, with consideration of the present-day situation, the trend of strengthening of the executive power, and even more, political parties, over the legislative body and its activities is noted, which is not desirable, as only strong parliament is authorized to balance the executive power and only strong parliament is able to initiate the vote of no confidence and carry it through.

#### **4. Conclusion**

In the present paper, the vote of no confidence is considered in different aspect, which made is possible to understand it as political-legal mechanism. The vote of no confidence is a very interesting mechanism to be studied by modern constitutional law, which is used for different purposes, in different cases and in the countries with different governance systems.

Its main purpose is expressed I the government's accountability towards the parliament. Executives always were accountable and responsible to legislative power, and the legislative power – directly to the electorate.<sup>36</sup> Due to the above mentioned accountability, the government has the responsibility to the parliament, and act of holding accountable is expressed through the vote of no confidence and dismissal of cabinet.

However, application of this mechanism if also possible by opposition parties, which, due to the existing social or public problems, can criticize the government, initiate the vote of no confidence and, in the case of dismissal of the government, use the political situation in their favor.

The vote of no confidence may also be used for the purpose of overcoming of crisis, when the tense political situation is discharged through adoption of the resolution of no confidence; besides, the mechanism also represents the distinguishing feature of governance models.

The above mentioned issues, certainly, show the essence of the vote of no confidence, however, use of the vote of no confidence according to the status of the government and the parliament demonstrates its purpose in better way. The judgment, developed above, provides sufficient grounds to conclude that the vote of no confidence is just a kind of way to achieve the balance of executive and legislative powers.<sup>37</sup> The idea of no confidence remains the main instrument of dismissal of the cabinet. The government and the parliament have a lot of obligations, which they have to fulfill in coordination with each other.

Nevertheless, the reality convinces us that in majority of cases the grounds for the status of the government and the parliament, as well as dismissal of the government, are the existing situation. None of mechanisms are so dependent on the balance of political forces and the circumstances as the

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<sup>35</sup> *Gardbaum S.*, Separation of Powers and Growth of Judicial Review in Established Democracies (or why Has the Model of Legislative Supremacy Mostly Been Withdrawn From Sale?), *American Journal of Comparative Law*, The American Society of Comparative Law, Vol. 62, Issue 3, 2014, 634, <[http://law.ucla.edu/~media/Files/UCLA/Law/Pages/Publications/CEN\\_ICLP\\_PUB%20Separation%20Powers.ashx](http://law.ucla.edu/~media/Files/UCLA/Law/Pages/Publications/CEN_ICLP_PUB%20Separation%20Powers.ashx)>, [24.11.2015].

<sup>36</sup> *Rosenfeld M., Sajo A.*, *The Oxford Handbook of Comparative Constitutional Law*, Oxford University Press, 2012, 668.

<sup>37</sup> *Lijphart A.*, *Patterns of Democracy, Government Forms and Performance in Thirty-six Countries*, Yale University press, New Haven and London, 1999, 35.

vote of no confidence. How strong the parliament/ government may be, or vice versa, the indicator of their status is the existing political situation, which is expressed in the status of the governing party or coalition. So, application of the above mentioned mechanism by the parliament, disregarding its status, is related to the risk, as, in the case of non-adoption of the resolution of no confidence the parliament terminates implementation of its authority.

For this reason we consider that the vote of no confidence makes the parliament stronger and weaker in some way. In reality, delimitation of power occurs not between the branches of power, but between the governing majority and parliamentary minority,<sup>38</sup> and application of the vote of no confidence represents just the expression of the above mentioned principle, which, indisputably, gives it the status of political-legal mechanism.

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<sup>38</sup> *Izoria L.*, Presidential, Parliamentary or Semi-presidential? Way Towards Democratic Consolidation, Tbilisi, 2010, 20 (in Georgian).