Celebrating 100 years since the birth of Professor Vasile Gionea (1914-1999), the first president of the Constitutional Court of Romania, and, on this occasion, remembering his personality and work, necessarily requires mentioning his capacity as honorary member of the Romanian Academy. At the same time, having enjoyed the privilege of getting to know him directly and having been the journalist to whom he granted the first interview as president of the constitutional court, I dare add, to the academic considerations, some evocative memories concerning the respective act of journalism.

In the context of the major transformations in the Romanian society after 1990, we have also witnessed a (temporary) revival of the representation of lawyers within the Romanian Academy, in the sense that several devotees of the sciences protected by Goddess Themis have become full members, corresponding members or honorary members of the country’s cultural and scientific supreme forum. In these circumstances, at the meeting of 5 January 1993, at the initiative of its President, Academician N. N. Constantinescu, the Department of Economic, Legal and Social Sciences unanimously approved the proposal for the election of Professor Vasile Gionea as honorary member of the Romanian Academy.

The supporting report was signed by Academician Ion P. Filipescu and Academician Vladimir Trebici, as well as by Professor Paul Mircea Cosmovici, the director of the ILS, corresponding member of the Romanian Academy. After a short presentation of the biography and professional and public activity of the candidate, the document mentioned that Professor Vasile Gionea had published 225 scientific papers in the fields of civil law, economic law, labour law, history of law etc. in specialised journals in the country and abroad and had presented numerous papers at scientific congresses and at other national and international scientific events, such as “România pe drumul democrației” [Romania on the path of democracy – n.tr.] (International Congress in Oslo, October 1991), “Echilibrul puterilor în stat și contingențele lor în Constituția României din 1991” [The balance of powers and their contingencies in the Romanian Constitution of 1991 – n.tr.] (International Symposium in Trieste, 15-17 September 1992), “Noua Constituție a României garant al statului de drept și democrație” [The new Constitution of Romania - guarantor for the rule of law and democracy – n.tr.] (International Congress in Munich, 23-25 November 1992). He also had important interventions during events held in Paris, Vienna, Salzburg, Rome,
Madrid, Naples, Ferrara, Strasbourg, Athens, Antwerp, Salamanca, Brussels, Amsterdam, London, Pavia. It was also mentioned that, in view of his scientific activity, he had been elected member of the Association of Romanian Scientists, Vice president of the Association of Comparative History of Institutions and Law in Romania and then its president.

Furthermore, the report showed that Professor Gionea was a member of the Association of History of Law and Institutions in France, Belgium, Netherlands, Italy, Czechoslovakia, Poland, Austria, Vice-president of the International Association of History of Law and Institutions in Paris, and member of the Tiberina Academy, Rome, member of the New York Academy of Sciences, “Member Emeritus” of the Pontzen Academy in Naples.

“In view of his entire activity - concluded the three reviewers, themselves outstanding personalities of the Romanian academic life - we consider that Mr. Vasile Gionea qualifies for the position of honorary member of the Romanian Academy.”

Therefore, according to the academic procedures, through the vote of the General Assembly of the high forum, on 12 November 1993, the first president of the Constitutional Court became honorary member of the Romanian Academy. He thus joined the list of outstanding representatives of Romanian system of justice, including the presidents of the Court of Cassation and Justice, V. Romniceanu, C. Buzdugan and O. Nicolescu, or counsellors (judges) of the Supreme Court Th. Rosetti, C. Hamangiu etc. who, over time, had held this high academic position.

Besides the reasons mentioned above related to the personality of the newly elected amongst the “immortals” and the personal meanings of this act, the election of Professor Vasile Gionea was also a sign of consideration for the institution designed to ensure the supremacy of the Constitution, newly emerged in the landscape of the young Romanian democracy.

I started my intervention by mentioning that, besides the due reflections on Professor Vasile Gionea’s capacity as honorary member of the Romanian Academy, I would like to recall an episode during which our paths have crossed, for a moment, somewhat significantly for both parties involved.

Here are the facts. June 1992. After the adoption and entry into force of the Constitution of 8 October 1991 and of Law no. 47/1992 on the organisation and functioning of the Constitutional Court, the first Constitutional Court of Romania was getting installed and ready to start its activity. The last act of this founding effort was the election of Professor Vasile Gionea, former Vice-president of the Committee Drafting the Basic Law and member of Parliament representing the Christian Democratic National Peasants’ Party, by unanimous vote, as president of the constitutional court, on 8 June. The act somewhat surprised the public opinion, but it was quickly perceived as an expression of the “national consensus” policy promoted by the political majority of that time, especially in relation to a case of political-constitutional “dissent”. Relatively known for his publications on legal and constitutional matters, a day after the election, I was contacted and asked by the editor-in-chief of a newspaper in Bucharest to do a first interview with the newly-elected president of the Constitutional Court. I waited until it was passed 4.00 p.m. and I called the distinguished professor, telling him about my intention to interview him. He was extremely responsive and, to my surprise, when I asked him when we could meet for the interview, he gave me a
short answer: now, if you want! I suddenly understood the rush, as well as the importance of my interview and I suggested meeting him one an hour and a half later.

I used this minimum period of time to set right a few notes on the constitutional review of laws, I quickly read the relevant text of the Constitution and I wrote down some questions.

At 5.30 p.m., I was already in the apartment located on the 3rd floor of an old building on Brezoianu Street, in downtown Bucharest, more specifically in the living room with antique furniture, in front of a steaming cup of Turkish coffee, a plate of jam and a glass of cold water, brought by the lady of the house with care and sobriety so as not to disturb. After the necessary brief introduction, questions and answers flowed quickly. Of course, they were aimed mostly at presenting the personality of the newly elected president, at explaining the role of the new institution of the Romanian democracy and, as in the case of any beginning, there was no room for cheap speculations, especially since the topic was one of utmost seriousness. The next day, the material was ready and handed to the editorial office that had requested it and, on Friday, 12 June, it had already been printed out on the front page of the newspaper. Moreover, at midnight, during the “Press Review” programme, the national television had noticed it and was quoting it. Its title, representing a quote from the interviewee, expressed his personal belief, as well as the belief of all nine judges, the Court’s belief and its mission: “Our concern will be to give fair solutions in the interest of the country, for the purpose of strengthening the rule of law and democracy.”

I do not think that, in journalistic terms, the first interview of Professor Vasile Gionea as the first president of the Constitutional Court of Romania was, as journalists say, “a scoop”.

Maybe just some history.

(“Dimineața” Newspaper, Friday, 12 June 1992)

“Our concern will be to give fair solutions in the interest of the country, for the purpose of strengthening the rule of law and democracy”

Interview with Mr. Vasile Gionea, President of the Constitutional Court of Romania

In 1948, the communist dictatorship regime started persecuting me. In 1990, I was elected Deputy on the lists of the Christian Democratic National Peasants’ Party. On 1st June of this year, I was appointed judge of the Constitutional Court, by presidential decree, and on 8 June I was elected, by unanimous vote, the president of this institution. What mattered in the appointment of the nine judges of the Court were their law degrees and their high professional competence. We opted for the establishment of a Constitutional Court because such an institution exists in all European countries and in almost all countries of the world. The claims that the current Court could be a superpower are, besides unfounded, also fanciful. Unlike my colleagues in the Christian Democratic National Peasants’ Party, I voted the Constitution. We are currently in the organisational phase and we have information that soon we will have to solve several cases sent by the Supreme Court.
- Dear Professor, you have the chance of being the first president of the first Constitutional Court of Romania. Therefore, I propose to begin with the presentation of the man and the specialist Vasile Gionea.

- I obtained my PhD in Law and Economics with magna cum laude in 1942. In 1939, I took the exam to become a qualified lawyer, exam held for the first time in our country in Cluj, before a committee composed of two professors, two lawyers and the first president of the Court of Appeal of Cluj. Only 32% of the candidates passed this exam and I was the first on the list. In the fall of 1942, following an open competition, I was admitted at the Department of Social Legislation within the Commercial Academy in Cluj - Brașov. As of 1936, I was a barrister, member of the Brașov Bar Association. In 1937, following an open competition, I started working as a lawyer for the National Bank of Brașov. I practiced law and I had an academic career until 1948, when the communist dictatorship regime started to persecute me. Between 1946 and 1966 I was not allowed to publish any of my works.

Later, I began publishing again and, to this day, 211 of my books, monographs and studies have been published. In 1990, I was elected Deputy on the lists of the Christian Democratic National Peasants’ Party. Within the Chamber of Deputies, I was elected Vice-president of the Commission for the Validation of the Deputies’ Terms of Office, Secretary of the Committee for Legal Affairs and Vice-president of the Constitutional Committee. On the 1st of June, I was appointed, by presidential decree, together with Mr. Florin Vasilescu and Mr. Mihai Constantinescu, judge at the Constitutional Court.

- It is known that the Court consists of nine members, appointed by the two Chambers of Parliament and by the President of the Republic. What do you think was crucial in their appointment?

- Indeed, the Constitutional Court consists of nine judges who, in turn, elect a president, a position to which I have been appointed, as I mentioned above. Three of the judges are elected by the Chamber of Deputies, three by the Senate, and three by the President of Romania. According to the law, those elected must not necessarily be members of the two chambers. The Constitution provides, in Article 141, that the judges of the Court must be law graduates, and enjoy high professional competence and at least 18 years of experience in the legal field or legal academic activity.

Crucial in the appointment of the nine judges was compliance with the requirements of Article 141 of the Basic Law and Article 38 of Law no. 47/1992 on the organisation and functioning of the Constitutional Court, i.e. law degree and high professional competence. The Chamber of Deputies elected Professor Ion Muraru and Professor Ion P. Filipescu, as well as Victor Dan Zlătescu, judge of the Supreme Court, whilst the Senate elected Dr. Miklos Fazekas, Senator, Associate Professor, Antonie Iorgovan, Senator, and Associate Professor, Viorel Ciobanu, Professor at the Faculty of Law in Bucharest. It follows therefore that the judges comply with the requirements under Article 141 of the Constitution and Article 38 of Law no. 47/1992.
- Let us now move from its president and members to the presentation of the institution. Do you think that choosing a constitutional review of the laws carried out by a specialized body, a Constitutional Court (according to the French model), and abandoning our pre-War tradition (review by the Supreme Court) was an inspired choice?

- Both the Committee Drafting the Constitution, and the Constituent Assembly have witnessed heated discussions on whether or not a Constitutional Court is necessary in our country or if is it better to maintain the tradition according to which the exceptions of constitutionality should be settled by the Supreme Court. Finally, the Constituent Assembly opted for the establishment of a constitutional court because such an institution exists in all European countries, even in the former socialist countries and in almost all countries of the world. The Supreme Court decides in joint sections on the unconstitutionality of a legal text, but its decision has legal effect only between litigants. If the current Constitutional Court decides that a legal text is unconstitutional, its decision has *erga omnes* effects (for all people). In other words, until the respective text of law is not changed so as to be in accordance with the Constitution, it becomes inapplicable. Therefore, the Supreme Court could settle numerous cases of unconstitutionality of legal texts, but its decision applied to the respective cases only.

In addition to exceptions of unconstitutionality of laws, the current Constitutional Court, like other similar courts in Europe, has very wide powers under Article 144 of the Constitution, namely: a) it adjudicates on the constitutionality of laws before promulgation, upon referral by the President of Romania, the President of either of the Chambers, the Government, the Supreme Court of Justice, at least 50 Deputies or at least 25 Senators, as well as *ex officio*, on any initiative purporting a revision of the Constitution; b) it adjudicates on the constitutionality of the Standing Orders of Parliament, upon referral by the President of either of the Chambers, a parliamentary group or at least 50 Deputies or at least 25 Senators; c) it rules upon exceptions raised before courts of law or commercial arbitration concerning the unconstitutionality of laws and ordinances; d) it sees to the observance of the procedure for the election of the President of Romania and confirms the ballot returns; e) it ascertains the existence of the circumstances justifying the interim in the exercise of the office of President of Romania; g) it sees to the observance of the procedure for the organisation and holding of a referendum, and confirms its returns; h) it verifies whether or not the conditions are met for the exercise of the legislative initiative by the citizens; i) it rules upon challenges referring to the unconstitutionality of a political party.

From all the above, one can clearly see the very broad powers of the Constitutional Court in relation to the Supreme Court.