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## COMPARATIVE ANALYSIS OF THE SYSTEMS OF GOVERNMENT OF THE REPUBLIC OF POLAND AND THE REPUBLIC OF ARMENIA

After the collapse of the Soviet system, as a result of a search for an effective system of government, both the Republic of Poland and the Republic of Armenia chose systems displaying certain similarities. Despite the fact that Armenia radically changed its Constitution in 2005 and adopted a parliamentary form of government in 2015, the similarities between the constitutional regulations of the governmental systems of these two countries make a comparative analysis meaningful.

As in both of these countries the president is elected in direct elections and the executive power is divided between the president and the government, the governmental system known as “semi-presidential” should be taken as the basis for the comparison. The concept of the “semi-presidential system” was first introduced in academic circles by M. Duverger. In this way he threw down a challenge to lawyers, who, in his own words, worshiped two “sacred cows”: the parliamentary and presidential systems<sup>1</sup>.

In the legal and political sciences, several features are emphasized which describe the “semi-presidential republic” and distinguish it from other systems. For instance, M. Duverger argues that “a governmental system can be considered as semi-presidential if the constitution combines three elements:

- 1) the president of the republic is elected by universal suffrage,
- 2) the president possesses quite considerable powers;
- 3) the government, as a counterbalance to the president, stays in power only if the parliament does not express a vote of no confidence to them”<sup>2</sup>.

G. Sartori in his turn describes “semi-presidential republic” in this way:

“1) The head of state (president) is elected by popular vote – either directly or indirectly – for a fixed period of time.

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<sup>1</sup> See “Les vaches sacrées” in *Itinéraires: études en l’honneur de Léo Hamon*, *Economica*, 1982, pp. 639–645.

<sup>2</sup> See M. Duverger, *A new political system model: semi-presidential government*, “*European Journal of Political Research*” 1980, Vol. 8, issue 2, p. 166.

2) The president shares the executive power with prime minister, thus creating a dual power, whose three defining features are:

a. While the president is not dependent on parliament, he is still not entitled to govern alone and directly and, hence, his will is conveyed and processed via government;

b. Conversely, the prime minister and his cabinet are president-independent in that they are parliament-dependent: they are subject to either parliamentary confidence or no-confidence (or both), and in any case they need the support of a parliamentary majority;

c. The dual authority structure of semi-presidentialism allows for different balances and also for shifting prevalences of power within the executive, under the strict condition that the 'autonomy potential' of each component unit of the executive does subsist<sup>3</sup>.

According to the same author, the most important features of a "semi-presidential republic" in the political and legal doctrines of "semi-presidential" countries are:

- 1) the strong position of the president (more or less),
- 2) the strong position of the government (prime-minister),
- 3) the government's accountability before the parliament.

The abovementioned features are manifested in the 1997 Constitution of the Republic of Poland and the 1995 Constitution of the Republic of Armenia. First of all, it should be noted that both of them include provisions from the French Constitution of 1958. Therefore we can speak about French influence on both the Armenian and the Polish Constitution. Nevertheless, an automatic localization of the French Constitution did not take place in either country; moreover, the constitutions of both countries have numerous differences.

Under art. 126 of the Constitution of the Republic of Poland, the President of the Republic of Poland is the supreme representative of the Republic of Poland and the guarantor of the continuity of State authority. Additionally, "the President of the Republic shall ensure observance of the Constitution, safeguard the sovereignty and security of the State as well as the inviolability and integrity of its territory"<sup>4</sup>. Under art. 127 "the President of the Republic shall be elected by the Nation, in universal, equal and direct elections, conducted by secret ballot".

When discussing the constitutional status of the President, it is essential to pay attention to the countersignature requirement, as it may considerably restrict the powers of President. Article 144 of the Polish Constitution says that "the President of the Republic, exercising his constitutional and statutory authority, shall issue

<sup>3</sup> See G. Sartori, *Comparative Constitutional Engineering*, 2<sup>nd</sup> ed., NYU Press, 1997, pp. 131–132.

<sup>4</sup> Constitutions of Europe, Texts Collected by Council of Europe Venice Commission, Leiden–Boston 2004, Vol. 2, pp. 1324–1381.

Official Acts”, but these acts “require, for their validity, the signature of the Prime Minister who, by such signature, accepts responsibility therefore to the Sejm” Paragraph 3 of the same article defines the cases when the countersignature is not required (in general 30 instances). Their analysis shows that the majority of the issues that fall within the discretionary competence of the President have a representational character.

The role of the President in the formation of the Council of Ministers (the government) can be considered only partly active. Under art. 154 of the Constitution “the President of the Republic shall nominate a Prime Minister who shall propose the composition of a Council of Ministers”. Afterwards, he “shall appoint a Prime Minister together with other members of a Council of Ministers and accept the oaths of office of members of such newly appointed Council of Ministers”.

The abovementioned power of the president, which seems significant at first glance, does not endow the president with a crucial role in the government formation process in comparison with the powers of the Sejm. Paragraph 2 of art. 154 directly states that “The Prime Minister shall, within 14 days following the day of his appointment by the President of the Republic, submit a program of activity of the Council of Ministers to the Sejm, together with a motion requiring a vote of confidence”. The Sejm shall pass such vote of confidence by an absolute majority of votes in the presence of at least half of the statutory number of deputies. In the event that a Council of Ministers composed by the President has failed to obtain a vote of confidence, the Sejm shall choose a Prime Minister as well as members of the Council of Ministers (art. 154 paragraph 3).

If there is not sufficient majority in the Sejm, the right to form a Government is again passed to the President of the Republic (art. 155 paragraph 1). In the event that a vote of confidence has not been granted to the Council of Ministers, the President of the Republic shall shorten the term of office of the Sejm and order elections to be held (article 155 paragraph 2). The abovementioned constitutional regulations allow us to conclude that in the process of the formation of government, the main function of the President is organizing political consultations in order to seek a compromise among the members of the Sejm elected in the latest elections. In this respect, the manner of formation of government in Poland differs essentially from the French and Armenian models. In the latter two countries, the prime minister and the government appointed by the president do not need the approval of the parliament to commence their activity. Moreover, the program of the government also does not require parliamentary approval.

One of the most important elements of the system of government is the constitutional status of the Council of Ministers. The Council of Ministers of the Republic of Poland is endowed with broad constitutional powers which make it a “supreme body of the executive authority”. Article 146 of the Polish Constitution provides that “the Council of Ministers shall conduct the internal affairs and

foreign policy of the Republic of Poland”, “the Council of Ministers shall conduct the affairs of State not reserved to other State organs or local government”, “the Council of Ministers shall manage government administration”. The abovementioned countersignature requirement, alongside with the fact that the Government can be dismissed by the Sejm only through a constructive vote of no confidence, gives an additional importance to the Council of Ministers.

This mechanism does not give an opportunity to the majority in the Sejm to raise the question of the government’s accountability without nominating a candidate for new prime minister, which is, in fact, an important factor ensuring government’s stability. If the resolution on a vote of no confidence has been passed by the Sejm, the President of the Republic shall accept the resignation of the Council of Ministers and appoint a new Prime Minister as chosen by the Sejm, and, on his request, the other members of the Council of Ministers (art. 158).

The accountability of the Council of Ministers before the Sejm is also reflected in other constitutional provisions. For example, under art. 157: “The members of the Council of Ministers shall be collectively responsible to the Sejm for the activities of the Council of Ministers”, as well as “shall be individually responsible to the Sejm for those matters falling within their competence or assigned to them by the Prime Minister”.

In order to characterize a system of government, it is essential to consider the constitutional regulations on the termination of the parliament’s term of office. The Constitution entitles two actors to make a decisions on the early termination of the term of office of the Sejm: the Sejm itself and the President of the Republic. According to paragraph 3 of art. 98 of the Polish Constitution, “The Sejm may shorten its term of office by a resolution passed by a majority of at least two-thirds of the votes of the statutory number of Deputies”. Paragraph 4 of the same article provides that “The President of the Republic, after seeking the opinion of the Marshal of the Sejm and the Marshal of the Senate, may, *in those instances specified in the Constitution*, order shortening of the Sejm’s term of office [italics added by the author]. Whenever the term of office of the Sejm has been shortened in this way, then the term of office of the Senate shall also be shortened”. There are two “instances specified in the Constitution”. The first one is a failure to grant a vote of confidence to the Council of Ministers (art. 155 paragraph 2). The second one is the case when the Budget bill is not adopted or presented to the President of the Republic for signature within 4 months from the day of its submission to the Sejm (art. 225).

The analysis of the afore-mentioned grounds (non-formation of Government in due time, violation of the deadlines of the budget process) provides an opportunity to claim that the president lacks discretionary power and those grounds are only aimed at solving a constitutional crisis that arises in such circumstances. Thus, despite the opinion of M. Duverger, the main author of the concept

of the semi-presidential rule, that Poland is among the countries<sup>5</sup> with a semi-presidential system of government, according to the approach prevailing in Poland the 1997 Polish Constitution provides for a parliamentary system of government<sup>6</sup>.

As far as the 1995 model of organizing state power in the Republic of Armenia is concerned, in some aspects it greatly resembles both the French and the Polish models. However, some differences make the Armenian system of government clearly stand out. Under art. 49 of the 1995 Armenian Constitution, the Armenian President too ensures observance of the Constitution and the proper execution of the legislative, executive and judicial powers. Moreover, the systemic analysis of the constitutional and legal status of the President of the Republic and his powers enables us to claim that he has a prevailing position in the executive system. Such a conclusion is groundless with respect to Poland.

The influential role of the President of the Republic of Armenia is especially manifested in the regulations concerning the dismissal of the Prime Minister. The President of the Republic of Armenia is not subject to any constitutional restriction when dismissing the Prime Minister (art. 55 paragraph 4). Neither the classical French model nor the Polish model provide the president with such power.

The constitutionally strong position of the President is also reflected in the regulations concerning the dissolution of the parliament. According to art. 55, the President of Armenia, following deliberations with the speaker of the National Assembly and the Prime Minister, may dissolve the parliament. Unlike the Polish head of state, the president of the Republic of Armenia does this in a discretionary manner, and unlike in Poland, the constitution of Armenia does not provide limited constitutional grounds for the dissolution of the National Assembly. Such a constitutional norm has an impact on the “respect” of the parliamentary majority for the President.

Under the Armenian Constitution, the Government is formed by the President of the Republic<sup>7</sup>, however it can effectively work only when it has confidence of the parliamentary majority supporting it. It seems as if in this regard there are no significant differences between Armenia and Poland, but constitutionally and legally the situation in Armenia is radically different due to the discretionary power to dismiss the Prime Minister and dissolve the parliament granted to the

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<sup>5</sup> In one of his latest published articles M. Duverger notes that Poland’s “Small Constitution” anticipates semi-presidential rule of government. See M. Duverger, *Régime semi-présidentiel*, (in : ) O. Duhamel, Y. Mény (eds.), *Dictionnaire constitutionnel*, Paris, PUF, 1992, pp. 901, 903.

<sup>6</sup> See R. Mojak, *Parlament a rząd w ustroju trzeciej Rzeczypospolitej Polskiej*, Lublin, 2007, p. 620; Polish researcher M. Grzybowski calls it “a rationalized parliamentary system”, see M. Grzybowski, *The system of government in the Constitution of the Republic of Poland of 2<sup>nd</sup> April 1997*, (in:) P. Sarnecki, A. Szmyt, Z. Witkowski (eds.), *The Principles of the Basic Institutions of the System of Government in Poland*, Warsaw, Sejm Publishing Office, 1999, p. 164.

<sup>7</sup> Under para. 4 of Article 55 of the Constitution “The President shall appoint and dismiss from office the Prime Minister. He/she shall appoint and dismiss from office members of government upon the presentation of the Prime Minister”.

President of the Republic of Armenia. “Since the office of the prime minister depends not only on the will of the parliamentary majority but also, and, in the first place on the president, the parliament has to take into consideration the president’s will during the formation of government, especially when the president has the wide power to dissolve parliament. Together these two powers lead to a dominant position of the president over Government in organizational matters”<sup>8</sup>.

However, the National Assembly’s power to express a vote of no confidence in the Government should not be underestimated (art. 84). In Armenia, the Prime Minister and, consequently, the Council of Ministers, are politically accountable both to the President of the Republic and the Parliament. If the president and the Parliament (parliamentary majority) and, consequently, the Government belong to one political force, there is no possibility of confrontation. In this situation, the President of the Republic, while relying on the support of the majority of the National Assembly, actually forms the Government independently, de facto becoming the head of the executive power. However, if the President of the Republic lacks the support of the majority in parliament, he should not disregard the configuration of political forces in the parliament while forming the Government. Otherwise, this step by the President could be followed by a vote of no confidence by the National Assembly, which will result in the resignation of the Government. In this case, the President faces a choice – either to reconcile with the will of parliamentary majority or take a step whose consequences are not predictable beforehand, i.e. the dissolution of the Parliament.

The President convenes and chairs the meetings of the Government in Armenia and only by his assignment the Prime Minister may wield this power. Furthermore, the President ratifies all the decisions of the Government, regardless of whether he has chaired that meeting or not. In contrast with the Constitution of the Republic of Armenia, the President of Poland does not have such powers, and most of his acts come into force only after they have been countersigned by the Government. The President of Armenia’s authority to ratify the decisions of the Government grants him too much political discretion, and in fact he might veto the decisions that he considers politically inappropriate. Moreover, the Constitution of Armenia, unlike the Polish Constitution (art. 189), does not provide any legal mechanism for resolving constitutional disputes.

Through art. 85 paragraph 3 of the Constitution, the President is vested with the authority to define the structure and working procedures of the Government upon submission of the Prime Minister’s. Thus, without the President, it would be impossible to determine which ministries should exist, what the relationship between the bodies of the executive power should be, etc.

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<sup>8</sup> V. Poghosyan, *Peculiarities of the semi-presidential form of government in RA*, Collection of Reference Materials, OSCE, Yerevan, 2004, p. 56.

In contrast to Poland, the President of Armenia does not have the right to introduce legislation. Only the Government and members of Parliament are entitled to this. Nevertheless, the Government's legislative initiative is a result of its decision, on which, as already mentioned, the President can put a veto. In this way, even if the decision on legislative initiative was made by the Government without taking into consideration the President's position, it may not be ratified, and based on this we may conclude that the President is an active participant in the legislative process in any alignment of political forces. Besides, the Constitution of Armenia endows the President with primary lawmaking rights. The President's right to issue presidential decrees provided by art. 56 of the Constitution puts only one restriction on the President: the decrees should not contradict the Constitution and the laws. Furthermore, based on art. 56 of the Constitution, the decrees of the President have supremacy over governmental decisions and other legal acts.

However, the veto power of the President of Armenia in the legislative processes is relatively weak in comparison with Poland. In Armenia, the laws adopted by the Parliament overcome the President's veto by majority vote of the deputies (art. 72 paragraph 2 of the Constitution), while the Polish President's veto can only be overturned by a three-fifths majority vote of the Sejm, in the presence of more than half of the total number of deputies in the session (art. 122 paragraph 5 of the Polish Constitution).

The abovementioned examples of the strong position of the President of the Republic of Armenia still do not show the complete picture of the President's position in the governmental system. Armenia's Constitution provides a dominant role for the President in the foreign policy, defense and security areas. In accordance with art. 55 paragraph 7 of the Constitution, the overall management of foreign policy pertains to the President. Paragraph 12 of the same Article stipulates that the President is a chief commander of the armed forces and appoints members of the supreme command of the armed forces.

In contrast to Poland, the abovementioned powers of the President of Armenia are implemented by his own discretion and are not bound by the proposals of any other bodies. The President of Armenia also has the right to make a decision on the use of the armed forces in the case of an armed attack against the Republic, an imminent danger thereof or declaration of war, may call for a general or partial mobilization and makes decisions on the use of the armed forces (art. 13 paragraph 55 of the Constitution).

In accordance with art. 55 paragraph 14 of the Constitution, in the event of an imminent danger to constitutional order, after consulting with the Chairman of the National Assembly and the Prime Minister, the President declares a state of emergency, takes measures appropriate in the given circumstances and addresses the people on the situation. For comparison, we would like to point that the President of Poland, while declaring war or state of emergency is bound by the recommendation of the Council of Ministers (art. 229 and 230), and these

legal acts must be countersigned by the Chairman of the Council of Ministers (art. 144 paragraph 2).

Although the first part of art. 85 of the Constitution establishes conducting executive power as the main function of the Government, art. 89 of the Constitution, dedicated to the powers of the Government, does not mention any body responsible for developing the strategy of the state. The 4<sup>th</sup>–6<sup>th</sup> points of that article describe the spheres (financial, taxes, science, education, culture, health, social insurance, protection of nature, defense, national security, foreign policy) where this policy is developed. One may infer that the powers of the Government are the same in spheres where the President of Armenia has a special role, such as overall management of foreign policy and guaranteeing the independence, territorial integrity and security of the country. If in the spheres of foreign policy, territorial integrity and security the Constitution has granted the power to decide policy to the President, in other spheres this question is not solved, and there is some contradiction between the power of the Government to conduct overall policy and between the 4<sup>th</sup>–6<sup>th</sup> points of article 89. In contrast, in Poland this question is regulated very clearly. Article 146 of Polish Constitution provides that the Council of Ministers conducts the internal affairs and the foreign policy of the Republic of Poland, while the President of Poland is entitled to several powers, some of which require countersignature.

Thus, a comparative analysis of the models of the system of government in Armenia and in Poland allows us to come to the following conclusions:

1. These two governing systems have many general similarities (direct elections of the president, the functions of guaranteeing the independence, territorial integrity and security of the country, a dualist system in the executive body) creating a rational basis to classify them as “semi-presidential systems”;

2. Simultaneously, the governing systems of Armenia and Poland are only partly similar. The principal differences are that the legal and de facto powers of the President of Armenia are much stronger than the respective powers of the President of Poland, where the powers of Government of Poland are strong.

Therefore, it is not accidental that some researchers consider that it is necessary to divide the semi-presidential system of government into two categories: semi-presidential-parliamentary and parliamentary-semi-presidential<sup>9</sup>. The basis for this division is the simultaneous accountability of the government toward the president and the parliament, or accountability only toward the parliament, and the volume of the powers of the president as well. Armenia surely belongs to the first category, because the Government has dual responsibility and the President has a wide authority. In contrast, in Poland the Government is responsible only toward the Sejm and the powers of the President are quite limited. The differences

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<sup>9</sup> See V. Poghosyan, *Armenia: At-A-Glance*, (in:) G. Robbers (ed.), *Encyclopedia of World Constitutions*, Vol. 1, Facts on File, 2006, p. 43.



mentioned above are very important, which is why M. S. Shugart and J. Kennedy put these two terms (semi presidential-parliamentary, parliamentary-semi presidential) in circulation, suggesting that they should be considered separate forms of governing<sup>10</sup>.

## COMPARATIVE ANALYSIS OF THE SYSTEMS OF GOVERNMENT OF THE REPUBLIC OF POLAND AND THE REPUBLIC OF ARMENIA

### Summary

The article discusses the system of government in the Republic of Poland and Republic of Armenia, showing the main similarities and differences between them.

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<sup>10</sup> See M. S. Shugart, J. Carey, *Presidents and Assemblies: Constitutional Design and Electoral Dynamics*, Cambridge University Press 1992, pp. 23–27.

**KEYWORDS**

semi-presidential form of government, presidential form of government, parliamentary form of government, President of the Republic, Parliament, Government, dual accountability of government

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system pół-prezydencki, forma rządów prezydenckich, parlamentarna forma rządu, prezydent, parlament, rząd, odpowiedzialność rządu