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Parliamentary-Presidential Government System

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Abstract

The paper aims to analyze systems of governance in modern democratic states in terms of distinguishing presidential-parliamentary system and to identify its characteristics. The considerations are to lead to a closer description of this mixed system of government and to indicate its model features. To this end, the author compared the elements that make up the government systems in Portugal and Romania, considering also the features of the parliamentary system and the system of presidential (semi-presidential) governments established in the study of constitutional law.

Streszczenie

W sprawie parlamentarno-prezydenckiego systemu rządów

Artykuł ma na celu analizę systemów rządów występujących we współczesnych państwach demokratycznych pod kątem wyodrębnienia systemu rządów parlamentarno-prezydenckich oraz wskazania cech charakterystycznych dla tego systemu. Rozważania

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mają doprowadzić do bliższego opisanie tego mieszanego systemu rządów oraz wskazania modelowych jego cech. W tym celu autor dokonał porównania elementów składających się na systemy rządów występujące w Portugalii oraz Rumunii, mając równocześnie na uwadze ugruntowane w nauce prawa konstytucyjnego cech systemu rządów parlamentarnych oraz systemu rządów prezydenckich (półprezydenckich).

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I.

The doctrine of Polish constitutional law appears to expound relatively well on the systems of government functioning in democratic countries. The notion of a system of government should stand for “a set of principles and system instructions determining the relations between the supreme state authorities, i.e. the parliament, the president and the government”². This term may also denote “a set of organizational and functional rules defining the relationship between the constitutionally separate branches of government: a legislative, an executive and a judiciary”³. Another definition stipulates that a system of government comprises “all the relations connecting the supreme state authorities, i.e. the parliament, the government and the president, shaped by constitutional regulations as well as political relationships formed in the course of constitutional practice”⁴. The characteristics of the president-parliamentary government system have nevertheless not been dealt with in depth. This is because it occurs relatively rarely. Moreover, it is generally rather difficult to classify the system of government functioning in a given country. This reflects the fact that solutions adopted display features of several government systems. Systems of government are thus usually defined in broad terms. Most

² R. Mojak, *Konstytucyjne zasady ustroju*, [in:] *Polskie prawo konstytucyjne*, ed. W. Skrzydło, Lublin 2010, p. 135.

³ S. Bożyk, *System organów państwowych*, [in:] *Prawo konstytucyjne*, ed. S. Bożyk, Białystok 2014, p. 146.

⁴ G. Pastuszko, *Zasady ustrojowe determinujące strukturę oraz funkcjonowanie organów państwowych w systemie konstytucyjnym RP*, [in:] *Organy państwowe w ustroju konstytucyjnym RP*, ed. H. Zięba-Załucka, Rzeszów 2016, p. 30.

often, the distinction is made between the parliamentary cabinet system, i.e. a variation of chancellor democracy, and the presidential system⁵. Within the latter, the so-called semi-presidential system may be designated.

Modern democracies typically adopt one of many variations of parliamentary systems. In most cases, it is the mentioned parliamentary cabinet system. The chancellor system found in the Federal Republic of Germany⁶ is one of its forms. At the opposite extreme is the relatively rare presidential government system. Its variation is the semi-presidential system functioning in France⁷. It might be therefore argued that the most common system of government is the parliamentary system. It should be pointed out, however, that it does not operate within a uniform model, and the solutions adopted in individual countries differ from each other. Despite these differences, all these solutions fit within the definition of a cabinet parliamentary system of government. This indicates that other government systems are much less common. Some of them are highly specific to a particular country. These include the classic parliamentary government system (Italy)⁸, the chancellor system as a variation of the cabinet parliamentary government (Germany), the semi-presidential system (France), the assembly model (Switzerland)⁹, or the presidential system (USA)¹⁰.

At this point, it should be noted that government systems of certain countries cannot be included in any of the listed government systems. As a rule, they are recognized as having both the features of a parliamentary system and a presidential or a semi-presidential system. Therefore, it seems correct to define such a system of government as a president-parliamentary system.

It is important to note that this system of government resembles the French semi-presidential system the most. These two are, however, not identical. The semi-presidential system shares most of its features with the presidential system, whereas the president-parliamentary system combines both the

⁵ *Leksykon wiedzy politologicznej*, eds. J. Marszałek-Kawa, D. Plecka, Toruń 2018, pp. 544.

⁶ M. Bożek, *System konstytucyjny Republiki Federalnej Niemiec*, Warsaw 2017, pp. 147–150.

⁷ E. Gdulewicz, *System konstytucyjny Francji*, Warsaw 2000, pp. 33–36.

⁸ Z. Witkowski, *System konstytucyjny Włoch*, Warsaw 2000, p. 5 et seq.

⁹ M. Aleksandrowicz, *System prawny Szwajcarii. Historia i współczesność*, Białystok 2009, p. 94 et seq.

¹⁰ A. Kulig, *System ustrojowy Stanów Zjednoczonych Ameryki*, [in:] *Systemy ustrojowe Stanów Zjednoczonych i Kanady*, eds. M. Grzybowski, A. Kulig, Kraków 2015, pp. 18–22.

features of the cabinet parliamentary system and the semi-presidential system. In the semi-presidential system, the elements of the parliamentary system are not as pronounced as in the president-parliamentary system. That is why the president-parliamentary system should be regarded as a completely separate system of government. To equate it with the semi-presidential system would thus be unfounded.

An attempt to identify model solutions appropriate for the presidential-parliamentary system must consider the distribution of power among the authorities within the system. It should be assumed that the executive holds the supreme position. At the same time, within the bipartisan executive branch, the president has a clearly stronger position than the prime minister. It should also be remembered that the president-parliamentary system stems from the solutions adopted in the semi-presidential government system in France. Given these considerations, it seems right to assume that the president-parliamentary system currently operates in Portugal¹¹ and Romania¹².

II.

As it has been already stated, the most popular model of government system is the parliamentary system. In its 'pure' form, it is in operation in Italy. Its varieties include the cabinet parliamentary system, which is the most common, as well as the chancellor system functioning in Germany. A characteristic feature of all parliamentary systems is, first of all, that the legislative power is exercised by the parliament elected in universal and direct elections. It appoints and supervises the government led by a prime minister. Moreover, it is typical of the parliamentary government system to have a bipartisan executive consisting of a government headed by the prime minister and the head of state. The role and powers of the latter are limited to a representative function. Furthermore, the head of state does not bear any political responsibility before the parliament – unlike the government, which has joint and several liability to the parliament. The role of the head of state in appointing the government is limited to nominating a candidate for the prime minister.

¹¹ A. Łabno, *System konstytucyjny Portugalii*, Warsaw 2002, pp. 45–46.

¹² W. Brodziński, *System konstytucyjny Rumunii*, Warsaw 2006, pp. 13–15.

The head of state has the right to dissolve parliament in strictly defined cases leading to new elections¹³.

It is worth noting that some features of the classical parliamentary system (cabinet parliamentary government) result in its inefficiency in several instances of the practical functioning of the state. In particular, this regards solutions for ensuring the stability of the government's functioning. Therefore, there have been attempts to adopt solutions that would stabilize and improve the operation of this system over the past few decades. The best-known example is the chancellor government system which is currently in operation in Germany. The solutions it adopted have reinforced the position of the executive in relation to the legislative authority. Naturally, the legislation is still paramount, but the importance of the executive has increased. It is precisely the status of the government, particularly its chancellor, that has improved. At the same time, there has been a significant reduction in the powers of the head of state, which is of only nominal significance nowadays¹⁴. These activities, aimed primarily at stabilizing the system of government, are referred to as system rationalization. At this point, it should also be mentioned that the system of government functioning in Poland, formally referred to as cabinet parliamentary government system, has several elements of the rationalized parliamentary system as well¹⁵.

The most characteristic element of the rationalized parliamentary system is the dominant position of the head of government, both in relation to individual members of the government and the entire parliament. The head of government is appointed by the parliament and entrusted with forming a government. A remarkable mechanism employed in this system is the constructive vote of no confidence. It means that the dismissal of the head of the government and the removal of the whole government is only possible on condition that a new head of government is appointed. It allows for the functioning of

¹³ W. Brodziński, *System parlamentarno-gabinetowy – wykorzystanie modelu rządów parlamentarno – gabinetowego w konstytucji Rzeczypospolitej Polskiej*, [in:] *Konstytucyjne systemy rządów. Możliwości adaptacji do warunków polskich*, ed. M. Domagała, Warsaw 1997, pp. 35–40.

¹⁴ M. Domagała, *System kanclerski i możliwości jego zastosowania w nowej konstytucji Rzeczypospolitej Polskiej*, [in:] *Konstytucyjne systemy rządów. Możliwości adaptacji do warunków polskich*, ed. M. Domagała, Warsaw 1997, pp. 123–133.

¹⁵ S. Patyra, *Mechanizmy racjonalizacji procesu ustawodawczego w Polsce w zakresie rządowych projektów ustaw*, Toruń 2012, p. 18 et seq.

the so-called minority government, where the government does not formally have the support of a parliamentary majority, yet there is no parliamentary majority that would be able to select a new head of government. As it has been already mentioned, the rationalized parliamentary system does not give much credit to the head of state. He is elected by the parliament or joint chambers of parliament, and his role is negligible. Moreover, the executive has limited possibilities to remove the parliament which does not appoint the head of government. In addition, the government has the right of legislative initiative¹⁶.

III.

The presidential system in its 'pure' form exists in the USA, whereas the semi-presidential system functioning in France is a variation of it. A characteristic feature of the presidential system is, first and foremost, the unitary executive with a strong, leading position and separated from other authorities. In addition, the president appoints ministers who merely execute his political will. The president is appointed as a result of general elections, which means gives him a strong legitimacy to exercise power. The president does not usually have the right of legislative initiative, nor does he bear political responsibility before parliament. The members of the executive are also not liable to the parliament, as they are liable to the president. President's official acts do not require a countersignature for their validity, as opposed to the countersignatures of official acts of the head of state in the parliamentary system. Moreover, there is a checks and balances system in the presidential government system in order to guarantee a balance between the authorities (legislative, executive and judiciary)¹⁷.

Legislative power can hold the president constitutionally accountable. It also approves some of the president's nominations. It may reject the legislative veto of the president. He, in turn, has the right to cast a (suspension) veto the laws passed by the parliament, as well as address the legislative authority

¹⁶ J. Szymanek, *Elementy racjonalizacji w konstrukcji parlamentarnego systemu rządów: analiza rozwiązań zawartych w Konstytucji RP*, [in:] *Parlamentarny system rządów. Teoria i praktyka*, eds. T. Mołdawa, J. Szymanek, M. Mistygacz, Warsaw 2012, p. 146 et seq.

¹⁷ A. Pułło, *System prezydencki*, [in:] *Konstytucyjne systemy rządów. Możliwości...*, p. 64 et seq.

and nominate Supreme Court judges. On the other hand, the Supreme Court, which guards the constitutionality of the law, may repeal legally binding acts of the legislative and executive authorities.

The bipartisan executive in the semi-presidential system consists of a president and a government headed by the prime minister. However, given the powers of the president, it is actually he that presides over the government because he chairs its meetings. He also nominates a candidate for prime minister. The head of state is elected as a result of universal and direct elections, which gives him a strong legitimacy for exercising power. He also enjoys numerous personal rights, which do not require the countersignature of the prime minister. These include the right to dissolve the parliament, the right to designate the prime minister, as mentioned, or the right to hold a referendum regarding a draft bill. Although the prime minister and ministers are appointed by the president, the government must receive the support of a parliamentary majority. Furthermore, the government is accountable to both the president and parliament. In principle, a person holding a function in the government must not combine it with a parliamentary mandate. It is also prohibited to infer legislative power of the executive from provisions determining another authority's competences. This limits the role of the parliament as regards the executive. A characteristic feature of the semi-presidential system in France is also the case where the president, the parliamentary majority and the government represent different political options. This phenomenon is called *cohabitation*¹⁸.

IV.

An analysis of the characteristics of the president-parliamentary system of government should first and foremost indicate the countries where such system operates, i.e. Romania and Portugal. The solutions adopted by these states are most similar to the system of semi-presidential government in France. However, they do not have all the features that would allow them to classify as semi-presidential systems. They cannot be included in the notion of a cabinet

¹⁸ E. Gdulewicz, *Model francuski (V Republika)*, [in:] *Konstytucyjne systemy rządów. Możliwości...*, p. 94 et seq.

parliamentary system or any of its variants either. It can be therefore assumed that the president-parliamentary system is a separate, hybrid model of a government system, containing elements of the parliamentary and semi-presidential governments¹⁹. Once again, it should be stressed that this is not a variation of the cabinet parliamentary system or the semi-presidential system.

The Constitution of Romania²⁰ provides that the system is based on the principles of division and balance of powers, i.e. legislative, executive and judiciary, within a constitutional democracy²¹. The legislative initiative is vested in the government, deputies, senators, as well as at least 100,000 citizens entitled to vote. The President of Romania is elected as a result of universal, equal, direct, secret and free elections²². He designates a candidate for the prime minister and appoints the government upon the parliament's vote of confidence for it²³. The President of Romania may attend government sessions to discuss matters of national importance, regarding foreign policy, national defense, public order and other issues if requested by the prime minister²⁴. He presides over the government meetings in which he participates²⁵. After consulting the chairmen of both chambers as well as the leaders of parliamentary groups, the President of Romania may dissolve the parliament if it does not cast the vote of confidence required to form a government within 60 days of the first speech delivered in this matter, and only after the parliament has rejected at least two proposals in the case²⁶. The Romanian President nominates the candidate for the position of prime minister after consulting the party which has an absolute majority in the parliament or, in the absence of such a majority, the parties represented in parliament²⁷. The prime minister, in turn, leads the government and coordinates the activities of its

¹⁹ S. Gebethner, *System rządów parlamentarno – gabinetowych, system rządów prezydenckich oraz rozwiązania pośrednie*, [in:] *Konstytucyjne systemy rządów. Możliwości...*, p. 77 et seq.

²⁰ http://biblioteka.sejm.gov.pl/wp-content/uploads/2016/03/Rumunia_pol_010711.pdf (15.10.2019).

²¹ Article 1(4) of the Constitution of Romania.

²² Article 81(1) of the Constitution of Romania.

²³ Article 85(1) of the Constitution of Romania.

²⁴ Article 87(1) of the Constitution of Romania.

²⁵ Article 87(2) of the Constitution of Romania.

²⁶ Article 89(1) of the Constitution of Romania.

²⁷ Article 103(1) of the Constitution of Romania.

members, according to their respective competences. He presents reports and statements regarding government policy to the Chamber of Deputies and the Senate, to be addressed outside the scheduled order of business²⁸. The Romanian president cannot dismiss the prime minister²⁹. The government is politically responsible for its activities only to the parliament. All members of the government are politically responsible for the government's activities and the acts it issues jointly and severally³⁰.

Pursuant to the Portuguese Constitution³¹, the system is based on the principles of division of power and interdependence of authorities³². The bodies which exercise sovereign power are the President of the Republic, the Assembly of the Republic, the Government and the courts³³. The President of the Republic is elected by universal suffrage, direct and secret ballot, by Portuguese citizens included in the electoral register on the national territory as well as Portuguese citizens residing abroad. The legislative initiative and the referendum initiative are the competence of the deputies, parliamentary clubs and the Government, as well as groups of citizens with the right to vote under certain conditions set out in the Act. However, the legislative initiative on matters regarding autonomous regions is the competence of relevant Legislative Assemblies. The government as an authority pursues the general policy of the country and is the supreme body of public administration. The Prime Minister carries out his function from the moment he takes office and until he is dismissed by the President of the Republic. Other members of the Government fulfill their functions until dismissed or until the Prime Minister is dismissed. The Government is accountable to the President of the Republic and to the Assembly of the Republic. The Prime Minister is accountable to the President of the Republic as well as to the Assembly of the Republic in the scope of the political responsibility of the Government.

²⁸ Article 107(1) of the Constitution of Romania.

²⁹ Article 107(2) of the Constitution of Romania.

³⁰ Article 109(1) of the Constitution of Romania.

³¹ http://biblioteka.sejm.gov.pl/wp-content/uploads/2016/03/Portugalia_pol_010116.pdf (15.10.2019).

³² Article 2 of the Constitution of the Republic of Portugal.

³³ Article 110(1) of the Constitution of the Republic of Portugal.

V.

Upon the analysis of both government systems and detailed solutions adopted in Romania and Portugal, it may be concluded the system functioning in these countries is a president-parliamentary government. It is a system combining the features of the cabinet parliamentary government and the semi-presidential system. On the basis of this study, it is possible to state that the president-parliamentary system of government in the case of Romania and Portugal displays primarily features of a semi-presidential system. It should be assumed that this system greatly inspired the creators of systemic solutions which now function in Romania and Portugal. It can also be stated that the constitutional solutions of these countries in the scope of the government system bring them significantly closer to the solutions functioning in France. However, due to several differences in respect of the head of state and his competences, in particular with regard to the prime minister and the government, it cannot be said that the system functioning in Romania and Portugal is a semi-presidential system *sensu stricte*. It is rather a president-parliamentary system, which resembles the semi-presidential system the most in terms of solutions adopted. The main feature which distinguishes these systems is the position of the head of state – slightly weaker in the president-parliamentary system compared to the semi-presidential system.

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