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CONSTITUTIONAL NORMS IN THE POLISH AND FINNISH CONSTITUTIONS OF THE INTERWAR PERIOD

1. INTRODUCTION

The norms of constitutional law form the foundation of the entire legal system of a state. They concern legal relations between the individual and the state, between different entities, and therefore belong to the norms of public law[1]. They are included in a special legal act that is founded on certain basic principles. They were created during the centuries-long development of constitutional law. They refer to the multifaceted nature of the political system in a given country, describe the system of government and the fundamental rights. The issues mentioned above determine the political identity of the state. Generally, they regulate who is the sovereign, what organs of state power have been established. Therefore, it concerns the formal and material surface of the constitutional reality, ideas and goals of this process.

Constitutionalism appeared in England, the USA and France at the turn of the 17th and 18th centuries as a result of the opposition towards absolute monarchies. It developed on the basis of postulates of the liberal state of law, the primacy of law, and the protection of individual rights over the omnipotence of the ruler[2]. From the beginning, the constitution usually consisted of one act. However, due to specific political situation or state structure, it could be composed of several interrelated acts (e.g. constitutions of France 1875, Austria 1867, Russia 1906).

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[1] B. Banaszak, *Prawo konstytucyjne*, Warszawa 2008, p. 7.

[2] P. Uziębło, *Konstytucjonalizm*, (in:) J. Zajadło (ed.), *Leksykon współczesnej teorii i filozofii prawa,* Warszawa 2007, p. 152. The problem of constitutionalism was discussed by E.R. Huber, who addressed, among others, the issues of absolutism, constitutionalism and parliamentarism, E.R. Huber, *Deutschen Verfassungsgeschichte seit 1789, Bd. 3, Bismarck und das Reich*, Stuttgart 1970, pp. 3-26.

The English constitution was an exception, because it did not formally exist, but functioned in a material sense as a catalog of particularly important acts. As for the structure and systematics, the volume of the constitution depended on the conditions for the creation of these acts. The American constitution was the shortest (7 articles), and the Spanish was the longest one (384 articles). Systematics did not have a permanent system. It depended on views on the essence of the state, the origin of power, the attitude towards the rights of the individual, the degree of centralization of the state, and the division of power[3].

In more than two hundred years of constitutional history, the subject of regulation has changed both in terms of quantity and quality. The political, socio-economic system was always the core. Many important contents have been included in the introductory, called: introductory, proclamations, preambles, and basic principles. There were also constitutions without introductory titles, such as the United States constitution (1787), almost all French constitution in the form of the changing Declaration of Human and Citizens' Rights, Baden (1818), Prussia constitution (1850), etc. There were usually highlighted the landmark events in the history of the state, solemnly indicated the creators or contained the basic principles of the political system. They were part of the Constitution. There were also constitutions which did not contain any introduction. The context of the first basic laws involved primarily the division of powers and guarantees of civil rights (not in the US constitution). The rest of the content described in more detail the political system matters, and the whole was closed by the amending of the act, transitional and final provisions. The most important foundations of power were: the sovereignty of the nation, the division of powers, and the civil rights[4].

The contemporary constitutionalism has created common principles that are the basic standard for a democratic state. They are calculated in almost every basic legal regulation and are based on the ideas of enlightenment. Sometimes the legal definitions of these principles are not directly emphasized. They should be interpreted on the basis of a set of rules, but they are generally known to everyone.

The Constitution is therefore a legal act with the highest legal force in the state. This is expressed in the specific mode of its adoption, change and in its name. The subject of the regulation is the state system, ways of exercising power by the sovereign, basic rights, freedoms and obligations of the individual, as well as provisions regarding the mode of changing standards[5]. As a result, the German term *Verfassung*, like the English *constitution*, should be understood today

[3] T. Maciejewski, *Historia powszechna ustroju i prawa*, Warszawa 2007, p. 501.

[4] *Ibidem*, pp. 502-503.

[5] B. Banaszak, *Prawo konstytucyjne*…, p. 51.

as both the political system of the state and the constitution in the sense of a written legal act, occupying the highest position in the system of sources of law[6].

Thus, being a legal act of a special character, the constitution evokes significant political and social effects in the state and fulfills essential functions in it:

1) legal – it is the basic normative act shaping the foundation the of socio-political relations in a given system,

2) integration – it strengthens socially accepted values,

3) educational – it shapes patterns of desirable social behaviors,

4) organizing – it constitutionally defines the organization and functioning of the state,

5) petrifying – it stabilizes the normative pattern of the state,

6) program – it indicates the directions of development of the state and its institutions[7].

The aim of this research is to present and compare the constitutional norms contained in the interwar constitutional acts of Poland and Finland.

The methods used in legal, historical and political sciences have been adopted[8]. The method of analyzing legal texts was used to find and interpret fundamental principles of the foundations of power in Finnish and Polish constitutional acts. On the other hand, the comparative method allowed to examine and compare the principles interpreted from constitutional norms and to create the basis for a legal-historical-comparative analysis.

2. POLISH CONSTITUTIONS OF THE INTERWAR PERIOD

The Republic of Poland regained independence in 1918, after 123 years of dependence on the Russian Empire, the Austro-Hungarian Empire, and the German Empire. In the Kingdom of Poland there was the Regency Council, which on 7 November 1918 issued a manifesto addressed to the Polish nation. It was the first legal act of the Polish authorities in which the creation of an independent state was proclaimed. In the meantime, transitional local power centers were created, which were consolidated only after the release of Józef Piłsudski from Magdeburg and his arrival to Warsaw on 10 November. Next day the Regency Council

[6] T. Maciejewski, *Ustrój konstytucyjny wolnych miast (państw, terytoriów) Europy w latach 1806-1954. Studium prawno-historyczno-porównawcze*, Warszawa 2018, p. 4.

[7] B. Banaszak, *Prawo konstytucyjne*…, pp. 78-82. P. Uziębło also writes widely on constitutionalism, P. Uziębło, *Konstytucjonalizm*, (in:) J. Zajadło (ed.), *Leksykon*…, pp. 152-158.

[8] T. Chauvin, T. Stawecki, P. Winczorek, *Wstęp do prawoznawstwa*, Warszawa 2017, pp. 30-31; A. Chodubski, *Wstęp do badań politologicznych*, Gdańsk 2013, pp. 123-141.

gave him the supreme command over the army and on 14 November the Council was disbanded, giving him full authority. The other centers of local authorities have acted similarly. The system of the state was regulated by a decree of 22 November, according to which the Polish state was given the republican system. Until the Legislative Sejm was convened, the state's Supreme Head, Józef Piłsudski, was to exercise supreme power in the state. The rules of electoral law were based on a democratic 5-adjective electoral law[9].

In January 1919, elections to the Legislative Sejm were held. Less than a month later, a resolution on the temporary rules of the functioning of the state, called the small constitution, was passed. It was to remain in force until the relevant basic law was issued. The Legislative Sejm was to be the sovereign and the legislative power. The executive power and implementation of the Sejm's resolutions in civil and military matters were entrusted to the Head of the State, Józef Piłsudski. The appointment of the government together with the president of the ministers, but in agreement with the Sejm, was also within the scope of his competences. In turn, the Head of the State and government were responsible to the Sejm, and each act, before entering into force, required the countersignature of the proper minister. In the political system introduced by virtue of the small constitution of 20 February 1919, the state power was concentrated in the Legislative Sejm, which became the source of all power. In principle, however, its main task was to pass the basic act – the constitution (hence its name)[10].

The Constitution of the Republic of Poland of 17 March 1921, known as the March Constitution, was the first Polish act of this type after regaining independence in 1918. After long-lasting disputes regarding its shape, it was passed by the Legislative Sejm in 1921[11]. The significance of this fact might have been demonstrated by the celebration of the solemn *Te Deum Laudamus* in the St. John cathedral, and then laying a wreath at the foot of the monument of Stanisław Małachowski, the Speaker of the Four-Year Sejm, by the Speaker of the Sejm[12]. This constitution became the starting point for the development of contemporary Polish constitutionalism[13]. Numerous projects of the Constitutional Bureau of the Government, political parties and private persons have not found recognition of the Constitutional Committee of the Legislative Sejm. The disputes mainly concerned: the structure of the Parliament, the powers and the mode of election of the President, the status

[9] T. Maciejewski, *Historia ustroju i prawa sądowego Polski*, Warszawa 2011, pp. 301-303; J. Bardach, B. Leśnodorski, M. Pietrzak, *Historia ustroju i prawa polskiego*, Warszawa 1993, pp. 462-463.

[10] T. Maciejewski, *Historia ustroju*..., p. 303; J. Bardach, B. Leśnodorski, M. Pietrzak, *Historia ustroju*..., pp. 479-480.

[11] M. Stębelski, *Polskie konstytucje*, Warszawa 2007, p. 8.

[12] „Kurjer Warszawski" 1921, issue 70, p. 1.

[13] L. Garlicki, *Polskie prawo konstytucyjne*, Warszawa 2008, p. 13.

of the Catholic Church and national minorities. However, the model constitution of the III French Republic 1875 became the Polish constitution then[14].

The content of the constitution consisted of an introduction and 126 articles that were grouped in seven chapters: the basis of the state system, legislative power, executive power, judiciary, rights and duties of the citizens, changes and revision of the constitution, transitional provisions[15].

The following constitutional principles have been adopted: the continuity of the Polish state, the republican political system, the sovereignty of the nation, the tripartite of power, the parliamentary democracy, the homogeneous state, and the civil liberalism. Their application was a result of combining the political traditions of the former Polish-Lithuanian Commonwealth with the democratic tendencies occurring after the First World War[16]. The reference to the institutions of the Third French Republic resulted in a clear imbalance between the authorities, because the French model was characterized by a very strong position of the Parliament, a far-reaching dependence of the government on the lower house, and leaving the ceremonial role for the President. This model was considered attractive to all then political parties in the Sejm[17], fearing the strong personality of Józef Piłsudski, as a potential presidential candidate.

The supreme authority was exercised by the Nation through the organs of legislative power (the Sejm and the Senate), the executive (the President, the Council of Ministers), and the judiciary (an independent judiciary). The Sejm (444 deputies) and the Senate (111 senators) were elected in the general, equal, direct, proportional and secret ballot elections, and the term of office lasted 5 years. The president, on the other hand, was appointed for a 7-year term through the National Assembly (both parliamentary chambers combined). The Constitution guarantees basic civil rights and freedoms as well as protects the rights of national and ethnic minorities. A wide territorial self-government was also introduced[18].

The March Constitution was significantly modified on the basis of the August novella in 1926, adopted as a result of the so-called May coup. The most important change was the strengthening of the executive branch by increasing the President's competence in relation to the powers of the Sejm and the Senate[19]. In case

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[14] T. Maciejewski, *Historia ustroju*..., p. 306; J. Bardach, B. Leśnodorski, M. Pietrzak, *Historia ustroju*..., p. 480.

[15] Dz. U. 1921, Nr 44, poz. 267, pp. 633-658.

[16] T. Maciejewski, *Historia ustroju*..., p. 306; J. Bardach, B. Leśnodorski, M. Pietrzak, *Historia ustroju*..., pp. 480-482.

[17] L. Garlicki, *Polskie prawo konstytucyjne*…, p. 13.

[18] M. Stębelski, *Polskie konstytucje*…, p. 8. For more on the political system in 1921-1926 see T. Maciejewski, *Historia ustroju*..., pp. 306-311; J. Bardach, B. Leśnodorski, M. Pietrzak, *Historia ustroju*..., pp. 480-496.

[19] M. Stębelski, *Polskie konstytucje*…, p. 8.

of emergency, the Head of State could issue regulations with the force of law, which, however, could not change the constitution, the electoral law, the state budget, the size of the army, and the important economic issues. Those regulations had lost their power if they would not have been submitted to the Sejm within 14 days at the next meeting or were rejected by the body. At the request of the government, the President could independently dissolve the Sejm and the Senate before the end of the term. In budget matters, he could in turn announce a draft budget act if none of the chambers took a budgetary resolution on time. A vote of no confidence in the government could not be passed on the same meeting at which it was requested. The amendment to the act was supplemented by the act on powers of attorney, that is empowering the President to issue regulations with the force of law until the election of the Sejm and the Senate of the next term, which took place only in 1928. In addition, the office of the General Inspector of the Armed Forces was created. Józef Piłsudski took over the actual power in the state. The main purpose of his supporters was to change the constitution[20].

The Constitutional Act of 23 April 1935 was the second Polish basic law of the interwar period, also known as April Constitution[21]. Work on the revision of the Basic Law began after the Sejm elections in 1928. Piłsudski`s supporters, who had the majority in the Parliament, adopted the draft of the new constitution in 1934 by qualified majority of 2/3 of votes. The Senate adopted it with amendments a year later. When the project came back to the Sejm's deliberations, it was handled according to the rules applicable to the adoption of an ordinary law, and therefore by an absolute majority, and not by a qualified majority. This allowed the opposition to be rejected. The mode of enactment gave the opposition the basis for claims that the act was passed in a manner inconsistent with the applicable law. Finally, on April 23 1935, President Ignacy Mościcki signed the text of the constitution[22].

The content, without introduction, consisted of 81 articles, grouped in 14 chapters covering the basic principles of the political system, President, government, Parliament, Senate, legislation, budget, armed forces, justice, state administration, state control, state threat, changes to the constitution, and final provisions[23].

The constitutional principles were included in the 10 Articles of Chapter I. Fundamental rights were: the concept of the state as a common good of citizens, uniformity and indivisibility of state power, elitism, cooperation of citizens with the state for the implementation of the general good, loyalty to the state and

[20] T. Maciejewski, *Historia ustroju*..., p. 312. For more on the political system in 1926-1935 see also J. Bardach, B. Leśnodorski, M. Pietrzak, *Historia ustroju*..., pp. 496-500.

[21] M. Stębelski, *Polskie konstytucje*…, p. 10.

[22] T. Maciejewski, *Historia ustroju*..., pp. 312-313; J. Bardach, B. Leśnodorski, M. Pietrzak, *Historia ustroju*..., pp. 500-501.

[23] Dz. U. 1935, Nr 30, poz. 227, pp. 487-508.

work for it, and non-existence against its rights[24]. As a result of the May coup in Poland, a new system of governing the state was created. It was a departure from the constitutional principles underlying the March Constitution. The mechanism of state functioning within the framework of the parliamentary system was replaced by the authoritarian methods of exercising power. It required formal and legal fixation in the constitutional norms. The work on the new constitution was accompanied by sharp criticism of parliamentary democracy. The reversal of parliamentarism was also observed in other European states that were heading towards the concept of a totalitarian state. In Poland, however, under the rule of the April Constitution, there was a model of authoritarian state that was different from European totalitarianism (e.g. the German one)[25].

The presidential system was introduced, with a strong emphasis on the role of the President of the Republic of Poland, who held a superior position over the other state organs. He became the superior of both the executive (government) and legislative (Sejm and Senate). He was only responsible „to God and history". He was equipped with numerous prerogatives, which included indicating the candidate for his successor, choosing the 1/3 composition of the Senate, as well as dissolving the Parliament before the end of the term. He also had strong legislative powers – the right to issue decrees. The content of the constitution also strengthened the role and position of the government, limiting accountability to the Parliament[26].

The April Constitution was based on completely different ideological assumptions than the March Constitution. However, despite the introduced authoritarianism, in the situation when the President indicated another candidate for successor than the Electoral Assembly, general elections were administered. Thanks to the fact that in the event of war the President could appoint a successor, the continuity of power after 1939 was preserved[27].

3. FINNISH CONSTITUTIONS OF THE INTERWAR PERIOD[28]

The Republic of Finland gained independence in 1917, for the first time in history, becoming independent from the Russian Empire and the Kingdom of

[24] T. Maciejewski, *Historia ustroju*..., p. 313.

[25] J. Bardach, B. Leśnodorski, M. Pietrzak, *Historia ustroju*..., pp. 501-502.

[26] M. Stębelski, *Polskie konstytucje*…, p. 10. For more on the political system in 1935-1939 see also T. Maciejewski, *Historia ustroju*..., pp. 313-316; J. Bardach, B. Leśnodorski, M. Pietrzak, *Historia ustroju* ..., pp. 502-508.

[27] L. Garlicki, *Polskie prawo konstytucyjne*…, p. 14.

[28] In this subsection are presented results of research conducted as part of the author's doctoral thesis in preparation.

Sweden. To gain independence (*Itsenäinen Suomi*), it operated in 1809-1917 as the Grand Duchy of Finland (*Suomen suuriruhtinaskunta*). It was an autonomous territory that was located in the area of the Russian Empire and was connected with it by a personal union. Earlier, Finland was under the Swedish rule.

On 6 December 1917, the Finnish Declaration of Independence (*Suomen itsenäisyysjulistus*) was announced. Then, the independent Kingdom of Finland (*Suomen kuningaskunta*) was proclaimed. As E.N. Setälä, a Finnish political activist of that time, observed, separation from Russia and political independence became a logical result of historical development and the realization of the most important aspirations of the Finnish people[29].

The new Finnish state was organized in the form of a monarchy. The activity focused on constitutional legislation was intensified after the end of the civil war of 1918 pending for the form of the state. Until then, the basic constitutional act still in force in the country was the Form of Government from 1772, which the Finnish Parliament (*Eduskunta*) confirmed along with the form of the system on 15 May 1918[30].

After the notification of the independence, *Eduskunta* gave the highest power to P.E. Svinhufvud. It was decided that although one would not escape the unequivocal answer to the question about the future political system, the regency is the most adequate way to exercise power in the political situation of that time. A government was also established (called the Senate)[31]. The possibility of entrusting power to the regent resulted from the fact that the parliamentary body had legitimacy to exercise power after gaining the independence. *Eduskunta* was the only body that had legal continuity in the situation of that time[32].

The striving to stabilize the system based on monarchist concepts has begun[33]. The ever-growing support for the idea of a monarchist form of the state was publicly announced. This concept was also represented by the proponents of the monarchist thought constituting the vast majority of parliamentary representatives. However, there was still a lively discussion on the direction of the future legisla-

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[29] E.N. Setälä, *Polityka zagraniczna Finlandji*, „Przegląd polityczny" 1926, Vol. 5, fasc. 1-2, pp. 12-13.

[30] J. Paasivirta, *Finland and Europe. The Early Years of Independence 1917-1939*, Helsinki 1988, p. 148.

[31] *Eduskunta siirtää korkeiman wallan senaattori Swinhufwudille*, „Turun Sanomat" 1918, isue 4026; *Korkein valta*, „Uusi Aura" 1918, issue 62, p. 1; *Maan uusi hallitus*, „Uusi Päivä" 1918, issue 57, p. 3. On the institution of regency, the deputy monarch see M.M. Wiszowaty, *Zasada monarchiczna i jej przejawy we współczesnych ustrojach europejskich i pozaeuropejskich monarchii mieszanych. Studium z zakresu prawa konstytucyjnego*, Gdańsk 2015, pp. 409-420.

[32] K. Ciemniewski, *Zasady ustroju politycznego Finlandii*, Bydgoszcz 1971, pp. 124-125.

[33] About the experiences of the democratic Scandinavian monarchies, especially in Sweden, Norway and Denmark see B.A. Arneson, *The democratic monarchies of Scandinavia*, New York 1949.

tive work[34]. Arguments were sought from the experience of both the Scandinavian monarchist states, such as Sweden and Norway, and the republican states, such as France or the United States[35].

After the civil war, elections to the *Eduskunta* took place in 1919, the outcome of which ultimately determined the failure of the monarchist idea. The vast majority (3/4) of the seats were won by groups supporting the republican form of government. The consequence of this was a departure from the monarchist concept for the republican one[36].

The task of enacting the constitution was set in front of the new Parliament. The constitutional commission presented relevant projects to the Parliament[37]. Two of them, of a monarchist nature, which is understandable in the political situation of that time, were rejected. The new project included points of contention regarding the political position of the President of the Republic and the procedure for his election. The right-wing groups supported strong presidential power, while left-wing groups supported the strong rule of the Parliament[38]. The Social Democrats vigorously opposed the proposal to elect the electors by the nation, suggesting that it would be the competence of the Parliament. C.G. Mannerheim, then the regent of the Kingdom of Finland, saw the threat of subjugating the head of state to Parliament[39]. In the end, a compromise solution was found – an indirect election of the President with broad powers[40].

The *Eduskunta* approved the republican form of government on 21 June 21 1919, adopting the draft of a new Constitution. Thus, the change of the form of government from the monarchist to the democratic, republican one, became a fact. Then, the regent C.G. Mannerheim approved it on 17 July 1919[41]. The

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[34] *Kysymys hallitusmuodosta. Kuningasvaltainen mielipide tulee yhä yleisemmäksi*, „Uusi Päivä" 1918, issue 55, p. 3; *Kysymys Valtiomuodostamme*, „Uusi Päivä" 1918, issue 58, p. 1.

[35] *Monarkia waiko tasawalta?*, "Turun Sanomat" 1918, issue 4034, p. 4; K. Wainio, *Monarkia vaiko tasavalta?*, „Uusi Aura" 1918, issue 62, pp. 4, 6.

[36] B. Szordykowska, *Historia Finlandii*, Warszawa 2011, p. 239; T. Cieślak, *Historia Finlandii*, Wrocław, Warszawa, Kraków, Gdańsk, Łódź 1983, p. 228; S. Hentilä, *From the Power of the Estates to the Power of the People*, (in:) *The Parliament of Finland,* Helsinki 2000, p. 37; S. Hentilä, *Od uzyskania niepodległości do zakończenia wojny kontynuacyjnej 1917-1944*, (in:) O. Jussila, S. Hentilä, J. Nevakivi (ed.), *Historia polityczna Finlandii 1809-1999*, Kraków 2001, p. 141.

[37] J. Nousiainen, *The Finnish Political System*, Cambridge Mass. 1971, p. 145; T. Cieślak, *Historia Finlandii...*, p. 228.

[38] L.A. Puntila, *The Political History of Finland 1809-1966*, Helsinki 1974, pp. 121-122; S. Hentilä, *Od uzyskania niepodległości*..., p. 142.

[39] C.G. Mannerheim, *Wspomnienia*, Warszawa 2017, p. 144.

[40] S. Hentilä, *Od uzyskania niepodległości*..., p. 142.

[41] Y. Blomstedt, *A Historical Background of the Finnish Legal System*, (in:) *The Finnish Legal System*, J. Uotila (ed.), Helsinki 1966, p. 21; J. Osiński, *Prezydent Republiki Finlandii*, (in:) *Prezydent w państwach współczesnych*, J. Osiński (ed.), Warszawa 2009, p. 196. About the beginning of the republic and its authorities see also: P. Rajala, *Suomen historia*, Porvoo 1989, pp. 52-53;

name of the basic law – Form of Government – was historically conditioned and referred to the normative act of 1772, valid in Finland from the time of the Swedish dependence[42].

The Act on the Form of Government (*Suomen Hallitusmuoto*)[43], although it met the assumptions of the codification program[44], developed in the modern period and provided for this type of regulation, was not a typical, modern constitutional act. Admittedly, on the one hand, in the matter covered by it, it repealed all sources of constitutional law in force in the territory of the Kingdom of Finland, but on the other hand, it did not contain all the necessary subjects of constitutional regulation. For this reason, it became the first of a series of four legal acts of a fundamental rank, which until 2000 were equivalent, complementary sources, constituting a complex Finnish constitution.

The year 1922 was a time of increased activity of state organs in the field of constitutional legislation in Finland. First, the Act on the Tribunal of State (*Laki valtakunnanoikeudesta*)[45] was passed. The court ruled in cases against members of the Council of Ministers, the Chancellor of Justice, the President or members of the Supreme Court or the Supreme Administrative Court, for violation of the law in connection with the functions performed. In addition, the law on the right of Parliament to examine the lawfulness of official activities of the Council of State and the Chancellor of Justice was adopted (*Laki eduskunnan oikeudesta tarkastaa valtioneuvoston jäsenten ja oikeuskanslerin virkatointen lainmukaisuutta*)[46]. It is usually referred to as so-called Act on Ministerial Responsibility. It indicates the competence of the Parliament, through the Constitutional Law Commission (*Perustuslakivaliokuntaan*), to control unlawful activities carried out by members of the Council of State and the Chancellor of Justice, as well as to make decisions resulting from the verification of the proceedings.

A characteristic element of the then Finnish constitutionalism was the exclusion of the powers and functioning of the Parliament (e.g. the legislative authority) from the scope of the basic law and regulating it in a separate normative act[47]. In

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L.J. Hendell, P. Katara, G.F. Schmidt, *Finnland im Anfang des XX. Jahrhunderts*, Helsingfors 1919, pp. 546-588.

[42] T. Cieślak, *Historia Finlandii*..., p. 228.

[43] Suomen Hallitusmuoto, Suomen Asetuskokoelma 94/1919, pp. 1-23.

[44] In accordance with the codification program of law, modern legal regulation should serve the general good, be a unified and exclusive set, sure, complete, with short and clear standards. For more on the assumptions of the codification program of law and its demands see T. Maciejewski, *Historia powszechna ustroju i prawa*, Warszawa 2015, pp. 600-602.

[45] Laki valtakunnanoikeudesta 25 marraskuuta 1922, Suomen Asetuskokoelma 273/1922, p. 1098.

[46] Laki eduskunnan oikeudesta tarkastaa valtioneuvoston jäsenten ja oikeuskanslerin virkatointen lainmukaisuutta, 25 marraskuuta 1922, Suomen Asetuskokoelma 274/1922, pp. 1099-1100.

[47] M. Grzybowski, *Systemy konstytucyjne państw skandynawskich*, Warszawa 1998, p. 17.

Finland, there was still the Parliament Act of 1906, from the period of the Russian Empire, which in 1928 was replaced by the Parliament Act[48] – a normative act of already independent Finland.

The Form of government was an act whose structure consisted of eleven chapters (*luku*), preceded by a short preamble: General Provisions, General Rights and Legal Protection of Finnish Citizens, Legislation, Government and Administration, The Judiciary, Public Finance, National Defense, Education, Religious Communities, Public Offices, Final Provisions.

The Act on the Parliament consisted of eight thematically divided chapters: General Provisions, Opening and Closing of Sessions of Parliament and Dissolution of Parliament, Introduction of Business in Parliament, Preparation of Business for Discussion in Parliament, Procedure for Business in Plenary Sitting and in the Grand Committee, References to the Bank of Finland and Other Institutions, The Communication of the Decisions and Resolutions of Parliament, Specific Provisions, Final Provisions.

In the constitution of Finland, the following constitutional principles were introduced: the republican system, the sovereignty of the nation, the division of power, parliamentary democracy, a homogeneous state, freedom and equality before the law, civil liberalism.

Therefore, the provisions of the constitution proclaimed Finland a sovereign republic and adopted the basic principles of constitutionalism. The supreme power belonged to the nation, which was represented by its representatives in the unicameral Parliament. The constitutionally confirmed division of powers materialized in solutions based on strong executive power. The legislation was implemented by the *Eduskunta*, but together with the President of the Republic, who was also equipped with the right of legislative initiative and the right of suspensive veto. In addition, he held the highest executive power. The general management of the state administration was granted to the State Council, chaired by the Prime Minister. The judiciary was to belong to independent courts together with the Supreme Court and the Supreme Administrative Court[49].

A novum in the then Finnish constitutionalism was the appointment of two offices – the Chancellor of Justice and the Parliamentary Ombudsman. The first, appointed by the Council of State, upheld the compliance of lower-level acts with statutes and the Constitution. In addition, he watched lawful actions of public authorities and public officials. The second, appointed by *Eduskunta*, during his term of office was to ensure that the judiciary and other institutions and public

[48] *Valtiopäiväjärjestys*, Suomen Asetuskokoelma 7/1928, pp. 101-116.

[49] J. Osiński, *Wstęp*, (in:) Konstytucja Finlandii, Warszawa 1997, p. 24.

figures complied with the laws. The existence of both of these bodies strengthened institutionally the guarantee of compliance with the law in the state[50].

The Parliament was elected for a three-year term in the general, direct, equal and proportional elections, while the President was elected for a six-year term in the general and indirect elections by the college of electors[51].

As a result of the political system experience and the historical tradition stemming from the periods of Swedish and Russian dependence, the constitutional domination of a strong and independent head of state appeared in the Finnish republicanism. That is why the elected President was granted an almost unchanged scope of state power of the constitutional king[52]. This established his strong position within the parliamentary system. It was a specific feature of the „Finnish republican system"[53]. Moreover, attributing to the president a strong political position and extensive powers resulted from the needs of political practice. In face of weak independence of the state, the breakdown of political groups and social conflicts, the need arose to establish an institution that embodies the continuity of traditional power, stabilizing the functioning of the state apparatus[54].

4. CONCLUSIONS

In the interwar period, intensified activity aimed at constitutional legislation was observed. This also concerned the Second Republic of Poland and the Republic of Finland, in which the breakthrough acts were adopted. In Poland, two uniform Constitutions were in force, significantly affecting the evolution of the state system in this period – the Constitution of March 1926 and that of April 1935. In Finland one constitution was created, but of a complex nature – it consisted of four legal acts adopted in the period 1919-1928 .

[50] *Ibidem*, p. 25.

[51] *Ibidem*, p. 24.

[52] K. Ciemniewski, *Zasady ustroju politycznego Finlandii*…, pp. 125-126.

[53] J. Osiński, *Prezydent Republiki Finlandii*…, pp. 203-204. The doctrine also recognizes other constitutional positions of the president's institution. See among others: T. Szymczak, *Ewolucja instytucji prezydenta w socjalistycznym prawie państwowym*, Łódź 1976. About the balance between the parliamentary-cabinet system and the presidential system in general see T. Maciejewski, *Rządy parlamentarno-gabinetowe*, (in:) T. Maciejewski (ed.), *Leksykon historii prawa i ustroju. 100 podstawowych pojęć*, Warszawa 2010, pp. 555-558.

[54] M. Grzybowski, *Finlandia. Zarys systemu ustrojowego*, Kraków 2007, p. 50; J. Nousiainen, *The Finnish System of Government: From a Mixed Constitution to Parliamentarism*, (in:) The Constitution of Finland, Vammala 2001, p. 148.

In the Second Republic of Poland, in principle until the so-called May coup in 1926, the pro-parliamentary tendencies were observed, while in the Republic of Finland from the beginning, the executive power was equipped with strong competences, but within the parliamentary system. In Poland, as a result of the adoption of the April Constitution, the state system was strongly turned towards authoritarianism.

In the March Constitution, apart from specific competences of the legislative authority and its relationship to the executive branch, the dominant position of the legislature may be indicated by the fact that the chapter with its norms has been placed before the chapter concerning the executive branch. It was different in the structure of the April Constitution, where norms concerning the executive authority were placed before norms concerning the legislative power. It also had its justification in the strong competence of the head of the state.

In both countries, similarities and differences were noticed. The independent Polish state was equipped with institutions referring to the tradition of the pre-partition period. As far as it was possible, they tried to adapt them to the new post-war reality, while being inspired by the European solutions. On the other hand, the system of Finland, established for the first time as an independent state, was based mainly on institutions developed during the period of Swedish dependence. They tried to adapt them to the new international legal reality in which the Finnish nation found itself.

Both states saw their chances to maintain independence in the pro-authoritarian tendencies, especially in the period preceding the World War II, due to the difficult geopolitical situation. In Poland, one the desire waobserved to eliminate the chaos created by the parliamentary governments. In Finland, this was not only related to the tradition of a strong executive, but more to the fear of potential revolutionary activities in the future that the head of the state would be able to prevent.

The constant efforts of both states to maintain independence led to some actions aimed at stabilizing independence by methods not always widely accepted. While in Finland it also served to maintain the worked out principles of constitutionalism, in Poland it was connected with a complete change of the character of constitutional norms through the adoption of a new legal act.

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Summary

In the interwar period, intensified activity aimed at constitutional legislation is observed. This also concerned the Second Republic of Poland and the Republic of Finland, in which breakthrough acts were adopted. In Poland, two uniform constitutions were in force, significantly affecting the evolution of the state system in this period – the March Constitution of 1926 and the April Constitution of 1935. In Finland, one constitution was created, but of a complex nature – four legal acts were adopted in the period of 1919-1928.

While in the Second Republic of Poland, in principle until the so-called May coup in 1926, the parliamentary tendencies were observed, in the Republic of Finland from the beginning, the executive power was equipped with strong competences, but within the parliamentary system. In Poland, as a result of adoption of the April Constitution, the state system was strongly turned towards authoritarianism.

Both states saw their chance of maintaining independence in the pro-authoritarian tendencies, especially in the period preceding the II World War, due to the difficult geopolitical situation. In Poland, the authorities wanted to eliminate the chaos created by typical parliamentary governance. In Finland, this was not only related to the tradition of a strong executive, but more to the fear of potential revolutionary activities (like the Civil War of 1918) in the future that the head of state would be able to prevent.

KEYWORDS

constitutionalism, constitution, Finland, Poland, interwar period

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konstytucjonalizm, konstytucja, Finlandia, Polska, dwudziestolecie międzywojenne