

PRESIDENTS OF THE *BALTIC STATES* IN A COMPARATIVE CONTEXT: ELECTIONS AND POWERS

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1. CONSTITUTIONS OF THE *BALTIC STATES*¹

The concept of constitutions is comprised of three main aspects. Firstly, constitutions establish the principal governmental institutions and impose the checks and balances system between these institutions. Secondly, constitutions provide for the distribution of governmental power. Thirdly, constitutions consolidate a compendium of fundamental rights of citizens. These criteria provide a solid ground for helping to determine whether a document deserves to be called a constitution.²

The constitutionalism may be interpreted in different ways. First, if a constitution is primarily the instrument by which a system of governance is established; then, constitutionalism is the principle that governments should be limited in their powers. From this point of view, constitutionalism is regarded as the process of establishment and development of legal political thought, which would be its practical manifestation. However, constitutionalism also encompasses the history of constitutional regulation, which brings this subject close to the field of legal history.³ Constitutionalism is a legal and political condition in which the constitution functions as an effective and significant limit on government. The reality of constitutionalism depends on whether there are political forces genuinely independent of the government of the day and powerful enough to insist on the government's observance of constitutional limits. Perhaps paradoxically, a country may have a constitution, but no history of constitutionalism.

The Baltic States have quite a rich, though fragmented, history of constitutionalism. The Statutes of the Grand Duchy of Lithuania (1529, 1566, and 1588), the Polish-Lithuanian Constitution of 3 May 1791 together with the mutual commitment of the Commonwealth of the Two Nations are the legal acts that would bring honour to any nation of Europe. The inter-war period of the independent states (1918–1940), when the

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¹ "The Baltic States" is a geopolitical term used to define the Republics of Lithuania, Latvia and Estonia, which are located on the eastern shore of the Baltic Sea.

² MESONIS, Gediminas. Main Features of the Constitutions of the Baltic States In TRUNK, Alexander, NUUTILA Ari-Matti, NEKROŠIUS, Vitautas. *Recht im Ostseeraum: Einführung und aktuelle Entwicklungen*. Berlin: Berliner Wissenschafts Verlag, 2006, p. 13.

³ GRAY, Christopher, B. (ed.) *The Philosophy of Law. An Encyclopaedia*. 1999, p. 154–155.

corresponding, rather advanced, constitutions were in force, also attests to the fact that the Baltic States have the tradition of constitutionalism.

Following the restoration of their sovereignty in 1990, the Baltic States faced a natural question concerning their constitutions. As it is seen from Table 1, the Baltic States behaved in different ways. Latvia decided to uphold the tradition of legal regulation, thus, it restored the validity of its Constitution (*Satversme*) of the pre-war period (1922). The Latvian choice of re-instating the inter-war constitution – the only constitution that Latvia had – is certainly a step of highly symbolic character.⁴ It should be indicated that the *Satversme*, adopted in 1922, originally followed the model of “a strict state” typical of “western” constitutionalism.⁵ Despite the circumstance that the inter-war Latvian Constitution was, in the sense of juridical technique, rather advanced, after restoring its validity, significant amendments were made thereto, which were related to the establishment of a state under the rule of law and human rights.

Lithuania and Estonia have acted in a slightly different way. These countries resolved not to modify their pre-war constitutions, and new constitutions were prepared and adopted by referendum. Such behaviour was induced by a whole series of circumstances. But one of the most significant ones was that the last pre-war Lithuanian Constitution (1938) had problems relating to separation of powers, and some institutes of democracy.⁶ Similar shortcomings were also characteristic of the 1938 Constitution of the Republic of Estonia. These shortcomings could, definitely, have been adjusted, by adapting the constitutions to the present day; nevertheless, it was decided to create new ones. Table 1 provides the information on the dates and character of the adoption of the respective constitutions.

The constitutions of the Baltic States nowadays consolidate democratic political regimes and a unitary form of state structure. Evidently, the Baltic States (Estonia, Latvia, and Lithuania) are democracies, and the values of constitutionalism are recognised in the constitutional systems of the Baltic States.

The constitution is the primary legal act in the system of legal norms of each country. And each country consolidates the legal supremacy of its own constitution.⁷ It has been mentioned that constitutions of the states in question *inter alia* also lay down the system of state institutions of power, an integral part whereof is the President of the state. Hence, the most important powers of the Presidents of the states are entrenched in the constitutions of these countries.




⁴ TAUBE, Caroline. Baltic Diversity: Comparing Constitutions. *Konstitucija XXI amžiuje. Jurisprudencija*, 30 (22). Vilnius, 2002, p. 45.

⁵ MIKAINIS Zigurds. The Influence of the Constitution upon the Development of Constitutionalism of Latvia. *Konstitucija XXI amžiuje. Jurisprudencija*, 30 (22). Vilnius, 2002, p. 174–179.

⁶ MAKSIMAITIS Mindaugas. *Lietuvos valstybės konstitucijų istorija*. Vilnius: Justitia, 2005, pp. 223–265.

⁷ KŪTRIS Gūnars. Valstybės kompetencijos perdavimas Europos Sąjungos institucijoms ir konstitucinio teismo vaidmuo. *Konstitucinių teismų vaidmuo Europos Sąjungos narystės kontekste – Satversmes tiesu loma dalības Eiropas Savienībā kontekstā*. Vilnius: 2004, p. 31.

Table 1: Constitutions of the Baltic States

| State | Date of the adoption of the Constitution | Character of adoption |
|--|--|---|
| Estonia  | 1992 06 28 | National Referendum YES (91.9%) – NO (8.1%) |
| Latvia  | 1922 01 15 | Constituent Assembly (Satversmes sapulce) |
| Lithuania  | 1992 11 02 | National Referendum YES (78.2%) – NO (21.8%) |

2. THE PROCEDURE FOR THE ELECTION OF THE PRESIDENTS⁸

The President of the state is a constitutional institute in the Baltic States. The Constitutions of all the three states contain a series of provisions that regulate not only the powers, but also establish the principles of the election of the President. First, we will have a look at the procedures for the election of Presidents in the Baltic States. Then we will make an attempt to compare the scope of their powers. We will also examine whether the manner of presidential elections has any significance for the scope of constitutional powers of the Presidents.

Article 79 of the Constitution of the Republic of Estonia defines the principles of the procedure for the election of the President of the state in quite a detailed manner. The President of the Republic of Estonia is elected by the *Riigikogu*⁹ or, in cases specified in Section 4 of this Article, by the special electoral assembly. The support of at least one fifth of the *Riigikogu* is required to name a candidate for the President of the Republic. To be named a candidate for the President of the Republic one needs to be an Estonian citizen by birth, and at least 40 years old.

The President of the Republic is elected by a secret ballot. Every member of the *Riigikogu* has one vote. Election goes to the candidate who gets two thirds of the

⁸ The web sites of the Presidents of the Baltic States – www.president.ee, www.president.lv, www.president.lt.

⁹ *Riigikogu* is the name of the Parliament of Estonia. www.riigikogu.ee.

membership's total number of votes. If none of the candidates gets the requisite majority of votes, a new round of votes will be taken on the following day. Before the second round of voting, a new slate of candidates will be submitted. If none of the candidates gets the requisite majority of votes in the second round, a third round of voting will be held on the same day between the two candidates who got the greatest number of votes in the first two rounds. If no President of the Republic is elected in the third round of voting, the Chairman of the *Riigikogu* will, within one month, convene an electoral assembly for the purpose of electing the President of the Republic.

The *Electoral Assembly* consists of members of the *Riigikogu* and council representatives of local governments. Every local government council elects to the electoral assembly at least one representative, who must be a citizen of Estonia.

The *Riigikogu* submits two of its candidates, who have received the greatest number of votes, to the electoral assembly for its deciding vote between the two presidential candidates. The right to submit a presidential candidate can also be exercised by at least 21 members of the electoral assembly. The electoral assembly rules with the majority vote of its members who participate in the election for the President of the Republic. If, in the first round, none of the candidates gets elected, another round of voting is done on the same day between the two candidates with the greatest number of votes. Evidently, that a more detailed procedure for electing the President of the Republic is established by the election law for the President of the Republic.

Thus, the President of the Republic of Estonia may be elected in the *Riigikogu* (Parliament).¹⁰ And only in the cases when the Head of State is not elected in the Parliament, then the Electoral Assembly, which is formed from the members of the said Parliament and municipal representatives, is convened.

Articles 35, 36, 37, 38, and 39 of the Constitution of the Republic of Latvia also provide for the main principles which must be followed when electing the President of the state. The *Saeima*¹¹ elects the President for a term of four years. The President is elected by secret ballot with a majority of the votes of not less than fifty-one members of the *Saeima*. Any person who enjoys full rights of citizenship and who has attained the age of forty years may be elected President. A person with dual citizenship may not be elected President. The office of the President may not be held concurrently with any other office. If the person elected as President is a member of the *Saeima*, he or she must resign his or her mandate as a member of the *Saeima*. The same person may not hold office as President for more than eight consecutive years.¹² In this context one can only note that articles of the 1922 Latvian Constitution are, in a certain sense, unique, as they describe the electoral right as the primary political right.¹³

Articles 78–82 of the Constitution of the Republic of Lithuania also set in detail the procedure for the election of the Head of State.

¹⁰ Grigienė Kotrina. Estijos Respublikos prezidento konstitucinis statusas. *Prezidentas vadybinės valdžios institucijų sistemoje*. Vilnius: Leidykla Mes, 2011, pp. 361–362.

¹¹ *Saeima* is the name of the Parliament of Latvia. www.saeima.lv.

¹² Večerskytė Juta. Latvijos Respublikos prezidento konstitucinis statusas. *Prezidentas vadybinės valdžios institucijų sistemoje*. Vilnius: Leidykla Mes, 2011, pp. 411–412.

¹³ BRANTA Aija. Rinkimų teisės problemos Konstitucinio Teismo jurisprudencijoje. *Rinkimų teisės ir kitos konstitucinės jurisprudencijos problemos – Vėlėšanu tiesību un citas konstitucionālās jurisprudences problemas*. Vilnius, 2011, p. 47.

A Lithuanian citizen by origin, who has lived in Lithuania for not less than the last three years, if he has reached the age of not less than 40 prior to the election day, and if he may be elected a member of the *Seimas*,¹⁴ may be elected President of the Republic. The President of the Republic is elected by the citizens of the Republic of Lithuania for a five-year term by universal, equal, and direct suffrage by secret ballot. The same person may not be elected President of the Republic for more than two consecutive terms. Any citizen of the Republic of Lithuania who meets the conditions set forth in Paragraph 1 of Article 78 of the Constitution and has collected the signatures of not less than 20,000 voters may be registered as a presidential candidate. The number of candidates for the post of the President of the Republic is not limited.

Regular elections of the President of the Republic of Lithuania are held on the last Sunday two months before the expiration of the term of office of the President of the Republic.

The candidate for the post of the President of the Republic who, during the first voting in which not less than half of all the voters participate, receives the votes of more than half of all the voters who participated in the election, is deemed elected. If less than half of all the voters participate in the election, the candidate who receives the greatest number of votes, but not less than 1/3 of the votes of all the voters, is deemed elected. If, during the first voting round, no single candidate gets the requisite number of votes, a repeat voting is held after two weeks pitting the two candidates who received the greatest number of votes against each other. The candidate who receives more votes thereafter is deemed elected. If no more than two candidates take part in the first round, and neither of them receives the requisite number of votes, a repeat election is held.

The elected President of the Republic takes office on the day following the expiration of the term of office of the President of the Republic, after he, in Vilnius, in the presence of the representatives of the Nation, the members of the *Seimas*, takes an oath to the Nation to be faithful to the Republic of Lithuania and the Constitution, to conscientiously fulfil the duties of his office, and to be equally just to all. The re-elected President of the Republic also takes the oath. The act of oath of the President of the Republic is signed by him and by the President of the Constitutional Court, or, in the absence of the latter, by a justice of the Constitutional Court.

Table 2: The election of Presidents of the Baltic States

| State | The form of elections of Presidents |
|-----------|---|
| Estonia | In Parliament (<i>Riigikogu</i>) or Electoral Assembly (<i>Riigikogu</i> + representatives of local governments) |
| Latvia | In Parliament (<i>Saeima</i>) |
| Lithuania | Direct |

¹⁴ *Seimas* is the name of the Parliament of Lithuania www.lrs.lt.

Thus, the content of the constitutions fully illustrates that the three “similar” states have conceptually different procedures for the election of their Presidents. The President of the Republic of Latvia is elected in the Parliament – the *Saeima*. The procedure for electing the President that exists in Latvia is very similar to the experience of the Czech Republic, Hungary, or Italy. Since the restoration of sovereignty in Latvia in 1990, *Guntis Ulmanis*, *Vaira Vīķe-Freiberga*, *Valdis Zatlers*, and *Andris Bērziņš* have been elected as Presidents of the State.

The Estonian procedure for electing the President, as it is evident, is a “combined” one. The essence of this combination is that only in the cases when the Parliament, due to political circumstances, is not capable, several times in succession, of electing the President of the state, then the President is elected by a special institution, which is formed from all Parliament the representatives of the and municipalities. Such an extended assembly, in a certain aspect, reminds of the institution for the election of the Federal President in the Federal Republic of Germany. In Germany, the Federal President is also elected by the Federal Convention, which is composed of the members of the *Bundestag* and the representatives elected by the parliaments of the *Länder*. The difference between the German and Estonian models arises from the fact that in Estonia the said special institution has a possibility of electing the President only in the cases after the Estonian Parliament has not been able to fulfil this itself. In Germany, the President is elected exclusively by the Federal Convention. Since the entry into force of the 1992 Estonian Constitution, *Lennart Meri*, *Arnold Rüütel*, and *Toomas Hendrik Ilves* have been elected as Presidents of the State.

In the Republic of Lithuania the President is elected directly by the nation. It is a model which is applied in France, Slovakia, Slovenia, Poland, Romania, and Austria. In Lithuania, since 1992, when the present Constitution came into force, *Algirdas Mykolas Brazauskas*, *Valdas Adamkus*, *Rolandas Paksas*, and *Dalia Grybauskaitė* have been the Presidents elected in this manner.

By summing it up, it is possible to hold that the three Baltic States have three essentially different models of presidential elections. To answer the question whether these election models have influence on the content of legal and political powers of the Presidents, we need to look at the powers exercised by the Heads (who are elected in a different way) of the states in question.

3. OFFICIAL DUTIES OF THE PRESIDENTS: A COMPARATIVE PERSPECTIVE

Before comparing the contents of the powers of the Presidents of the Baltic States, one should notice a conceptual aspect relating to the *form of state governance*. In a democratic state, where the model of separation of powers is realised, the President of the state always implements his powers only in the context of the system of institutions – the system the principle of activity whereof involves a harmonious mechanism of checks and balances. Namely the analysis of the checks and balances mechanism creates preconditions for identifying a form of state governance. Scientific

doctrine contains a lot of discussion on the subject, however, in essence, it is recognised that a form of state governance can be identified on the basis of the principal criterion – the accountability of the government.

When the government is accountable to the representative institution of the people, i.e. the parliament, the governance form should be considered as parliamentary. In contrast, unaccountability of the executive power to the parliament is a typical trait of the presidential form of governance. Accountability of the government to the Head of State and to the parliament is typical of the mixed (semi-presidential) model. Summing it up, the analysis of the main and auxiliary criteria of the governance form allows to draw a conclusion that the Baltic States entrench the parliamentary form of governance.¹⁵ Table 3 shows the subjects to which the respective governments are politically accountable. These criteria provide a ground for identifying the forms of state governance of the Baltic States.

Table 3: Government accountability

| State | Articles of the Constitutions |
|-----------|--|
| Estonia | The Parliament decides on votes of no-confidence in the Government of the Republic, the Prime Minister or individual ministers; the Government of the Republic must resign when the Parliament expresses no confidence in the Government or the Prime Minister. <i>Constitution of the Republic of Estonia, Articles 65 (13), 92 (3).</i> |
| Latvia | The Prime Minister and other Ministers must have the confidence of the Parliament and they are accountable to the Parliament for their actions. If the Parliament expresses no confidence in the Prime Minister, the entire Government must resign. <i>Constitution of the Republic of Latvia, Article 59.</i> |
| Lithuania | The <i>Seimas</i> (Parliament) supervises the activities of the Government, and may express non-confidence in the Prime Minister or individual Ministers. <i>Constitution of the Republic of Lithuania, Article 67.</i> |

Thus, at least on the theoretical level the form of state governance of the Baltic States is the same – *a parliamentary republic*. In none of these states is the government politically accountable to the President of the state. It means that not only in Latvia and Estonia, but also in Lithuania (where the Head of State is elected directly), the President may not, without the majority of the parliament, decide on the fate of the Government.

It needs to be noted that even if one acknowledges that the Baltic States are parliamentary republics, *de jure* the contents of the powers of the Presidents of these states may be different. The data on the powers of the Presidents of the Baltic States

¹⁵ MESONIS Gediminas. *Valstybės valdymo forma konstitucinėje teisėje*. Vilnius, 2003, p. 69–71.

in certain areas of their activity, as presented in Table 4, fully illustrates that a formal theoretical abstraction – the *parliamentary governance form* – does not yet mean the sameness of the powers of the Heads of States.

Thus, it has been mentioned that the Governments of the Baltic States are not politically accountable to the Presidents, since they are politically accountable to the legislative institutions. This universal generalisation, however, does not mean that the proportion of two-way powers of the Government and the Presidents in the Baltic States is identical. For instance, the President of Latvia, who is elected only in the Parliament, has the constitutional powers (Article 46 of the Constitution of Latvia) to convene extraordinary meetings of the Government of Latvia and personally prepare an agenda for these meetings.¹⁶ Thus, although the President of Latvia may not obligate a minister or the head of the government to vote in one or another way in the context of a concrete question under consideration, however, it is clear that the participation of the Head of State in meetings of the government, as well as his position, may be significant in the course of adopting decisions. It needs to be emphasised that similar powers are enjoyed by neither the Lithuanian, nor Estonian Presidents. In these latter countries, the Presidents do not participate in meetings of the government; neither can they impose on the government any agenda for consideration, nor can they vote with the members of the government when decisions are being adopted.

Table 4: Powers of the Presidents

| State | The President's powers to lead the Government | The President's veto rights | The President's right to dissolve the Parliament | The President's right to call a referendum |
|-----------|---|-----------------------------|--|--|
| Estonia | Unforeseen | Limited | Limited | Unforeseen |
| Latvia | EXIST | Limited | Limited | EXIST |
| Lithuania | Unforeseen | Limited | Limited | Unforeseen |

Whatever the form of state governance which exists in the country, the Head of State has the powers to *veto* the laws passed by the parliament. These are the powers that are entrenched in the provisions of the Constitutions. In all the three states in question the entry of a law into force is linked to the signing of the law, as well as the procedure for promulgating laws. The said powers constitute one of the functions of the Heads of States that is based on a long-standing tradition.

There is no doubt that *veto* is to be assessed as an integral part of the checks and balances system. The powers of the President to veto the laws passed by the parliament is *de jure* significant where it is provided that the procedure for overriding this *veto* in the parliament is more complicated than enacting a law. A classic example of the strict

¹⁶ TAUBE Caroline. *Constitutionalism in Estonia, Latvia and Lithuania. A Study in Comparative Constitutional Law*. Uppsala: Iustus Förlag, 2001, p. 116–117.

veto model is the United States of America. The 1997 Constitution of the Republic of Poland also provides for the requirement for the qualified majority in order to override the presidential *veto*. In this context it is possible to note at once that the powers of *veto* of the Presidents of the Baltic States are relatively weak. These powers are more comparable to the powers of the Presidents of Germany and the Czech Republic than to those of the Presidents of Poland or the USA. Thus, when a strong majority is formed in the parliament, then the presidential *veto* is overridden *de facto* without difficulty. And conversely, the significance of the presidential *veto* grows only when the parliament is politically fragmented, and, therefore, it is not capable of ensuring even the simple majority necessary in order to override the presidential *veto*.

The Constitution of the Republic of Latvia (Article 71) provides that a law vetoed by the President is enacted by the *Saeima* in accordance with the same procedure as when passing the law for the first time. It needs to be noted that the Constitution of the Republic of Latvia (Article 72) provides for one more power comparable to *veto*. The President of Latvia has the right “to suspend the proclamation of a law for a period of two months”. Nevertheless, one should also notice that this suspension is only a specific “*veto*”, as it is related only to the submission of the suspended law to a nationwide referendum. The *Saeima* has an opportunity to avoid a referendum only by adopting a corresponding law repeatedly, and only by two-thirds of the qualified majority of all the members of the Parliament. Thus, the President of Latvia, in this case, similarly, enjoys the relatively extensive powers, if compared to his counterparts in Lithuania and Estonia.

The President of the Republic of Estonia can only evaluate acts that have been submitted to him for promulgation. He can contest the legislator’s inactivity only if the norm, which has not been passed, should be included namely in the contested legal act or is essentially related to the act.¹⁷ Analogous powers are also conferred on the Head of the State of Lithuania. The *veto* powers of the President of the Republic of Lithuania are entrenched in Articles 71 and 72 of the Constitutions of the Republic of Lithuania. Within ten days of receiving a law adopted by the *Seimas*, the President of the Republic of Lithuania either signs and officially promulgates the law, or refers it back to the *Seimas* together with relevant reasons for reconsideration.

If the law adopted by the *Seimas* is not referred back and is not signed by the President of the Republic within the specified period, the law comes into force after it is signed and officially promulgated by the Speaker of the *Seimas*. The *Seimas* may consider anew and adopt the law which has been referred back by the President of the Republic. The law reconsidered by the *Seimas* is deemed adopted provided the amendments and supplements submitted by the President of the Republic were adopted or if more than 1/2 of all the members of the *Seimas* voted for the law.¹⁸

When speaking about the powers of the Presidents to call national referendums, at this point one may distinguish Latvia. In Lithuania and Estonia such powers

¹⁷ Report of the Supreme Court of the Republic of Estonia (editor E. Jarašiūnas) *Problems of Legislative Omission in Constitutional Jurisprudence*. Vilnius: Constitutional Court of the Republic of Lithuania, 2009, p. 479.

¹⁸ TAUBE Caroline. *Constitutionalism in Estonia, Latvia and Lithuania. A Study in Comparative Constitutional Law*. Uppsala: Iustus Förlag, 2001, pp. 152–155.

belong exceptionally to the Parliaments – the *Seimas* and the *Riigikogu*. In Latvia, as mentioned, the President may suspend the entry of a law into force and submit that law to a referendum. A significant fact is that in Latvia the President of the State may also initiate a “specific” referendum on the dissolution of the *Saeima*. Such a possibility for the first time in the history of Latvia was realised in 2011. President *Valdis Zatlers* initiated a referendum on the dissolution of the Parliament. In the referendum the nation gave its assent to an pre-term election and the *Saeima* was dissolved. The President of Lithuania may, in one-person, dissolve the Lithuanian *Seimas* only in the context of the circumstances provided for in the Constitution. Article 58 of the Constitution of the Republic of Lithuania provides for two circumstances in which the President acquires the right to dissolve the *Seimas*. Pre-term elections to the *Seimas* may be announced by the President of the Republic: (1) if the *Seimas* fails to adopt a decision on the new programme of the Government within 30 days of its presentation, or if the *Seimas* two times in succession gives no assent to the programme of the Government within 60 days of its first presentation; (2) on the proposal of the Government, if the *Seimas* expresses direct no-confidence in the Government. It is evident that the formal – *de jure* – powers of the President of Lithuania to dissolve the *Seimas* are *de facto* to be assessed as hypothetical possibilities, therefore, it is not surprising that during the period of validity of the 1992 Constitution of Lithuania, actually, there was no such a possibility in practice.

It also needs to be mentioned that, besides the powers that have already been mentioned, the Presidents of the Baltic States enjoy various constitutional rights of initiative. Still in this case the outcomes of an initiative directly depend on the subjects who have powers to realise such initiatives. To take an example, in Estonia there was a long-lasting discussion whether it would be worth establishing the Constitutional Court. This idea was actively propagated by an extremely, both domestically and abroad, popular President *Lennart Meri*.¹⁹ The idea was launched officially in 2001 by the then President of Republic, *Lennart Meri*, using his right to initiate a constitutional amendment under Article 78 of the Constitution. So far, however, the initiative has not to been welcomed by the legislative body, and the Supreme Court itself has expressed a negative attitude to the idea.²⁰

One is also to note one more aspect which relates to a possibility of initiating impeachment proceedings against Presidents of the state. A possibility of impeachment is provided for in the Constitutions of all the three states under discussion. Impeachment proceedings themselves may differ in details, but the principle is that the fate of Presidents of the Baltic States in potential impeachments, for the greatest part, depends on the will of the Parliaments.²¹ In this context, it is noteworthy that in 2004, in Lithuania, a directly elected President of the State *Rolandas Paksas* was, as a result of

¹⁹ This President of the Republic of Estonia was so popular that after his death the Tallinn International Airport in the capital of Estonia was named after him.

²⁰ MARUSTE Rait. Court Models and Procedures: Should Estonia Change? In SMITH Eivind. (ed.) *The Constitution as an Instrument of Change*. Stockholm: SNS Förlag, 2003, p. 153.

²¹ LUCHTERHANDT Otto. Die Amtsenthebung des Staatspräsident im Spannungsfeld von Rechtsstaats- und Demokratieprinzip. Šileikis Egidius (ed.) *Verfassungsentwicklung in Litauen und Polen im Kontext der Europäisierung*. Vilnius: LMPA, 2010, pp. 172–173.

the impeachment proceedings, removed from office by the *Seimas*. This was the first time a European head of state has been successfully impeached.

G. Sartori refers to a manner of presidential elections as an important political aspect, but acknowledges that the electoral procedure says nothing about real powers of the President.²² And in this aspect he is right. Speaking about the relation of the manner of presidential elections and the presidential powers in the Baltic States, one can observe that on the *de jure* level the two sides are “non-communicating vessels”. While analysing the scope of constitutional powers of the Presidents of these states and while attempting to relate them to the electoral procedure, one can notice certain contradictory aspects. More than often the Presidents elected in the parliament, in one or another area of their powers, are more influential than the Presidents elected directly. In still other cases, the powers are identical or very similar.

In terms of the *de facto* scope of presidential powers, the electoral factor is to be deemed not to be decisive either. This is to be linked to the personality of a concrete elected President, as well as to concrete political majority in the parliament. The circumstance that the President is elected directly creates only theoretical preconditions to maintain that in that particular state the President enjoys more powers and has greater influence. The history of the Baltic States provides evidence in relation to the said situation. The Presidents of the states, elected in each country by the same manner, have expressed themselves in the legal and political areas quite differently. It will suffice to compare *Lennart Meri* with *Arnold Rüütel* in Estonia, *Guntis Ulmanis* with *Vaira Vīķe-Freiberga* in Latvia, and *Valdas Adamkus* with *Dalia Grybauskaitė*, or *Algirdas Brazauskas* with *Rolandas Paksas*, in Lithuania. All of them were elected in their countries in accordance with the same electoral procedure, however, their influence in the system of state powers, as well as their international prestige, definitely differ, although in each country the Presidents followed *de jure* the same powers.

CONCLUSIONS

While summing it up, it is possible to hold that the Baltic States, even though they are more often than not presented as one geopolitical region, appear to be quite distinctive in terms of their constitutional regulation. Lithuania and Estonia have maintained the validity of the Constitutions adopted by referendums in 1992 following the restoration of their statehood. The Republic of Latvia has upheld the validity of the pre-war amended Constitution adopted in 1922.

The procedure for the election of Presidents of the Baltic States and the main powers of the Presidents of these states are entrenched namely in the respective constitutions. Only the President of the Republic of Lithuania is elected directly by the nation. Presidents of Latvia and Estonia are elected indirectly. In Latvia, the Head of State is elected by the *Saeima* (Parliament). In Estonia, the possibility of electing a President is, likewise, conferred on the Parliament (*Riigikogu*). However, the Constitution of Estonia

²² SARTORI Giovanni. *Comparative Constitutional Engineering. An Inquiry into Structures, Incentives and Outcomes*. New York: New York University Press, 1997, pp. 83–84.

provides that if the Parliament of the state fails to elect a President, the election is, then, held by the Electoral Assembly, which is composed of the representatives of the *Riigikogu* and municipalities of the Republic of Estonia. Thus, Presidents of the Baltic States are elected in different ways, and their *de jure* constitutional powers also differ.

In all the three Baltic States the Presidents act in the framework of parliamentary republics. The President of Latvia may participate in meetings of the Government, preside over such meetings, and prepare a governmental agenda. In Lithuania and Estonia, the Presidents do not participate in meetings of the Government, they may not provide the content of a governmental agenda, nor have they the right to vote as a member of the Government.

The Head of none of the Baltic States may unilaterally call national referendums (a certain exception is the President of the Republic of Latvia), and all of the Heads of States have constitutionally limited possibilities of dissolving the parliaments. In all of the three Baltic States the presidential *veto* may be overridden in the respective parliament by a simple majority of votes. Thus, the *veto* powers in the Baltic States are to be assessed as weak.

The attempts of political scientists to link the scope of the powers of Presidents of the Baltic States to the form of the election of these Presidents are hardly grounded. The *de jure* powers of Presidents of these states are entrenched in the Constitutions and they are not related to the manner of the election of Presidents. As a result, for example, the President of Latvia, who is elected by the Parliament, enjoys relatively more extensive *de jure* powers, if compared to the President of Lithuania, who is elected in direct and universal elections. Likewise, the manner of electing a President should not be linked to the political influence of the President. The experience of the development of the institute of the President of each Baltic State illustrates that even the Presidents elected by means of the same form of elections differ in terms of their political – *de facto* – influence. The scope and content of these powers bear no direct relation to the manner of presidential elections.

Shrnutí

V rámci shrnutí je možné konstatovat, že baltské státy, které jsou velmi často zahrnovány do jednoho geopolitického regionu, se poměrně zásadně liší svými ústavními úpravami. Litva a Estonsko zachovaly v platnosti ústavy schválené v referendech v roce 1992, která následovala po obnovení jejich státnosti. Lotyšská republika zachovala po změnách platnost předválečné ústavy schválené v roce 1922.

Způsob volby prezidenta jednotlivých baltských států a jeho hlavní pravomoci jsou upravené jednotlivými ústavami. Pouze prezident Litevské republiky je volen přímo lidem. Prezidenti Lotyšska a Estonska jsou voleni nepřímo. V Lotyšsku prezidenta volí *Saeima* (Parlament). Stejně tak je v Estonsku volba prezidenta svěřena parlamentu (*Riigikogu*). Avšak estonská ústava stanoví, že v případě, kdy se parlamentu nepodaří prezidenta zvolit, provede volbu Volební shromáždění, které je složené ze zástupců *Riigikogu* a estonských obcí. Prezidenti baltských států tak jsou voleni různými způsoby a jejich ústavní pravomoci se také liší.

Vše všech třech baltských státech je postavení prezidenta vymezeno rámcem parlamentní republiky. Lotyšský prezident se může účastnit schůzí vlády, předsedat jim a připravovat jejich program. V Litvě a Estonsku se prezident nemohou schůzi vlády účastnit, nemají žádný vliv na vládní agendu, ani nemají právo hlasovat jako členové vlády.

Hlava žádného z baltických států nemůže samostatně vyhlásit celostátní referendum (s jistou výjimkou v případě prezidenta Lotyšské republiky), a všichni prezidenti jsou ústavou omezeni v možnosti rozpustit parlament. Ve všech třech baltických státech je možné prezidentské veto přehlasovat prostou většinou hlasů. Právo veta tak je v baltických státech považováno za slabé.

Pokusy politologů najít souvislost mezi pravomocemi prezidentů baltických států a způsobem jejich volby jsou jen málo podložené. Pravomoci prezidentů jsou zakotvené v ústavách a nemají žádnou souvislost se způsobem volby. Výsledkem je, například, že lotyšský prezident, který je volen parlamentem, je vybaven relativně širokými pravomocemi, v porovnání např. s litevským prezidentem, který je volen ve všeobecných přímých volbách. Podobně by neměl být způsob volby spojován s politickým vlivem prezidenta. Zkušenosti s vývojem instituce prezidenta v baltických státech ukazují, že dokonce prezidenti volení stejným způsobem se liší ve svém faktickém vlivu. Rozsah a podoba prezidentských pravomocí nemá žádnou přímou souvislost se způsobem volby.

Key words: Baltic States, president, parliament, constitution, election, checks and balances system, veto right, referendum

Klíčová slova: baltické státy, Pobaltí, prezident, parlament, volby, systém brzd a protiváh, dělba moci, právo veta, referendum