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Constitutional Position of the Head of State in Czechoslovakia, Yugoslavia, and Poland in the Period between 1918 and 1990

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Abstract. The constitutional development in Czechoslovakia, Yugoslavia, and Poland was turbulent from their birth in 1918 until the fall of the communist regime. It can be said that during this period of time a significant number of acts of constitutional nature have been adopted in the mentioned countries and that Yugoslavia certainly had the most dynamic constitutional development adopting one constitutional act in each decade. All these acts of constitutional character inevitably regulated the position of the head of state introducing certain particular legal solutions such as the election of the head of state with the participation of the Council of Electors and the outgoing President in Poland or the existence of the collective and individual head of state at the same time with certain overlapping prerogatives in Yugoslavia.

The aim of this article is to examine the position of the head of state, taking into consideration every act of constitutional nature adopted in the above mentioned countries and particularly dealing with issues such as the election, term of office, termination of office, prerogatives, and accountability of the head of state with the intent to determine the specificities, similarities, and, above all, differences in this regard.

Keywords: prerogatives of the head of state, term of office, termination of office, accountability, Yugoslavia, Poland, Czechoslovakia

1. Introduction

The end of the First World War brought significant changes to the political map of Europe. In Central Europe, the most serious consequences were caused by the dissolution of the Austro-Hungarian Monarchy. On the one hand, new countries were created on its former territory, while, on the other hand, certain territories became part of already existing countries. For the needs of this paper, it is worth mentioning that Czechoslovakia, as the common state of Czechs and Slovaks, was established on 28 October 1918. Furthermore, Poland restored its statehood after more than one century with the proclamation of the Second Polish Republic on 11 November 1918. Finally, the Kingdom of Serbs, Croats, and Slovenes, as the only monarchical state among the examined countries, was proclaimed on 1 December 1918. This country changed its official name in 1929, becoming the Kingdom of Yugoslavia.

The turmoil of the Second World War fundamentally changed Yugoslavia, which ceased being a monarchical state, becoming a republic on 29 November 1945 with the official name of the Federal People's Republic of Yugoslavia. It changed its official name once more in 1962 into the Socialist Federal Republic of Yugoslavia. On the other hand, Czechoslovakia and Poland remained republics preserving their continuity with the states created in 1918. However, the common denominator of all the examined countries was the predominant influence of communist ideology.

The objective of this article is to examine the constitutional position of the head of state in the above-mentioned countries in the period starting with their creation and until the collapse of the communist regimes in order to determine similarities, differences, and peculiarities connected with the regulation of his legal position. This paper is divided into two separate chapters, covering the period before and after the Second World War. Each chapter contains subchapters devoted to issues such as election, term of office, termination of office, prerogatives, and accountability of the head of state during the examined historical period in the studied countries. Particular focus is placed on the provisions of numerous constitutions and constitutional acts adopted in the examined countries during this 70-year period of time.

2. The Period between 1918 and 1939

2.1. Election, Term of Office, and Termination of Office of the Head of State

The first constitutional act adopted in the examined countries was the Interim Constitution of Czechoslovakia from November 1918.[1] Its main objective was to determine the principles on which the Czechoslovak statehood was to be constructed. According to this provisional act, the president was elected by the National Assembly with a two-thirds majority, while the presence of two-thirds of all deputies was needed for the election. The elected president was to remain in office until the election of the new head of state pursuant to the provisions of the final Constitution which was to be adopted (Art. 7). This act also stipulated that the function of the president was to be entrusted to the government, which could delegate certain presidential tasks to the prime minister in case the office of the president became vacant or if he tarried abroad (Art. 8).

Additionally, the Constitutional amendments of 1919[2] brought some changes concerning the termination of office. Specifically, Article 8 ruled that if the president was unable to perform his duties due to illness or if the office of the president became vacant differently, the government (in the meaning of 'cabinet') exercised his power, which could be entrusted to the prime minister. Moreover, if the president was infirm for more than a month, the National Assembly elected a vice president, who filled this position until the return of the president (Art. 8).

Poland adopted its provisional 'Small Constitution'[3] in February 1919. Similarly to the legal solution present in Czechoslovakia, the function of the *Naczelnik Państwa* (Chief of State) was entrusted by the Sejm to Józef Piłsudski until the adoption of a comprehensive constitution.

Czechoslovakia adopted its final Constitution[4] in February 1920, repealing the Interim Constitution. According to Article 57, the president was elected by the National Assembly with a three-fifths qualified majority. This Constitution also contained a specific provision stating that no one could be elected president more than twice in succession. The only exception from this limitation was granted to the first President Tomáš Garrigue Masaryk due to his contribution to the creation of

1 Zákon č. 37/1918 Sb. ze dne 13. listopadu 1918 o prozatímní ústavě [Act no. 37/1918 on the Interim Constitution].

2 Zákon č. 271/1919 Sb. ze dne 23. května 1919, kterým se mění zákon o prozatímní ústavě [Act no. 271/1919 amending the Interim Constitution].

3 Uchwała Sejmu z dnia 20 lutego 1919 r. o powierzeniu Józefowi Piłsudskiemu dalszego sprawowania urzędu Naczelnika Państwa [Legislative Sejm's ordinance of 20 February 1919, entrusting Józef Piłsudski with the further execution of the office of Chief of State].

4 Zákon č. 121/1920 Sb. ze dne 29. února 1920, kterým se uvozuje ústavní listina Československé republiky [Act no. 121/1920 introducing the Constitutional Charter of the Republic of Czechoslovakia].

Czechoslovakia as a democratic state (Art 58, Sec. 4). Furthermore, if the president died or resigned during his term of office, all his powers were to be exercised by the government (again, in the meaning of 'Cabinet') until the election of a new president (Art. 60). Similarly, in Poland, which adopted its final Constitution[5] in 1921 laying the ground for a parliamentary system upon the example of the French Third Republic,[6] the Sejm and Senate in joint session elected the president with an absolute majority (Art. 39). On the other hand, pursuant to Article 40, in case of a permanent or temporary inability of the president to fulfil his duties, the Marshal of the Sejm, and not the government (cabinet), as it was the case in Czechoslovakia, was entitled to act as his deputy. Both constitutions limited the term of office of the president to the period of 7 years (Art. 58, Sec. 2. of the Czechoslovak Constitution, Art. 39. of the Polish Constitution).

The first constitution of the Kingdom of Serbs, Croats, and Slovenes[7] was adopted in June 1921, and it is known as *Видовдански устав* 'Vidovdan Constitution' in the Serbian historiography. Its specificity in this regard was that it explicitly stated that the King was Petar I Karađorđević and that he was to be succeeded by his son, Crown Prince Aleksandar, and by his male descendants from a legal marriage according to the principle of primogeniture (Art. 56, Sec. 1). If the King had no male offspring, he was entitled to appoint his successor with the consent of the National Assembly (Art. 56, Sec. 2). During a period of 'the monarchic dictatorship',[8] initiated by the *coup d'état* executed by King Aleksandar in January 1929, the Act on Royal Power and Supreme State Administration[9] further defined the reign of the King. The principle of primogeniture remained, but in case the King had no male offspring, he could nominate his heir from the descendants in the collateral line (Art. 7). Compared to the Constitution from 1921, the consent of the National Assembly was not required in this case. Furthermore, according to Article 10, the regency had the task to substitute the king if he was minor or permanently incapable due to a mental or physical infirmity.

With the Second World War looming, the Kingdom of Yugoslavia and Poland adopted new Constitutions,[10] respectively in 1931 and 1935. On the other hand, the 1920 Constitution of Czechoslovakia was never amended and remained in effect during the whole interwar period. Article 36 of the 1931 Constitution of the Kingdom of Yugoslavia specifically stated that the country was ruled by King

5 Ustawa z dnia 17 marca 1921 r. – Konstytucja Rzeczypospolitej Polskiej [Act from 17 March 1921 – Constitution of the Republic of Poland 1921].

6 Prokop 2018. 61.

7 Ustav Kraljevine Srba, Hrvara i Slovenaca iz 1921. godine [Constitution of the Kingdom of Serbs, Croats, and Slovenes 1921].

8 Krkljuš 2012. 321.

9 Zakon o kraljevskoj vlasti i vrhovnoj državnoj upravi [Act on Royal Government and Supreme State Administration 1929].

10 Ustawa Konstytucyjna z dnia 23 kwietnia 1935 r. [Constitutional Act from 23 May 1935].

Aleksandar I from the Karađorđević dynasty. The principle of primogeniture and the provision empowering the King to nominate his heir from the descendants of the collateral line remained, but the novelty was the introduction of the competence of the parliament in joint session to elect a new King from the same dynasty if the former King died without appointing his heir (Art. 37). Parliament also decided on the time of the establishment and of the termination of the regency in case the King was permanently incapable of exercising the royal prerogatives (Art. 41). It can be inferred that the provisions on the position of the King in vacancy were extended, so other institutions achieved broader competences in this regard.

The Polish Constitution of 1935, known in Polish historiography as the 'April Constitution', brought a peculiar change regarding the election of the President. Pursuant to Art. 16. Sec. 2–3, the candidates for the presidency were chosen by the Assembly of Electors,[11] and the retiring president was entitled to propose another candidate. If the former president exercised this right, the new president was elected by a referendum (Art. 16. Sec. 4). In case the retiring president failed to exercise it, the candidate of the Assembly of Electors was elected president (Art. 16. Sec. 5.). The term of office of the president remained the same as according to the 1921 Constitution (7 years), but it could be extended by the time necessary for the electoral procedure to be concluded (Art. 20. Sec. 2). Finally, according to Article 21, if the president died, resigned, or this position became permanently vacant otherwise during his 7 years term of office, the Assembly of Electors was to be convened to nominate a candidate.

It is to be concluded that the constitutional regulation of the election, term of office, and termination of office of the head of state in the examined countries had its specificities. The Kingdom of Serbs, Croats, and Slovenes / Kingdom of Yugoslavia, as the only monarchical state, explicitly mentioned the name of the king in its constitutions and regulated the succession to the throne and the position of the regency. Czechoslovakia, which was characterized by constitutional stability in this period, foresaw the role of the National Assembly in the election of the president and of the government in the event of his inability to exercise the office. Finally, the most interesting peculiarity of the Polish constitutional regulation was the election of the president in a referendum and the crucial role of the Assembly of Electors.

11 This institution consisted of the Speaker (Marshal) of the Senate as chairman, the Speaker (Marshal) of the Seym as vice-chairman, the prime minister, the First-President of the Supreme Court, the Inspector-General of the Armed Forces and 75 electors chosen from among the worthiest citizens, two-thirds of whom are elected by the Seym and one-third by the Senate. Their mandate terminates by law the day a new president is elected.

2.2. The Prerogatives of the Head of State

The Interim Constitution of Czechoslovakia from 1918 and the 'Small Constitution' of Poland from 1919 had a very important common feature concerning the status of the head of state: in both cases, they had a formally inferior legal position compared to the legislature.[12] Although being brief, the Czechoslovak Interim Constitution had a separate part concerning the position of the president. Article 10 endowed him with representational powers in foreign relations, appointment of officials and granting pardons, and he was also the commander in chief of the armed forces. Taking into account the fact that the president was also endowed with a very weak right of suspensive veto in Article 11, it is to be inferred that the president was not more than a ceremonial figurehead.

According to the Polish 'Small Constitution', the position of the chief of state was formally even weaker in terms of competences than that of its Czechoslovak counterpart. The text did not mention any representational right or duty and stated that the chief of state was a mere executor of the Sejm's resolutions (Art. 2). The only substantial prerogative was the appointment of the government, but the provision added that this decision must be made on the basis of an agreement with the Sejm (Art. 3).

It is important to underline, however, that both the Czechoslovak (Tomáš Garrigue Masaryk) and the Polish (Józef Piłsudski) head of state at that time had enormous authority and informal influence, which resulted in the strengthening of their constitutional position during this period.[13] Masaryk managed to achieve the amendment of the constitutional text, which brought the significant enhancement of his powers. *Inter alia*, he gained the right to appoint and dismiss the members of the government and assign a function to them, and his right of legislative veto was also considerably strengthened. Piłsudski, on the other hand, gained strong influence in the military field through an additional protocol added to the 'Small Constitution'.[14]

Furthermore, the 1920 Constitution of Czechoslovakia ensured the preservation of the strengthened presidential powers as it was laid down in the 1919 amendments, occasionally increasing them even more. The president retained representative competences traditionally associated with the heads of state (Art. 64),[15] his powers towards the government (Art. 70, 72, 82, 83), and also his veto right in an even more favourable form (Art. 47, 48). He additionally gained a very influential power of dissolving the parliament, without any significant

12 Schelle–Tauchen 2013. 58.
13 Prokop 2018. 61; Schelle–Tauchen 2013. 514.
14 Prokop 2018. 61.
15 I.e. representation of the country abroad, concluding treaties, appointing officers, exercising the role of commander-in-chief, granting pardons, decorations and donations, etc.

limitation (Art. 31). Although the First Czechoslovak Republic is mostly regarded as a parliamentary system,[16] these prerogatives created the possibility for the president to have a substantial influence on the political environment and act as a balance among the branches of power.[17]

The Polish Constitution of 1921 elaborated the legal position of the president much more clearly. According to this constitution, the president had wide competences in foreign relations (Art. 48, 49), was the supreme head of army during peacetime (Art. 46), and could also grant individual pardons (Art. 47). The right to appoint or recall the members of the government (Art. 45) and to convoke, adjourn, or close the parliamentary sessions (Art. 25) was also reserved to him. On the other hand, according to the original wording of this Constitution, the president had a less favourable position in certain aspects compared to the rules laid down by the 1920 Czechoslovak constitution: the president could only dissolve the Sejm with the qualified consent of the Senate (Art. 26), and there was no mention of a presidential veto whatsoever. This was significantly changed by the 1926 constitutional amendment, which, *inter alia*, eliminated the requirement of the senatorial consent for the dissolution of the parliament and allowed the president to issue statutory decrees under certain conditions.[18]

The Polish legislator, adopting a new constitution in 1935, further strengthened the position of the head of state at the expense of the parliament, creating a presidential system of government.[19] Article 11 of this Constitution stated that the president was the 'superordinate factor' coordinating the activities of the supreme state organs. The president retained all the important political competences guaranteed by the previous constitution in the amended form and gained other important tools of power as, for example, the right of veto (Art. 54). The right to appoint or dismiss not only the prime minister but also the First President of the Supreme Court, the President of the Supreme Board of Control, and the Commander in Chief, and his right to nominate the judges of the Tribunal of State and a certain number of Senators (all Art. 13) perfectly illustrated how extremely disproportional the system of powers introduced by the 1935 'April Constitution' became in favour of the president.

Furthermore, the first constitution of the Kingdom of Serbs, Croats, and Slovenes from 1921 designed the king as the head of state who had all the representative competences traditionally associated with such a position.[20] The government was subordinated and responsible to the king, who appointed its members (Art.

16 Pavlíček 2011. 39.
17 Schelle–Tauchen 2013. 542.
18 Kowalski 2014. 318–319.
19 Srokosz 2009. 273–291.
20 The king represented the state in foreign relations (Art. 51), concluded treaties (Art. 79), appointed officers and awarded decorations (Art. 49), granted pardons or amnesties (Art. 50), and he was also the supreme commander of all military forces (Art. 49).

90 and 91). He also had very broad competences towards the legislature: the right to convene the parliament or adjourn its sessions and a broadly formulated right to dissolve the parliament were also granted by this constitution (Art. 52). The king could also propose bills (Art. 78), and a legislative veto could also be implicitly deduced[21] from the text of the constitution (Art. 80).

King Aleksandar secured even more power for himself by introducing a royal dictatorship in 1929. The Act on Royal Power and Supreme State Administration stated that the king was the bearer of all state powers (Art. 2). The King disestablished the legislature and became the only holder of legislative power (Art. 18), while he naturally continued to exercise all powers that were guaranteed by the Vidovdan Constitution as well.

Pursuant to the Yugoslav Constitution of 1931, the King held the traditional representative competences (Art. 29, 30, 31, 65), and he was the head of executive (Art. 27) consisting of ministers who were appointed and recalled by him (Art. 77) and solely accountable to him. Legislative power was exercised jointly by the king and the restored parliament (Art. 26), as the legislative acts needed his approval (Art. 29, 66); in extraordinary situations, he was entitled to order indispensable measures to be undertaken irrespectively of any constitutional and legal prescriptions (Art. 116), could appoint half of the number of senators (Art. 50), and also could at any time convoke the parliament and dissolve its lower (elected) chamber (Art. 32).

Development trends in the interwar period regarding the powers of the heads of state varied strongly in the three examined countries. Czechoslovakia introduced a parliamentary system with a decently but not overly influential presidential position, which managed to survive in an unchanged form until the brink of the Second World War. Poland also started off with a parliamentary system with the presidential prerogatives being similar, perhaps even weaker than those of his Czechoslovak counterpart. Over time, this system proved not to be sustainable, and a gradual enhancement of presidential competences had been undertaken. Despite that the position of the head of state in Yugoslavia (king) was very influential from the initial period, the trend line of his powers could be best illustrated by a curve: after the initial phase it peaked, meaning virtually unlimited dictatorial powers were vested in him, a consolidation followed, which brought a slight limitation of them, albeit still securing an absolutely dominant position for the king.

2.3. Accountability of the Head of State

The Interim Constitution of Czechoslovakia regulated the issues relating to the accountability of the president only in two articles. Article 10 stipulated that executive acts made by the president had to be countersigned by a responsible

21 Krkljuš 2012. 304.

minister, while Article 9 excluded the possibility of criminal persecution of the president. Similarly, the Polish 'Small Constitution' of 1919 demanded that each act of the president be countersigned by the competent minister (Art. 5). Unlike the Czechoslovak Interim Constitution, it explicitly stated that the president was responsible to the Sejm for the exercise of his office (Art. 4).

Compared to the Interim Constitution, the Constitution of Czechoslovakia of 1920 contained more provisions on the accountability of the president. First of all, it stated that the president was not accountable for the exercise of his office, rendering the government responsible for his acts (Art. 66). The provision demanding that every executive act of the president be countersigned by a responsible minister remained (Art. 68). The novelty was the introduction of the impeachment proceeding. Specifically, in Article 67, it provided that the president could be prosecuted only for high treason before the Senate, upon an indictment made by the Chamber of Deputies. The penalty inflicted in the event of his conviction was the loss of office without the possibility of regaining it later.

Moreover, the Polish Constitution of 1921 also rendered possible the impeachment of the president envisaging even more impeachment reasons than the Czechoslovak. Article 51, primarily stated that the president was not responsible either to the parliament or according to civil law and stipulated that the president could be held responsible by the Sejm in the case of violation of the Constitution, treason, or for criminal offenses. It was the competence of the State Tribunal to hear the case and pass the sentence. In the case of a successful impeachment before the Court of State, the president was suspended from office. Finally, this Constitution also stated that each governmental act of the president needed the countersignature of both the President of the Council of Ministers and of the competent minister in order to be valid (Art. 44, p. 4).

Regarding the accountability of the King in the Kingdom of Serbs, Croats, and Slovenes, it should be noted that the Constitution of 1921 represented no exception envisaging in Article 54 that each act of the Royal Authority necessitated the countersignature of the competent minister in order to be valid and enforced. This Constitution in Article 55 explicitly stated that the personality of the King was inviolable and that he could neither be held accountable nor sued. However, this provision was not applicable to his private property. The Act on Royal Power and Supreme State Administration of 1929 contained the same provision (Art. 6) without mentioning the exception relating to private property. Given the fact that the king became the only holder of legislative power, this Act demanded that the king's decree, containing the law, be countersigned by the President of the Council of Ministers, the competent minister and by the Minister of Justice (Art. 18).

Furthermore, the Yugoslavian Constitution of 1931 did not bring any change compared to Article 55 of the Constitution of 1921.[22] It also stipulated that each

22 Article 35 of the Constitution of 1931 also stated that the personality of the king was inviolable

written act of the Royal power should have been countersigned by the competent minister or by the Council of Ministers, assuming the responsibility for it (Art. 34). It is to be concluded that the impeachment proceeding was not admissible according to Yugoslavian constitution acts adopted during the interwar period.

Finally, the Polish Constitution, adopted in 1935, stated that the president was not liable for acts of office, nor could he be held liable for any act not related to his office (Art. 15, Sec. 1). It is important to point out that the provisions on the impeachment proceeding present in the Polish Constitution of 1921 were omitted. The 1935 Constitution simply stipulated that the president could not be prosecuted during the term of his office for actions not connected with the performance of his duty. Thus, it is evident that the president could not be impeached anymore. Concerning the countersignature of the acts of the president, the legal solution present in Poland was peculiar because it distinguished two types of presidential official acts. The Constitution demanded the official acts of the president deriving from his presidential prerogatives to be countersigned by both the prime minister and the competent minister in order to be valid (Art. 14, Sec. 1), while, on the other hand, the countersignature was not necessary for the official acts not arising out of these prerogatives (Art. 14, Sec. 2).

It can be concluded that the institution of countersignature existed in all the examined countries. Solely Poland demonstrated certain specificities in this regard discerning two types of presidential official acts. The Kingdom of Serbs, Croats, and Slovenes / Kingdom of Yugoslavia was the only studied country which did not recognize the possibility of the impeachment of its head of state (king). On the other hand, the impeachment was admissible according to the Czechoslovak Constitution of 1920 and also pursuant to the Polish Constitution of 1921, but this possibility was later repealed.

3. The Period between 1945 and 1990

3.1. Election, Term of Office, and Termination of Office of the Head of State

The first examined country which adopted a new constitution during this period characterized by a strong Soviet influence was Yugoslavia.[23] Pursuant to the 1946 Constitution, the Presidium, as the collective head of state consisting of a president, six vice presidents, a secretary, and not more than 30 members,

and that he could not be held responsible or sued with an exception relating to his private property.

23 Ustav Federativne Narodne Republike Jugoslavije 1946 [Constitution of the Federal People's Republic of Yugoslavia 1946].

was elected by the National Assembly in joint session of both of its chambers (Art. 73).

In 1947, Poland adopted its provisional Constitution,[24] in Polish historiography known as the 'Small Constitution' of 1947 (*Mała Konstytucja z 1947*), establishing a new institution called the Council of State with mainly executive powers. The President of the Republic was its chairman (Art. 15). The provisions of the 1921 Constitution (Articles 40–44, 45, 46–54) were applied, and, therefore, the President was elected by an absolute majority of votes in the presence of at least 2/3 of the statutory number of deputies, and his term of office lasted 7 years.

Moreover, the tendency to rely on previous constitutional solutions was present also in Czechoslovakia, which adopted its Constitution[25] in 1948, repealing the Constitution of 1920. According to Article 68, the President of the Republic was elected by the National Assembly with three-fifths majority of the votes of those present. His term of office lasted 7 years (Art. 69, Sec. 1). Altogether, it can be concluded that the provisions concerning election, term of office, and termination of office of the president did not change compared to the 1920 Constitution.

The 1950s brought important constitutional changes in Poland and Czechoslovakia. Poland adopted a new Constitution in 1952, retaining the Council of State. This institution, consisting of the president, four vice-presidents, the secretary and nine members, was elected by the Sejm from among its members (Art. 24, Sec. 1). Taking into consideration the fact that Paragraph 3 of the same article stated that after the expiration of the term of office of the Sejm, the Council of State acted until the election of a new one by the newly elected Sejm, it can be deducted that its term of office was inseparably linked to the incumbency of the Sejm.

On the other hand, the Constitutional Law of 1953[26] abolished the Presidium as the collective head of state, introducing the institution of the President of the Republic as the executive organ of the Federal National Assembly. Pursuant to Article 74, the president was elected by the Federal National Assembly among its members in joint session of both of its chambers by a secret ballot, while the majority of votes of the total number of its members was needed for its election. Similarly to the solution present in the Polish 1952 Constitution, the term of office of the president was linked to the incumbency of the Federal National Assembly (Art. 77). In case the function of the president became vacant, one of

24 Ustawa Konstytucyjna z dnia 19 lutego 1947 r. o ustroju i zakresie działania najwyższych organów Rzeczypospolitej Polskiej [Constitutional Act from 19 February 1947 on the system and scope of activities of the highest authorities of the Republic of Poland].

25 Ústavní zákon č. 150/1948 Sb. ze dne 9. května 1948 Ústava Československé republiky [Constitutional Act no. 150/1948 from 9 May 1948 Constitution of the Czechoslovak Republic].

26 Ustavni zakon o osnovama društvenog i političkog uređenja Federativne Narodne Republike Jugoslavije i saveznim organima vlasti [Constitutional Law on the Fundamentals of the Social and Political Organization of the Federal People's Republic of Yugoslavia and Federal Authorities 1953].

the Vice-Presidents of the Federal Executive Council, designated by the same institution, exercised his function (Art. 78).

The specificity of Czechoslovakia, which adopted its Constitution[27] in 1960, is that unlike in the other two examined countries, the president was never a collective head of state. Pursuant to Article 61 of the 1960 Constitution, the president was elected by the National Assembly. His term of office was abridged compared to the Constitution of 1948 to last just 5 years (Art. 63). Furthermore, Article 65 stated that if the office of the president became vacant, the government was entitled to exercise this function or, more precisely, to delegate some powers to the prime minister. The Constitution of 1968 did not bring any noticeable change in this regard.

The constitutional development continued dynamically in Yugoslavia, but it ceased in Poland given the fact that the 1952 Polish Constitution remained in effect until the regime change. First of all, Yugoslavia adopted a new Constitution[28] in 1963. Pursuant to Article 221, the President was elected by the Federal National Assembly one month before the termination of his term of office, which lasted 4 years. Article 220 stipulated that there was a possibility for the President to be re-elected for one further consecutive term. In the same article, the Constitution introduced an exception personally for Josip Broz Tito, hence he could be re-elected without limitation regarding the term of office.

Furthermore, the Constitution of 1963 was amended in 1971. Through Constitutional Amendment XXXVI,[29] the Presidency of the Socialist Federal Republic of Yugoslavia was instituted as the collective head of state. The composition of this institution together with the election of its members stressed the federal nature of the state.[30] The term of office of its members lasted five years without the possibility to be elected more than twice in succession (Art. 13). Constitutional Amendment XXXVII regulated the position of the president, and in Article 1 it accentuated the fundamental role of Josip Broz Tito in the creation of the state. It also stated that the above-mentioned articles 220 and 221 of the 1963 Constitutions were still to be applied, extending the term of office of the president to 5 years (Art. 3).

Finally, the Constitution of 1974[31] permitted the members of the Presidency to be elected twice in succession (Art. 324, Sec. 2). The undisputable position

27 Ústavní zákon č. 100/1960 Sb. ze dne 11. července 1960 Ústava Československé socialistické republiky [Constitutional Act no. 100/1960 Constitution of Czechoslovak Socialist Republic].

28 Ustav Socijalističke Federativne Republike Jugoslavije [Constitution of the Socialist Federal Republic of Yugoslavia].

29 Ustavni amandmani XXXVI i XXXVII [Constitutional Amendments XXXVI and XXXVII].

30 The Presidency consisted of the presidents of the assemblies of the republics, the presidents of the assemblies of the autonomous provinces, and two members from each republic, one member from each autonomous province, elected by the assembly of the republic or autonomous province at a joint session of all councils (Art. 10).

31 Ustav Socijalističke Federativne Republike Jugoslavije [Constitution of the Socialist Federal Republic of Yugoslavia].

of Josip Broz Tito was assured by Article 333, which stated that the National Assembly could elect him for an unlimited term of office.

The constitutional development of the studied countries was influenced by communism. A collective head of state was present in Yugoslavia (Presidium, Presidency) and in Poland (the Council of State), while, on the other hand, Czechoslovakia did not introduce this type of head of state. The peculiarity of the Yugoslavian system was the existence of the duality of heads of state (presidency and president) since the adoption of the Constitutional Amendments of 1971. It is worth noting that the Polish and Czechoslovak constitutions did not permit their heads of state to be elected for an unlimited term of office, which was the privilege granted to Josip Broz Tito by the Constitution of 1974.

3.2. The Prerogatives of the Head of State

Pursuant to the Yugoslav Constitution of 1946, the Presidium, as a collective head of state, exercised some of the traditional competences such as awarding decorations, granting pardons, appointing and recalling ambassadors, and ratifying international treaties (all Art. 74). The Presidium had also other prerogatives, which were not really conventional for the heads of states, among others, giving rulings on whether a law of a republic is in conformity with the federal constitution (Art. 74, Sec. 1, Subs. 4) or giving generally binding interpretations of federal laws (Art. 74, Sec. 1, Subs. 5). The Presidium also convened the sessions of the federal parliament but could only dissolve it if its chambers could not agree on a bill (Art. 74, Sec. 1, Subs. 1 and 2). It is important to point out that it was not entitled to appoint or recall the government, as this competence was exercised by the National Assembly according to Art. 77 of this Constitution.

Furthermore, according to the Constitutional law of 1953, which re-introduced the individual head of state, the President of the Republic represented the state in international relations, appointed and revoked ambassadors, awarded titles and decorations (Art. 71), and was the supreme commander of the armed forces (Art. 73). However, pursuant to Article 72, the president was also the President of the Federal Executive Council, which meant that the head of state was the head of the government at the same time. This interesting concept resulted in the fact that the President could not appoint nor recall the government or its members and was not entitled either to convene or dissolve the parliament, though the latter was the competence of the government (Art. 79, Sec. 10) headed also by him. Interestingly enough, the president acquired the right of suspensive legislative veto (Art. 72).

The duality specified above came to an end in 1963, when a new Yugoslav constitution was adopted. According to this constitution, the President of the Republic retained more or less the same prerogatives he previously had (with a few changes, e.g. he was given the right to grant pardons – Art. 217, Sec. 2, Subs.

3), but – as he was not the head of the government anymore – he had the right to propose to the Federal Assembly the candidate for this position (Art. 216). The president also kept his veto right (Art. 218), while he still did not gain the power to convene or dissolve the parliament or to appoint or recall the government.

A further – and the most complex – change regarding the prerogatives of the head of state in the socialist Yugoslavia's ever-changing constitutional environment occurred in 1971 with the adoption of the Constitutional Amendments XXXVI and XXXVII. They provided for two different heads of state: the Presidency of the Socialist Federal Republic of Yugoslavia and the President of the Republic, who was also the President of the Presidency.[32] The President of Republic only had a few representative prerogatives arising from his position: he could, *inter alia*, confer decorations,[33] appoint or recall ambassadors,[34] act as the Commander in Chief,[35] or promulgate laws.[36] He was additionally entitled to take measures in emergency situations when the Presidency and the Federal Assembly could not meet, by passing decrees with the force of law,[37] proclaiming a state of war, or ordering mobilization.[38]

The Presidency had several competencies overlapping with those of the president. It could, *inter alia*, confer decorations, appoint or recall ambassadors, and promulgate laws as well, but also grant pardons and appoint military officers or propose the election of the president or constitutional judges.[39] The Presidency could issue decrees with the force of law during the state of war or its imminent danger.[40] It could not appoint or recall the government, nor could it convene or directly dissolve the parliament. Furthermore, Article 8 of Constitutional Amendment XXXVI contained a rule, according to which the given chamber of the parliament could have been dissolved if it ultimately could not reach an agreement with the Presidency on the matter of draft legislation that the Presidency deemed indispensable, on the formulation of internal and foreign policy, or on the adjournment of debate on the passage of a bill. The Yugoslav Constitution of 1974 retained the above-mentioned duality without bringing any notable change in this regard. However, it is important to underline that the prerogatives of the Presidency were activated after the death of the President of the Republic for life Josip Broz Tito in 1980.

Concerning the prerogatives of the President in Czechoslovakia, the Constitution of 1948 did not change much compared to the Constitution of 1920.

32 Art. 2, Sec. 2 of the Constitutional Amendment XXXVII.
33 Art. 4, Sec. 1, Subs. 4 of the Constitutional Amendment XXXVII.
34 Art. 4, Sec. 1, Subs. 3 of the Constitutional Amendment XXXVII.
35 Art. 6 of the Constitutional Amendment XXXVII.
36 Art. 4, Sec. 1, Subs. 1 of the Constitutional Amendment XXXVII.
37 Art. 4, Sec. 2 of the Constitutional Amendment XXXVII.
38 Art. 4, Sec. 1, Subs. 5 of the Constitutional Amendment XXXVII.
39 All these prerogatives were contained in Art. 3 of the Constitutional Amendment XXXVI.
40 Art. 5 of the Constitutional Amendment XXXVI.

Most of his competencies from the 1920 Constitution were literally taken over or simply paraphrased.[41] Slight changes occurred, for example, by the introduction of the possibility to grant general pardon or by the extension of the deadline to veto a legislative act. An important change, however, was that according to this Constitution, the president could only recall the government or its members after their demise (Art. 74, Sec. 1, Subs. 6).

Furthermore, pursuant to the 1960 Constitution, the president kept his representative competences traditionally associated with the heads of state but significantly changed the balances of power between the president and the parliament: the Constitution did not mention the president's veto right, nor his right to dissolve the parliament. On the other hand, he retained the right to appoint or recall the government as a whole or its members, while the prerequisite of the above-mentioned ministerial demise disappeared from the text of the constitution. The 1968 Constitutional Act on the Czechoslovak Federation did not bring any notable change into the prerogatives of the president since it was entirely based on the previous regulation.[42]

Finally, in Poland, the part of the 'Small Constitution' from 1947 devoted to the president referred in its entirety to the provisions of the 1921 Constitution.[43] However, the Constitution of 1952 brought significant changes. According to Article 25, the Council of State had, *inter alia*, the following representative competencies: it could appoint or recall ambassadors, ratify treaties, appoint civil and military servants, award orders and decorations, and grant pardons. Pursuant to the same article, the Council of State could convene the sessions of the Sejm, but there was no mention of a right to dissolve it, nor of a veto right. The Council of State could, however, issue decrees having the force of law between the sessions of the Sejm (Art. 26) and issue universally binding interpretations of laws (Art. 25, point III.), as well as proclaim martial law and order mobilization (Art. 28, Sec. 2.). On the other hand, it did not have the prerogative to appoint or recall the government, as this power was exercised by the Sejm (Art. 29, Sec. 1.).

Similarly to the interwar period, the development of the position of heads of state concerning their prerogatives was thoroughly different in the three examined countries. The situation in Poland was the most stable one from this perspective, with a collective head of state capable of issuing decrees but otherwise having a rather weak position, which remained largely unchanged until the collapse of communist rule. The Czechoslovak post-war prerogatives of the president were the most similar to those during the interwar period among the three states, albeit a trend of a somewhat weakening position could be observed, mainly after 1960.

41 According to Art. 74 of the 1948 Czechoslovak Constitution and Art. 64 of the 1920 Czechoslovak Constitutional Charter.

42 Schelle–Tauchen 2013. 1315.

43 See Art. 13 of the 'Small Constitution' from 1947.

The situation in Yugoslavia concerning the prerogatives of the heads of state was extremely chaotic, but, in sharp contrast to the interwar conditions, none of the regulations granted them a particularly strong position.

3.3. Accountability of the Head of State

Pursuant to Article 75 of the 1946 Yugoslav Constitution, the Presidium of the National Assembly, as the collective head of state, was accountable to the National Assembly, which was entitled to remove it and elect a new one. The National Assembly could also dismiss its members individually. This Constitution did not prescribe the countersignature by the competent minister as a precondition for the validity of the acts of the Presidium. Furthermore, the Constitutional Act of 1953 defined the President of the Republic as an executive organ of the Federal National Assembly. It accentuated his connection to the Federal National Assembly stipulating in Article 76 that he was accountable to this institution for his actions and for the actions of the Federal Executive Council. The Federal National Assembly was also entitled to impeach him in the joint session of both of its chambers (Art. 36).

The Constitution of Yugoslavia of 1963 brought significant changes in this regard, omitting the provisions regarding the impeachment of the president. Given the fact that the president ceased being the President of the Federal Executive Council, he was not accountable to the Federal Assembly for its actions anymore. However, the responsibility of the president for his own actions remained intact (Art. 219). Moreover, it is important to highlight that Constitutional Amendment XXXVI of 1971 in Article 6 prescribed the accountability of the Presidium for the performance of its rights and duties without mentioning to which institution it was accountable. On the other hand, Constitutional Amendment XXXVII devoted to the President of the Republic explicitly stated that the above-mentioned Article 219 of the 1963 Constitution prescribing his accountability to the Federal Assembly remained in force. Finally, the Constitution of 1974 did not bring any change regarding the accountability of the presidency while the provision on the responsibility of the president was omitted.

Concerning the accountability of the President in Czechoslovakia, the 1948 Constitution did not bring any significant change in this regard compared to the Constitution of 1920. Therefore, the provisions stating that he was not accountable for the exercise of his office and that the government assumed the responsibility for it (Art. 76) and requiring his acts to be countersigned by a competent minister (Art. 77) remained intact. The only difference regarded the fact that the impeachment proceeding on a charge of treason was admissible upon an indictment of the Presidium of the National Assembly (Art. 78), consisting of the Chairman, the Vice-Chairman, and other members (Art. 63).

Furthermore, the 1960 Constitution of Czechoslovakia stated that the president was accountable to the National Assembly for the performance of his office (Art. 61, Sec. 2). The provisions demanding his acts to be countersigned by a competent minister and permitting the impeachment proceeding were omitted. The Constitution of 1968 did not bring any significant change in this regard. Apart from stipulating that the president was accountable to the Federal Assembly for the discharge of his functions (Art. 60, Sec. 2), it also explicitly stipulated in Article 65 that the president could not be prosecuted for actions related to the exercise of his office.

Similarly to the solution present in the Czechoslovak Constitution of 1948, the Polish 'Small Constitution' of 1947 did not make any change in this regard compared to the 1921 Constitution since articles 44 and 51 of the latter were to be applied. Finally, the 1952 Constitution stated that the Council of State was accountable to the Sejm for all its activities (Art. 26, Sec. 2). This Constitution did not contain the provisions on the countersignature of its acts nor on the impeachment proceeding.

The constitutional regulation of the examined issue was similar in the studied countries. It can be said that the accountability of the head of state to the parliament was a general rule. The only exception in this regard was Yugoslavia since the 1974 Constitution did not contain a provision on the accountability of the president, and it was not mentioned to which institution the presidency was accountable. Another point of similarity among the studied countries was the abolishment of the impeachment proceeding.

4. Conclusions

It is to be concluded that in the examined period of time the solutions concerning the constitutional position of the Head of State were the most peculiar in Yugoslavia. First of all, given the fact that in the period of 1918–1939 it was the only monarchical state among the studied countries, the name of the king and the ruling dynasty were explicitly mentioned in its constitutional acts, which also contained the provisions on the succession to the throne. Regarding the prerogatives of the king, it can be stated that they were particularly broad, especially after the introduction of the dictatorship in 1929, when the king became the only holder of legislative power disestablishing the parliament. However, the similar tendency was noticeable in Poland, where a presidential system of government was introduced by the 1935 Constitution, but the prerogatives of the President were not comparable to those of King Aleksandar Karađorđević during the period of 'the monarchical dictatorship' (1929–1931).

Furthermore, Yugoslavia was the only examined country whose constitutional acts adopted in the period of 1918–1939 did not envisage the possibility of the

impeachment of the king. One can notice that the Polish Constitution of 1935 also lacked the provisions of the impeachment of the president. However, the impeachment proceeding was admissible pursuant to the 1921 Constitution. Finally, the existence of the duality of heads of state (the President of the Republic as an individual and the Presidency as a collective head of state with certain overlapping prerogatives), introduced by the Constitutional Amendments of 1971 in Yugoslavia and retained by the Constitution of 1974, was another peculiarity. The fact that the prerogatives of the Presidency were activated after the death of the President for life Josip Broz Tito rendered this particularity even more peculiar.

The constitutional position of the head of state in Czechoslovakia and Poland was similar throughout the examined period of time, especially taking into account the first Constitutional acts of these countries, which were applied even after the Second World War. Concerning the period of 1918–1935, it can be inferred that similarities included, *inter alia*, the election of the president (it was a competence of the parliament – National Assembly in Czechoslovakia and Sejm and Senate in joint session in Poland), comparable presidential powers, requirement of the countersignature of his acts (this was the case also in Yugoslavia), and the existence of the impeachment proceeding. While the specificity of Czechoslovakia was constitutional stability, Poland deleted the mentioned similarities with the 1935 Constitution, given the fact that it introduced the role of the Council of Electors and the referendum for the election of the president, significantly strengthened his presidential powers, and abolished the impeachment proceeding.

Finally, in the period of 1945–1990, apart from the application of the provisions of the 1920 Constitution of Czechoslovakia and the 1921 Constitution of Poland, the similarities comprised the accountability of the head of state to the parliament (to the National/Federal Assembly in Czechoslovakia and to the Sejm in Poland) and the abolishment of the impeachment proceeding, given the fact that the 1960 Constitution of Czechoslovakia and the 1952 Constitution of Poland omitted the provisions in this regard. On the other hand, it can be concluded that the development of the prerogatives of the head of state was thoroughly different. It is important to underline that Czechoslovakia was the only examined country which did not introduce a collective head of state throughout this period.

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