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The Powers of the Head of State in the Legislative and Executive Branch in Former Socialist Systems

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TADEJ DUBROVNIK & ALEŠ KOBAL

Abstract This paper deals with the position and the powers of head of state in the legislative and the executive branch in former socialist systems. It examines the system in countries that emerged from socialist regimes, where the parliamentary system and the function of the President of the Republic as the individual head of state were introduced in the 1990s, namely in 10 (newest) Member States of the European Union. The paper elaborates on the position of the President of the Republic, the extent of the office's powers, and the resulting cooperation between the office of the President, the executive and legislative bodies, which is also one of the fundamental criteria of the standard classification of political regimes. The powers of the President in the field of legislation are the powers based on which the relationship between the President of the Republic and the legislative authority is established. The analyzed powers that the President exercises vis-à-vis the parliament are the powers of the President in relation to the adoption of an Act, the powers that the President of the Republic has in the domain of announcing parliamentary elections and convening a parliamentary sitting, as well as the powers in the domain of dissolving the parliament and announcing early elections. In the second part the paper focuses on the relationship between the President of the Republic and the government, and, consequently, the President's powers in the formation of the government and the appointing of state officials.

Keywords: Head of State • Legislative • Systems • Executive branch • Socialist Systems

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1 Introduction

This paper discusses the position and the powers of the head of state in the legislative and the executive branch in former socialist systems.[1] It presents in more detail the powers of the President in Baltic states, Poland, the Czech Republic, Slovakia, Slovenia, Hungary, Romania, and Bulgaria, i.e. in ten (newest) European Union member states. These countries are member states of the European Union that emerged from socialist regimes and introduced the parliamentary system in the 1990s. In general the President as the head of state has very limited powers in a parliamentary system, and primarily plays a representative role. The main characteristics of the parliamentary system and an appropriate balance between key state bodies based on the principle of the separation of powers were the baseline for assessing the position of the President in the legislative and the executive branch in the examined systems.

The paper first analyzes the position of the President and the associated classifications of political systems. Especially in the past, tendencies towards a semi-presidential system could be observed in the EU's new democracies. The majority of countries did not select this system, but instead limited the president's powers and introduced the parliamentary system, granting their Presidents various extents of powers. In certain systems, individual elements of a parliamentary-presidential system can be observed.

The analyzed powers that the President exercises vis-à-vis the parliament are the powers of the President in the legislative procedure, the powers that the President of the Republic has in regard to calling the parliamentary election and convening a parliamentary sitting, as well as the power to dissolve the parliament.[2] In certain countries the President holds the right of legislative initiative in the legislative procedure. In all the examined systems the President of the Republic signs and promulgates the laws, and usually holds the right of veto, which postpones the promulgation and consequently the implementation of the law. In the majority of examined systems the President of the Republic holds the right of legislative as well as constitutional veto, meaning they must decide whether to return the adopted law back to the parliament for reconsideration or send it to the Constitutional Court for a constitutional review. In systems where the President does not hold the right of constitutional veto they have the right to request a constitutional review of the law after its promulgation and its coming into force. Slovenia is an exception in this case.

The separately examined power of the President to call a parliamentary election may be actually interpreted as a duty. Although this power may seem as a mere formality at first, it is a right that can even affect the election results and the composition of the parliament. In all the examined countries (with the exception of Latvia) the President of the Republic has the right to convene (the first) sitting of the parliament. This right originates from history and the monarchical system, and gives the President of the Republic direct influence on the work of this legislative body.

This paper also discusses in more detail the President's power to dissolve the parliament and call an early election. This right is usually exercised when the parliament is unable to form a government or when the government loses its support in the parliament. This paper analyses and categorizes situations when the dissolution of parliament is permissible, while taking into account potential time limitations and whether the President of the Republic may dissolve the parliament at their own discretion or whether they must consider the will of other bodies, or are even obliged to dissolve parliament immediately when the conditions for dissolution are met.

In addition to differences in the extent of powers held by the President in different systems there are also differences in the level of independence in exercising these powers. In certain systems the President of the Republic may act completely at their own discretion, while in other systems they must collaborate with other bodies, in particular with the government or the parliament. To provide a more realistic and complete picture of the position of the President of the Republic in a certain system, we must of course also consider the possibilities of informally interfering with or influencing the work of legislative bodies in addition to formally defined powers. The extent of the President's powers is defined by the constitution; however the constitutional provisions are merely the basis of the actual role and influence of the President in daily politics. In addition to powers stipulated by the Constitution, other factors, such as political support, and the personality and authoritativeness of the individual in this position also play an important role.[3]

This analysis of the President's legislative powers is followed by a presentation of the President's executive powers, i.e. the powers, based on which a relationship is established between the President, the government and other executive branch bodies, and the parliament. The most important among these powers are definitely the powers of the President in forming the government. The President's constitutional powers in appointing the highest state officials are then presented in a subsection. This is followed by an outline of the institute of countersignature, which establishes an additional bond between the President and the government.

Based on the analysis of the President's position in the legislative and the executive branch, i.e. their legislative and executive powers in the new European Union democracies, the paper will present similarities between individual systems, as well as highlight their differences and specifics, and categorize individual solutions. The findings will allows us to critically assess the position of the President in the examined systems, with emphasis on the (un)suitability of the Slovenian system.

2 General about the position of the president

The position of Presidents, especially the extent of their powers and the resulting relationships between them and the legislative and executive bodies, is one of the fundamental criteria of the standard classification of political systems.[4] In theory, there is a range of criteria used for assessing the role or position of the President. The differences are above all reflected in the selection of individual powers and their further valuation.[5] Considering the President's legislative and executive powers, and the extent of their independence in exercising these powers, the majority of examined systems can be classified as parliamentary, and only a few have certain elements of a semi-presidential system.[6]

In general, the executive powers in parliamentary systems are divided between the President, who is the head of the executive branch only symbolically, and the government, which holds the actual executive power. In modern parliamentary systems, the President actually operates outside the classic three branches of government, and primarily acts as a neutral authority.[7] The same position was also taken by the Constitutional Court of Hungary.[8] The situation is different in the presidential system, where the President also actually leads the executive branch of government.[9] In this system, there is no government as a separate collective body responsible to the parliament. In addition to the parliamentary and presidential systems, we should also highlight the semi-presidential system.[10] In a semi-presidential system, a directly elected President holds more limited powers than in a presidential system, as the office works in tandem with the government, while compared to the parliamentary system, the President in this system has stronger influence, especially on government policy.[11] Considering the various elements of the semi-presidential system, we can further distinguish between presidential-parliamentary and parliamentary-presidential systems. In the parliamentary-presidential system, as opposed to the presidential-parliamentary, the President does not have the power to dismiss the Prime Minister or the government as a whole without the support of the parliament.[12]

The Polish system in place before the country's constitution was amended in 1997 could be classified as parliamentary-presidential, however the initially strong power of the head of state was gradually restricted, and the President has mostly kept only those powers held by the President in the parliamentary system, along with the right to a veto on adopted laws, which is very hard to overcome, and is uncharacteristic for a parliamentary system.[13] Lithuania's government system could be prima facie also classified as parliamentary-presidential based on the fact that the president is elected directly, and based on the powers held by the President, especially in foreign policy.[14] Compared to the Polish system, the characteristics on the basis of which the Lithuanian system is classified as semi-presidential are even less pronounced.[15] Some have classified the Bulgarian and Romanian systems as parliamentary-presidential, however this classification is primarily based on the President's de facto activities, and not so

much on the powers granted to them by the legislation.[16] Considering the President's formal powers, the Bulgarian system is more similar to the German than the French model. The Romanian President has a strong staff of almost three hundred people, which can in certain circumstances pose a dangerous counterbalance to the government.[17] It should also be pointed out that the amendments to the Romanian constitution in 2003 brought a clearer demarcation of the President's powers, determining among other things that the President cannot dismiss the Prime Minister. Other countries (Latvia, Estonia and Hungary) can be classified as countries with a traditional parliamentary system and an indirectly elected President. Slovakia, Slovenia, and the Czech Republic are not in this group only because the President in those countries is elected directly.[18] It should be noted that Slovakia introduced direct elections due to a crisis where the parliament failed to elect the President despite several attempts, while Slovenia due to cultural, historical and political reasons. Political reasons also led to changing the voting system at the presidential election in the Czech Republic. Gradually all the countries with elements of a parliamentary-presidential system limited the President's powers, and introduced the parliamentary system, granting the President a different extent of powers.[19] The studied countries can be thus divided in three groups: countries with a strong President (Lithuania, Poland), countries with a President with moderate power (the Czech Republic, Slovakia, Estonia, Romania), and countries with a weak President (Hungary, Slovenia, Bulgaria, Latvia).[20]

3 Legislative Powers

3.1 The Right of Legislative Initiative and Promulgation of the Law

The legislative powers of the President discussed in this chapter may be divided into those exercised by the President of the Republic before the legislative procedure starts (such as the right of legislative initiative) and those exercised after the legislative procedure (such as the right to promulgate the law or the right of legislative or constitutional veto). During the legislative procedure, which is completely under parliament's authority, the President of the Republic has no direct or formal influence on the content of the law in the examined systems. Taking into account how often Presidents exercise their right of legislative initiative, the most effective means of influencing the content of the law available to the President is the right of veto. This is for instance demonstrated by the example of Latvia, where the President of the Republic holds both rights, but usually influences the legislative procedure by exercising the right of suspensive veto and not the right of legislative initiative.[21] We should emphasize up front that the Presidents of the examined countries had often and effectively exercised their right of suspensive veto in the past; however the use of the right of veto has gradually subsided, primarily due to the stabilization of the political space.

3.1.1 The Right of Legislative Initiative

The right of legislative initiative gives the President of the Republic the possibility to influence the work of the legislators. The right of legislative initiative granted to the President may be formal or informal. Generally such formal power of the President of the Republic is characteristic of systems where the President has more power, i.e. presidential and semi-presidential systems.[22] In the majority of parliamentary systems the President of the Republic does not have the (formal) right of legislative initiative, but can however exercise their influence indirectly, for example by expressing their opinions. Even though Poland, Hungary, Lithuania and Latvia have a developed parliamentary system, their President also holds the right of legislative initiative.[23] The Estonian, Bulgarian and Romanian constitutions restrict this power, and only grant the President the right to submit a motion for amending the constitution.[24] The Romanian President is even further restricted, as they are bound by the government's opinion. The Polish and Hungarian Presidents hold the broadest power in regard to this, and hold the right of legislative initiative as well as the right to submit a proposal for amending the Constitution.[25]

In these systems the President shares the right of legislative initiative with other bodies. Laws may also be proposed by members of the parliament (and senators in Poland), the government, and (except in Hungary) by a certain number of voters.[26] The Latvian system, in which the President is the only body with the right of legislative initiative who does not have to submit a fully drawn up, legally edited draft bill, stands out.[27] This (at least on paper) makes it easier for the President to exercise this power.

In order to correctly define this power, we should point out that compared to other bodies with the right of legislative initiative the Presidents rarely exercise this power (the President of Latvia has for example only submitted one draft bill per year on average).[28] After the new Constitution came into force in 1992 and until 2006, the President of Estonia only submitted one amendment to the Constitution in 2001, proposing that direct presidential elections be introduced and that an independent Constitutional Court be established.[29] The President of Lithuania submitted the highest number of draft bills among those examined, although he still submitted the smallest share (merely four percent) of legislative proposals compared to other bodies with the right of legislative initiative in one term.[30]

The President's actual influence on the content of the law and its adoption largely depends on the political composition of the parliament, as the fate of the law is determined by members of the parliament at the end. The President's influence in systems with cohabitation is accordingly smaller than in systems where the President comes from the same political grouping as the majority in the parliament. Considering that the President of the Republic often exercises restraint in regard to day-to-day politics and holds a neutral (non-partisan) position towards the ruling coalition or

opposition, the President's right of legislative initiative in a parliamentary system may also be deemed as an anachronism.

3.1.2 Promulgation of a Law

Promulgation of a law (Lat. promulgare) is a traditional function of a President of a Republic. This power does not entail the President's participation in the legislative procedure in the narrowest sense, which ends with the adoption of the law, but is the final act of the legislative procedure in its broader sense which makes the law enforceable.[31]

In all the examined systems the duty of promulgation is assigned to the President of the Republic; however some constitutions also stipulate that the laws must be co-signed. In Slovakia and the Czech Republic laws are for example co-signed by the President, the Prime Minister, and the Speaker of the parliament or Chairman of the Chamber of Deputies in case of the Czech Republic.[32] Considering the President's right and duty of promulgation, the question arises what to do when the President refuses to promulgate a law. Not many Constitutions regulate such cases explicitly. The Lithuanian Constitution contains provisions for such cases for example.[33] If the President of Lithuania does not sign the law in the prescribed period or exercise the right of suspensive veto, the law may be signed and promulgated by the speaker of parliament. The Slovak Constitution only contains a provision stating that a law which was returned to the parliament and adopted again must be promulgated, even if it is not signed by the President.[34] Promulgation of a law without the President's signature is similarly regulated in the Czech Republic, where the President does not sign a readopted law that they initially objected.[35] In other systems the provisions on the temporary replacement of the function of President of the Republic should be applied in such cases.

The promulgation of a law is not a mere automatic action, since the President of the Republic (except in Slovenia) holds the right of suspensive veto, if they believe that there are reasons and arguments for returning the law to the parliament for reconsideration or for requesting a constitutional review. We should emphasize here that the President of the Republic usually must promulgate a law after it is adopted again or upheld by the Constitutional Court.

We should also point out that Presidents of the examined countries often exercised their right of suspensive veto in the past. The President of the Czech Republic exercised his right of suspensive veto 18 times between 1993 and 2001, and in almost one third of the cases the law then went unadopted, as it did not receive the required absolute majority in the parliament.[36] The situation was similar in Estonia, where in two parliamentary terms between 1992 and 1999 the President returned 33 laws to the parliament, and also requested their constitutional review in eight cases, with the Supreme Court ruling that seven laws were unconstitutional; while in the following two terms between 1999 and

2007 the President refused to promulgate only 18 laws and requested a constitutional review in only four cases, with the Supreme Court declaring two laws as unconstitutional.[37] The decrease in the number of vetoed laws may be attributed to greater political stability in these countries. Nowadays the use of suspensive veto is mostly affected by the potential existence of cohabitation, i.e. when the President of the Republic comes from a different political grouping than the majority in the parliament (and consequently the government).[38]

3.1.2.1 Legislative Veto

If the President of the Republic disagrees with the content of a law or individual provisions, they may return the law to the parliament for reconsideration in a specified period of time. Such a veto postpones the promulgation of the law and consequently the date it comes into force. We should point out that in all analyzed countries (except in Slovenia) the President of the Republic holds the right of legislative veto, however in some systems the President has lost the right of veto against certain laws. The Czech Constitution explicitly states that the President does not hold the right of veto against constitutional acts and must promulgate them, in Poland the President does not have the right of veto in the adoption of the budget, and in Latvia when the law is adopted as urgent (which is determined by a two-thirds majority of the members of parliament).[39]

In the event of a legislative veto the share of votes required for the law to be readopted by the parliament is as a rule higher. The weight of the President's veto depends on the share of votes required for the adoption of the law in the repeated vote. In the examined systems, the President's veto carries the least weight in those systems where readopting the law requires simple majority, which is the case only in Romania, Hungary, Estonia, and Latvia. A higher share of votes is required in most countries – an absolute majority in Bulgaria, Czech Republic, Slovakia, and Lithuania, while in Poland at least a three-fifths majority is required with at least one half of the members of the parliament present. In none of the systems does the President hold the right of (a second) legislative veto after a law is readopted by parliament.

The influence that the President has on the content of a law when exercising the right of veto also depends on whether a vetoed law may be amended or not before the repeated vote. In some systems (for example in Czech Republic, Poland, Estonia, and Bulgaria) a law returned to parliament for reconsideration may not be changed and the parliament must either adopt it again unchanged or reject it.[40] In other countries the law may be amended or modified in accordance with the President's comments before the repeated vote. In Hungary the President's further right to apply legislative veto depends on whether the members of the parliament have considered the President's comments and modified the text of the law.

The Lithuanian system stands out, as the President of Lithuania also occasionally used a pocket veto until a Constitutional Court's ruling. This means that the President did not sign the law within the prescribed 10-day deadline nor did they provide reasons for the rejection. Such law could then come into force with the signature of the Speaker of the parliament.[41] The President's situation when applying pocket veto is significantly easier than when formally exercising the right of suspensive veto, since the President does not have to refuse to sign a law nor provide comments on its content. Pocket veto originates in the USA constitutional system, where such veto has the effect of an absolute veto, as the legislative procedure concludes with the end of the Congress's sitting. In Lithuania the pocket veto is practically impossible nowadays, as the Constitutional Court emphasized that the President must always provide reasons and legal arguments for refusing the promulgation. The Constitutional Court also stated that the constitutional provision giving the Speaker of the parliament the power to sign and promulgate a law if the President does not sign it (or return it to the parliament) in the prescribed period of time should only be applied when the President of the Republic is unavailable.[42]

The Latvian system should also be pointed out when discussing the President's powers in promulgating a law.[43] When a law is adopted, the President of the Republic may request that it be reconsidered. If the parliament readopts said law without any changes, the President may not again return the law to the parliament for reconsideration, but they may postpone the promulgation of the law for two months. The President first exercised this right in 2007.[44] The President must postpone the promulgation of a law if so requested by one third of the members of the parliament. A referendum is held on such a suspended law if at least one tenth of all voters demand that. This may be referred to as an "absolute citizens' veto". A law is rejected in this case if the majority votes against it, under the condition that the turnout at the referendum equals at least one half of the turnout at the latest parliamentary election.[45] If voters do not file for a referendum within two months, the law is promulgated. A referendum is also not called if three quarters of all members of the parliament endorse it in the repeated vote. It should also be pointed out that if the parliament determines that a law is urgent with a two-thirds majority, the President of the Republic does not have the right to veto such a law, neither can a referendum be called on it. The President must promulgate such a law within three days.[46]

3.1.2.2 Constitutional Veto

If the Presidents hold the right of the so called constitutional veto, they may seek the constitutional court's ruling on whether a law is constitutional before promulgating it, if they believe that the law or its individual provisions are unconstitutional. Almost one half of the examined systems grant this right to the President. Presidents of Romania, Poland, Hungary, and Estonia may call on the constitutional court to rule on the constitutionality of a law before promulgating it.[47] In the systems where the President holds the right of legislative as well as constitutional veto, they must usually decide

which veto to apply. This is the case in Romania and Poland, and partially Hungary, where only the Constitutional Court's ruling is deemed final.[48] In Estonia the President may apply both vetoes; however they must exercise the right of legislative veto before the right of constitutional veto.

The Polish Constitution states that the decision of the members of the parliament or the Constitutional Court's ruling is final and must be followed by the promulgation of the law. In regard to the Polish President's right of constitutional veto we should also point out that when the Constitutional Court rules that only individual provisions are unconstitutional and these provisions are not an indivisible part of the entire law, the President may (after consultation with the Speaker of the Sejm) sign and promulgate the law omitting the unconstitutional provisions, or return it to the Sejm so the deputies may eliminate the unconstitutionality.

In regard to the constitutional veto in Hungary we should point out the parliament's power to refer an adopted law (at the proposal of the Government, proponent of the law or Speaker of the parliament) to the Constitutional Court for a constitutional review. In such cases the President of the Republic may no longer exercise the right of constitutional veto. The President may thus exercise the right of constitutional veto if the parliament did not already call on the Constitutional Court to rule on the constitutionality of the law.[49] The ruling made by the Constitutional Court based on the President's constitutional veto is final and must be followed by the promulgation of the law. Using constitutional veto thus excludes the option of using legislative veto. However, if the Constitutional Court rules that the law is not unconstitutional following the parliament's request for a constitutional review, the President may exercise the right of legislative veto before promulgating the law. On the other hand, using legislative veto first does not exclude the option of using constitutional veto later. An already vetoed law may thus also be referred to the Constitutional Court. We should distinguish between two situations here, namely whether the parliament adopted the law without any modifications or the law was modified. In the first case the President may request that the Constitutional Court rules whether the legislators adopted the law in accordance with the prescribed procedure. In the second case the President may request not only a constitutional review of the procedure but also of the content, in which case only the amended provisions are reviewed.

Estonia also stands out among the examined countries that grant the President the right of constitutional veto, allowing the President to exercise the right of legislative and constitutional veto for the same law. If the parliament readopts a law without any amendments, the President of the Republic may refer the law to the Supreme Court (which also fulfils the role of the constitutional court) for a constitutional review. If the Supreme Court rules the law constitutional, the President of the Republic promulgates it. In the Estonian system the President holds the right of constitutional veto; they must however first use legislative veto. This gives the President of Estonia a lot of influence

on the legislative procedure, even though they do not hold the right of legislative initiative.[50]

In certain systems (such as Latvia, Bulgaria, the Czech Republic, and Slovakia) the President has the right to request a constitutional review of the law after its promulgation and its coming into force.[51] This does not represent a constitutional veto but an ex post constitutional review of a law. As an instrument for protecting the constitutionality, such constitutional review is less effective than the constitutional veto, which can prevent an unconstitutional law from coming into force. The President of Lithuania has the least power in regard to this, as they only hold the right to demand a review of constitutionality and legality of the Government acts.[52]

3.1.3 Powers of the President of the Republic of Slovenia

When it comes to the powers of the President before and after the legislative procedure, the Slovenian system grants the President the least power among all the examined systems. The right of legislative initiative is granted to the same entities[53] as in most other parliamentary systems, so strengthening the President's office with the right of legislative initiative is questionable. Presidents rarely exercise this right, and the fate of the proposed draft bill depends entirely on the will of the parliament.

If changes were to be introduced regarding the President's powers, they should be connected to the promulgation of laws. The Slovenian system is the only one among the examined that does not grant the President the right of legislative or constitutional veto. In the Slovenian system the right of suspensive (legislative) veto is granted to the National Council, which may send a law to the National Assembly for reconsideration before its promulgation within seven days of its adoption.[54]

For some time Slovenian legal experts have been advocating strengthening the office of the President with the right of constitutional veto (following the Hungarian example).[55] This would introduce ex ante constitutional review into our system, wherefore introducing the right of the President to request a constitutional review of an existing bill would be a minor encroachment on the constitution.[56] Thus the President would only be able to launch a constitutional review of a law after its promulgation and its coming into force.[57] This kind of arrangement is already established in all the examined countries where the President does not enjoy the right of constitutional veto (except for Lithuania). Here it must be considered that Presidents usually exercise their use of legislative veto more often than refer a law to the Constitutional Court.

In regard to this fact the question arises as to what authority the President actually has in promulgating a law. According to the Constitutional Court's decision, the President has the indisputable right to a formal review of constitutionality. Some think that the President also has the right to a substantive review of constitutionality (especially in the

event of obvious unconstitutionality).[58] Here it should be stressed that in 2001 the Constitutional Court defined purely procedural constitutional barriers as those on account of which the President could refuse promulgation of the law.[59] Thus in its decision it stressed that the President promulgates the law at the latest 8 days after its adoption, if there are no constitutional barriers related to its creation and if it is certain that the law has been adopted. Promulgation is the very act of determining that, in collaboration with all eligible parties according to the Constitution, the law has been created and thus exists. In other words, the Slovenian President may conduct a limited formal (procedural) review of a law's constitutionality and refuse its promulgation if it was not adopted by the National Assembly or was not adopted by a constitutionally determined majority, or if there exists the possibility of suspensive veto from the National Council or a subsequent legislative referendum.[60] Taking into account the right of the National Council to submit a veto, and the request of authorized applicants for a subsequent legislative referendum, the eighth day is the earliest and latest that the President can and must promulgate the law. Therefore if there are no formal constitutional barriers, we assert that the President may not refuse promulgation of the law.[61] On the basis of the decision examined above, the Constitutional Court did not recognize the President's right to constitutional veto, but merely explained that promulgation of a law is not a routine act that the President must perform sans objection.[62] As already stated, the theory is not consistent as regards the right to substantive review of a law's constitutionality. Some maintain that the President may not promulgate an obviously unconstitutional law, as doing so would violate the constitution, which the President is sworn to uphold by the nature of their office. Thus refusing to promulgate an unconstitutional law, which e.g. might introduce capital punishment, is not a violation of the President's constitutional obligations.[63] It is impossible to fully accept such a position, as it would confer upon the President a veto right such as we do not recognize in our system.

Two questions arise regarding the presidential promulgation of a law, specifically what the President's obligations are in the event of refusal to promulgate a law (including when the President's opinion is that the law is obviously unconstitutional), and the question of the ultimate fate of such an unpromulgated law. Most likely, in the event of the refusal to promulgate a law due to reasons of content, the National Assembly would bring action against the President before the Constitutional Court. Such a law would nevertheless go unpromulgated. It would thus make sense in this sort of situation for the President of the National Assembly to assume promulgation, as is expressly determined by some other foreign systems.[64]

3.1.4 Powers Related to Referenda

In the majority of the systems examined the President has significant or minor powers related to referenda. These powers give the President an influence on the most important type of direct democracy, ensuring the participation of citizens in adopting key legal and

political decisions, which are otherwise within the powers of the administration.[65] A distinction may be made between those countries where the President is competent merely to call a referendum, and countries where the President can also launch or demand the launch of a referendum. The Slovak Constitution says that the President can call a referendum if it is demanded by 350,000 voters or by parliament. Before calling the referendum, the Slovak President may call upon the Constitutional Court to rule whether or not the subject of the referendum is compliant with the Constitution or not. The Bulgarian President also calls a referendum after parliament adopts a resolution on a national referendum. The Hungarian, Romanian, and Polish Presidents enjoy stronger powers; in Hungary the President may propose a referendum, and parliamentary deputies make a final decision. The Romanian system differs: there the President decides (after consulting with parliament) about calling a referendum. The Polish President also has the right to call a referendum at their own initiative, if a majority of the senators agree thereto.[66]

3.2 Calling Parliamentary Elections and Convening Parliament

The President's right to call parliamentary elections can be described initially as an obligation, as the President is bound to call elections when conditions thereof are met. This is a common presidential power in parliamentary systems. It is also generally the President's powers to convene the (constitutive) sitting of parliament. Although this is a "historical" power, when the king was forced to convene parliament whenever he needed financial aid, today this makes it possible for the President to have an influence on the operations of the legislative body.

3.2.1 Calling Parliamentary Elections

The majority of the systems examined determine that calling parliamentary elections is among the President's powers.[67] The situation is different in Romania, where this is the government's power, in Slovakia, where the President of parliament calls elections, and in Latvia, where elections are called by the Central Election Commission.[68] This, which at first glance appears to be merely a formal right, can have a direct effect on the composition of the future parliament. The majority of systems determine a time frame in which the President can call elections. Thus potential speculation, considering the greater or lesser popularity of a given political party at a given moment, is possible. In considering when to call elections, political concerns are naturally given preference, e.g. holidays or vacations, etc., but these circumstances can also be political, as they can affect voter turnout and thereby also the outcome of the elections themselves.[69] This sort of influence is not to be found in those systems where the President does have available a (longer) time frame to call elections and determine a day for votes. Estonia and Lithuania are good examples, as election day is determined in the Constitution. There the President has more "freedom" and as a result has greater influence only in calling potential early elections.

3.2.2 Convening Parliament

In all of the systems examined (except in Latvia),[70] the President has the right to convene the first sitting of the newly elected parliament.[71] Individual systems differ among themselves only in terms of the time in which the President is obligated to call the constitutive sitting. This time frame is 30 days in the Czech Republic, Hungary, Poland, and Bulgaria, while Romania has 20 days, and the shortest deadline of 15 days is in Lithuania. This deadline in these systems begins on the day of elections. Otherwise in Slovakia and Estonia, where the President must call the first parliamentary sitting within 30 and 10 days, respectively, from the day the electoral results are announced. Some constitutions contain a provision where the parliament, in the event that the President fails to call a sitting in due time, can convene at its own initiative. This holds true for the Czech, Slovak, Lithuanian, and Bulgarian (where in this case at least one-fifth of the deputies are required to convene a sitting) Constitutions.

In the majority of the countries considered the President has the right to call a (regular or special) parliamentary sitting or to request one be called, if the President of the representative body is competent to do so. The Bulgarian and Latvian Presidents can request that a parliamentary sitting be called; in Lithuania and Estonia the President has the right to call or request a call only for a special parliamentary sitting.[72] Considering the indisputable system of the representative bodies in Romania and the Czech Republic, their Presidents have the right to call a special sitting of the Chamber of Deputies or the Senate.[73] There is also the example of Slovakia, where only the government and one-fifth of the deputies may request that a special sitting be called.[74]

3.2.3 Powers of the President of the Republic of Slovenia

The President calls elections to the National Assembly, calls the sitting of the newly elected National Assembly, and can also request that a special sitting be called.[75] The President calls regular elections with a special act, the decree on holding elections.[76] The Constitution determines that a new National Assembly is elected no sooner than 2 months and no later than 15 days before the expiration of a 4-year term from the first sitting of the previous National Assembly. Otherwise in the event of early elections, which are held whenever the National Assembly is dissolved before the expiration of the regular 4-year term, the President calls (early) elections with an act on the dissolution of the National Assembly. Such elections must be held no later than 2 months after the dissolution of the National Assembly, but no sooner than 40 days from the day of the announcement. The first sitting of a new National Assembly is called by the President no later than 20 days after the President is elected. The President of the National Assembly calls regular and special sittings, and must call a special sitting if so requested by the President (or by at least a quarter of the Deputies in the National Assembly). Based on an examination powers, we find that the Slovenian President does not stand out in this aspect from other comparable systems.

3.3 Dissolution of Parliament

The dissolution of parliament and the calling of early elections is not just the right of the President, but also an obligation in some systems under certain circumstances. This type of presidential power is most often conditional with parliament's inability to form a government, or due to a parliamentary vote of no confidence in the government. Although constitutions provide parliaments with a range of mechanisms for forming a government, when all have been unsuccessfully exhausted, nothing else remains but to call new elections. Until new elections are called, the government may well receive a vote of no confidence from the deputies, as the government and parliament, considering the fundamental characteristics of the parliamentary system, cannot function one without the other.

When it is impossible to form a government, the President must dissolve parliament only in three eastern European Member States of the EU, namely Poland, Bulgaria, and Estonia.[77] The Bulgarian President is an exception, as in such circumstances the President names a technocratic government, which happened in 1997. Between the dissolution of parliament and the holding of early elections, the President practically runs the government alone, as the technical government, which otherwise yields to the newly elected parliament, reports to the President.[78] It is different in the majority of the examined countries where the President decides whether or not to dissolve parliament when it proves impossible to put together a government. The President has such a right in Hungary, the Czech Republic, Slovakia, Lithuania, and Romania.

When the government loses the support of parliament during a term, either due to an actual vote of no confidence or an assumed vote of no confidence, parliament may be dissolved at the President's discretion in Estonia, Lithuania, the Czech Republic, and Slovakia. In this regard only the Slovenian system is exceptional, as the President must dissolved parliament whenever it issues a vote of no confidence.

In addition to the reasons for dissolving parliament which have already been stated, which are connected to the inability to form a government or the loss of parliamentary suppose, in Poland, Hungary, and Estonia parliament may be dissolved if it does not approve the state budget in due time. Here it should be noted that in this case, only the Estonian President is also obligated to dissolve parliament and call early elections. The Czech Republic and Slovak systems also provide for the dissolution of parliament as another possible solution in the event of other internal political difficulties. Parliament may be dissolved if it fails to convene or fails to convene with a quorum for a significant amount of time. A system in which parliament may be directly dissolved by referendum is known only in Latvia.[79] A referendum on the dissolution of parliament can be requested by the President and one-tenth of voters. In two countries parliament may also be dissolved as a consequence of a previously adopted decision of voters at a referendum. Thus the Estonian President must call early parliamentary election if voters

at a legislative referendum fail to confirm an adopted bill; in Slovakia the President dissolves Parliament if a referendum fails to get enough votes to recall the President.

In general the President only dissolves the lower house of parliament. The Czech Constitution determines that, when the Chamber of Deputies is dissolved, the Senate has the right for urgent matters to adopt legal acts with the force of law, which are then signed into law by the President of the Senate, the President, and the Prime Minister.[80] It is different in Poland, where the result of early termination to the term of the Chamber of Deputies results in the dissolution of the Senate as well. It is also different in Romania, where the President dissolves all of parliament if it proves impossible to form a government.

Considering situations where the dissolution of parliament is permissible and limitations thereto, as well as whether the President may dissolve parliament at their own discretion or they must consider the will of other bodies, or are even obliged to dissolve the parliament immediately when the conditions for dissolution are met, it can be said with conviction that the Slovenian President has the weakest powers in this area.

3.3.1 Limitations in Dissolving Parliament

Half of the eastern European countries considered set time limits when it is impossible to dissolve parliament. Generally this limitation is connected with the expiration of the President's term. Only in the Czech Republic is the President's right to dissolved parliament "conditional" upon the term of said parliament, specifically of the Chamber of Deputies, which the President cannot dissolve in the last 3 months of its term.[81] The Slovak and Bulgarian Presidents cannot dissolve parliament at the end of their own terms (the Slovak President cannot dissolve the legislative body in the last 6 month of their term; in Bulgaria this time limit is shorter, at 3 months).[82] In Lithuania early elections cannot be called until 6 months have passed from the previous early elections, nor in the last 6 months of the President's term.[83]

The obligation of working with other decision-making bodies is also among the limitations on the President's powers for dissolving parliament. The President cannot act strictly according to their own judgment in Hungary, Poland, and Romania, but must coordinate with the government and/or parliament. The Hungarian President must consult with the Prime Minister, the President of parliament, and the Presidents of the parliamentary parties before dissolving parliament.[84] A similar situation holds true in Poland, where the President must consult with the Presidents of both houses.[85] As regards the dissolution of parliament, the Romanian Constitution determines two conditions, in addition to obligatory consultation with the Presidents of both houses and of parliamentary parties: the President may not dissolve parliament in the last 6 months of their term, and parliament may be dissolved just once per year.[86] The Latvian and Estonian Constitutions do not contain the mentioned limitations.

3.3.2 Dissolution of Parliament due to Inability to Form A Government

Dissolution of parliament is generally listed as the ultimate consequence of its inability to form a government. Put differently, the decision to dissolve is made only after all other options to successfully put together a government have been exhausted. The Presidents of Poland, Bulgaria, and Estonia must dissolve parliament if it fails in forming a government.[87] Regarding the Polish system it bears emphasis that the Polish President (after previous consultation with the Presidents of both Houses) dissolves only the Chamber of Deputies (the first House of parliament), but the early termination of the term of the Chamber of Deputies consequentially implies the end of the Senate's term as well. In these three systems the President must dissolve parliament if the statutory conditions are met.

The situation is different in Hungary, the Czech Republic, Slovakia, Romania, and Lithuania, where the President can dissolve parliament if it fails in forming a government. In doing so, the Romanian and Hungarian Presidents must consult with the legislative branch of government before dissolution, and the Hungarian President must also consult with the Prime Minister. The Hungarian President may (following a prior opinion) dissolve parliament if it fails to elect the President's candidate for Prime Minister. The President loses this right when the Prime Minister is elected.[88] In Romania (following prior consultation), after consultation with the Presidents of both Chambers and the leaders of the parliamentary groups, the President of Romania may dissolve Parliament if no vote of confidence has been obtained to form a government within 60 days after the first request was made, and only after rejection of at least two requests for investiture.[89] The Czech President can dissolve the Chamber of Deputies, if it fails in the final (third) round to cast a vote of investiture.[90] In Slovakia the President can dissolve parliament if it fails to adopt the government's programme within six months of the government's constitution.[91] In Lithuania as well, the President can dissolve President and call early elections if the government's plan fails to be adopted within the statutory time frame.[92] So far there has been no early dissolution of the Lithuanian parliament. It also bears consideration that the President's decision on the dissolution of the Lithuanian parliament is considered by a newly elected parliament.[93] When the President calls early parliamentary elections, a newly elected parliament with a three-fifths majority of all deputies (within 30 days of its first sitting) can call early elections for the office of President.[94]

3.3.3 Dissolution of Parliament due to Loss of Support in Parliament

Parliament may also be dissolved due to a loss of support for the government therein. In a parliamentary system these two bodies are inextricably linked, as parliament cannot exist without the government and vice versa. If there is a dispute between them, both the government and parliament can be replaced.[95] Thus a government which loses parliamentary support must step down, and the parliament can recommend that the

President dissolve parliament, which is the case in Estonia and Lithuania.[96] In the Czech Republic and Slovakia parliament may be dissolved if it fails to adopt a law to which the government tied a question of confidence.[97] The Czech President may also dissolve the Chamber of Deputies if within 3 months they fail to decide on a law to which the government has tied a vote of confidence. The Slovak Constitution contains a similar provision. By tying a question of confidence to a given law, the government attempts to ensure sufficient support for its draft bill, as the threat of dissolving parliament has an influence on the deputies. In all the systems mentioned (Estonian, Lithuanian, Czech, and Slovak) the final decision to dissolve parliament or not lies with the President. The Slovenian system is unique in this regard, as it is the only one to obligate the President to dissolve the National Assembly if it fails to issue a vote of confidence.

3.3.4 Dissolution of Parliament for Other Reasons

Certain systems determine that parliament may be dissolved if the budget is not accepted or if the operations of the legislative body are somehow "blocked" or prevented from working. The Polish President can dissolve the Chamber of Deputies if it fails to accept the state budget in due time (within 4 months of the submitted proposal). [98] The Hungarian Constitution contains a similar provision, where the President can dissolve parliament if it fails to approve the current year's budget in due time (by 31 March). The President loses this possibility the day the budget is approved.[99] The Estonian President's powers are different than the Polish and Hungarian counterparts, in that early elections must be called if within 2 months from the beginning of the financial year the budget goes unapproved.[100] The Czech President can dissolve the Chamber of Deputies if it is prevented from convening longer than is admissible (more than 120 days), or if it meets without a quorum for more than 3 months.[101] In the 2 examples mentioned, the President is not obligated to dissolve parliament, but can seek a different solution.[102] Slovakia has a similar system.[103]

In Latvia the right to dissolve parliament is not conditional upon parliament's inability to form a government, or due to a parliamentary majority vote of no confidence in the government.[104] The President can propose the dissolution of parliament at any time, whereupon a referendum follows.[105] The President's decision is adopted if it is voted for by a majority of those who cast votes.[106] New parliamentary elections follow, to be held no more than 2 months after dissolution. In the interim the President calls sittings of parliament, and also determines the schedule of affairs. If the majority of those voting in the referendum cast votes against dissolution, then it is the President who is disposed – the deputies then vote on a new President for the rest of the disposed President's term.

At the end of May 2011 (5 days before presidential elections) the Latvian President proposed the dissolution of parliament. The Latvian Constitution does not contain time limits on when the President can no longer propose such. Thus it is possible that the President proposes to dissolve parliament on the last day of the President's term. Of

course this would make the President's re-election questionable on the part of a parliament which is threatened with dissolution. Parliament retains all of its powers from the day when the President submits a proposal for dissolution to the end of the voters' decision. Thus parliament legitimately voted on a new President in the beginning of June.[107] A referendum on dissolving parliament was then held within the statutory 2-month time limit, at the end of July, where in voter turnout of 45% of eligible voters, 94% cast votes for the dissolution of parliament.[108]

In contrast to Latvia, in Estonia and Slovakia parliament may be dissolved early by referendum only indirectly. The Estonian President calls early parliamentary elections when voters at a legislative referendum called by parliament fail to adopt an approved bill. The law is adopted if voted for by a majority of those voters who participated in the election. Otherwise calling early presidential elections is both a right and an obligation.[109]

Early dissolution of parliament may be (indirectly) upheld on a referendum in Slovakia, where the President will dissolve parliament if a referendum on the recall of the President from office fails. This type of referendum is called by the President of parliament, if three-fifths of all deputies support such a decision. The President is then considered removed from office, if more than half of eligible voters at a referendum cast votes to that effect. If the President is not voted out of office, the President dissolves parliament within 30 days of the result being announced.[110]

3.3.5 Powers of the President of the Republic of Slovenia

If a government cannot be formed, the Slovenian President must dissolve parliament. Dissolving the National Assembly is not just the President's right, but also an obligation if certain conditions or circumstances arise as determined by the Constitution.[111] Similar systems are present in only three of the examined countries, specifically Poland, Bulgaria, and Estonia. In the other countries, when it is impossible to form a government, the President can decide to dissolve parliament or not. A comprehensive analysis shows that the Slovenian system is comparable only to the Bulgarian one, as the Polish and Estonian Presidents also have the option of dissolving parliament in other situations when the government or parliament is not fulfilling their obligations competently. What is more, of all the Presidents examined, only the Slovenian President is obligated to dissolve parliament if the government fails to receive a vote of confidence. It is different, e.g., in the Czech Republic and Slovakia, where the President makes a decision at their own discretion.

The Slovenian President dissolves the National Assembly in two cases: when the National Assembly in the second or third round fails to appoint a Prime Minister, or if after the National Assembly fails to issue a vote of confidence in the government it fails to name a new Prime Minister or if it in a new round of voting casts a vote of

confidence in the current President.[112] In addition to the aforementioned the National Assembly may also be dissolved due to the resignation of the Prime Minister. However in this case it is not automatic: the National Assembly is dissolved only if it fails to vote a new Prime Minister.[113] In summary: when there arises a circumstance as determined by the Constitution as a condition for the dissolution of the National Assembly, the President must call early elections with an act on dissolving the National Assembly.[114]

Given the aforementioned, it can be said with certainty that the relationship between the executive and legislative branches in the Slovenian constitutional system differs from the fundamental parliamentary concept to the extent that the position of the President is weakened to the point where the office does not come with the proper authorizations to actually resolve an impasse in the government, which can only occur as the result of conflicts between parliament and the administration.[115] Some legal theoreticians tend to believe that the President should have the right to dissolve the National Assembly after hearing the opinions of the President of the National Assembly, the National Council, and the Prime Minister.[116] Even more appropriate would probably be a solution like in the German system, which also contains the institution of the constructive vote of no confidence, which indubitably influences the role of the President in resolving disputes between government and parliament.[117]

4 Executive Powers

The President's executive powers are the powers based on which a relationship is established between the President and the government. The President's powers in appointing the Prime Minister and ministers are without a doubt the most important in this regard. Furthermore, the President in all new European Union democracies in general also has the power to appoint the highest state officials or nominate them for election or appointment by the representative body.

In only a few of the examined countries the President may also participate in government sessions. This is a power that allows the President to significantly influence the government politics. This power is held by Presidents in the Czech Republic, Romania, and Latvia. The Czech President has the right to participate in government sessions, request reports from the government, and discuss issues under their jurisdiction with the government and individual ministers.[118] The powers of the Romanian President are limited in this area, as they may only participate in the government sessions when issues of national interest, issues related to the country's foreign policy and defense, and issues of protecting public order are discussed. When the Romanian President attends a government session, they also chair it.[119] The President's powers in this area are even more restricted in Latvia, where the President holds the right to convene a special government session, determine the agenda, and chair the session, but not the right to vote.[120] The Latvian President will convene a special session only in emergency situations.[121] It should also be noted that after

amendments were made to the country's Constitution in 1999, the Slovakian President may no longer participate in government sessions.[122]

In the examined systems, a wider extent of executive powers is also held by the Lithuanian and Polish Presidents. The Lithuanian President holds the right to, in the event of the Prime Minister's absence, appoint a minister who will temporarily substitute for them. If the Prime Minister does not nominate a candidate, the President may choose one freely. The Constitution determines that such a substitution may only last up to 60 days.[123] We should also highlight the provision of the Lithuanian Constitution, which determines that the government is jointly responsible to the parliament, while individual ministers are responsible to the parliament and the Prime Minister, as well as the President.[124] The Polish system recognizes the institute of Cabinet Council, which the President may convene as an advisory body in matters of special importance. This council, which comprises members of the government, more precisely members of the Council of Ministers, and is presided over by the President, does not have the powers held by the Council of Ministers, and the Constitution does not grant it any other special powers.[125]

4.1 President's Powers in Forming the Government

Based on the role of the President in forming the government, we can divide the examined systems into three types. In the first type of system, the President has the power to appoint the Prime Minister and ministers; in the second type of the system the President appoints ministers and nominates a candidate for the Prime Minister, who is then elected by the parliament; while in the third type of the system, which is the furthest away from the principle of the separation of powers, the President does not appoint the ministers nor Prime Minister, as they are appointed by the legislative body.[126]

The majority of new European Union democracies use the traditional model of forming the government, in which the President appoints the Prime Minister, who must then (alone or with an already formed government) win a vote of confidence in parliament. The model used in Romania and Estonia is somewhat different; there the President first nominates a candidate for the Prime Minister, and only appoints the government (as a collective body) after the vote of confidence – investiture. The President's actual influence on the formation of the government depends on whether they are independent in selecting the Prime Minister, or limited by the obligation of respecting the will of the parliament. This is formally regulated only in Romania and Latvia, but naturally the President must also respect the election results in other countries, since the government depends on the parliament in its work. The role of the legislative body is even bigger in the countries (such as Poland, Czech Republic and Estonia), where the parliament may appoint the Prime Minister, if the President's candidate does not garner sufficient support. In other words, some systems give more powers in the formation of parliament

to the President, while others to the parliament itself. A system where the role of the President is significantly weakened and the role of the parliament is strengthened is in place only in three of the ten examined countries: Bulgaria, Hungary, and Slovenia. In these three countries the President does not appoint the Prime Minister, but only nominates a candidate that the parliament then votes on.

Considering the aforementioned, the analyzed countries may be divided into two groups. The first group comprises countries where the Prime Minister is appointed by the President, and the second, smaller group, countries where the Prime Minister is elected by the legislative body. Countries can be further divided into those where the right to appoint (or nominate a candidate for) the Prime Minister is held exclusively by the President, and those where they share this power with others who can nominate candidates. Countries can also be classified by the extent of independence enjoyed by the President in making this decision. We can divide these countries into those where the President is formally obliged to work with the parliament or respect its will when appointing (or nominating a candidate for) the Prime Minister, and those where the President's choice is only restricted by the specifics of the parliamentary system.

4.1.1 Appointing the Prime Minister

In Romania, the President nominates a candidate for the Prime Minister after consulting with parliamentary parties or the party that won the absolute majority.[127] This candidate then has ten days to present the composition of the government, and its program to the parliament. The parliament then votes on the motion of confidence, for which the absolute majority of votes from deputies and senators is required, after which the President appoints the government. If the parliament does not give a vote of confidence to the government, the candidate must return the authority for forming the government to the President, who then nominates a new candidate. It is a peculiarity of the Romanian system that both houses of the parliament are involved in the formation of the government, as a result of which the President has the power to dissolve the entire parliament, if a vote of no confidence is not passed in a specified time. The Constitution also regulates in more detail the government reshuffle, when the President dismisses a minister and appoints a new one at the proposal of the Prime Minister. If this were to change the political composition of the government, an approval by the parliament is required.[128] Before it was amended in 2003, the Constitution did not prescribe this approval, which led to questions about the legitimacy of the reshuffled government, as the vote of confidence was given to a specific composition of the government. Due to negative past experience, a provision determining that the President cannot dismiss the Prime Minister was also added to the Constitution.[129]

Similarly, the Lithuanian President must also respect the will of the parliament, since the Constitution determines that the Prime Minister is appointed by the President with the approval of parliament. As a rule, the selection of the Prime Minister is determined

by the strongest party.[130] The President then appoints ministers at the proposal of the Prime Minister. Within 15 days of the appointment, the Prime Minister must present the government and its program to the parliament, which takes a vote of confidence. If a majority of deputies present fails to support the investiture, the President may dismiss the parliament.[131]

The Polish President enjoys greater independence in this area, since the country's Constitution does not specify that the President should respect the election outcome when appointing the Prime Minister, however they must take into account the fact that the government depends on the parliament in its work. The Polish President's powers in forming the Government were much broader under the Constitution of 1992, when the semi-presidential system was in place in the country.[132] After the new Constitution was adopted in 1997 and the parliamentary system was introduced, the office of President lost its decisive influence on the selection of ministers.[133] The President can now only influence government policy with the legislative veto (which is hard to overturn).[134] Under the Polish Constitution, the President has the power to appoint the Prime Minister, and, at the Prime Minister's proposal, individual ministers, which must be done within fourteen days of the first session of the newly elected parliament.[135] The government must then present its program and seek a vote of confidence from the Sejm within two weeks. The Sejm must approve the government with an absolute majority of the votes and with at least one half of the deputies present. If the President fails to appoint a government within the aforementioned deadline, or if the government is not given a vote of confidence in the parliament, the parliament takes charge. The new Prime Minister is elected by the Sejm at the proposal of at least 46 deputies. The Prime Minister elected with an absolute majority of votes then presents the ministers and the government program to the parliament. If the government is granted the vote of confidence, it is (formally) appointed by the President. If the government is not formed in this attempt, it is again the President's turn to appoint the Prime Minister (and ministers at the proposal of the Prime Minister). This time only simple majority of the votes with at least one half of the deputies present is needed for the vote of confidence. If the government does not garner sufficient support in the parliament in the third attempt, Sejm and consequently Senate are dismissed instead of forming a minority government. The Polish President's powers upon the resignation of the government, which are broader compared to the powers of presidents in other examined systems, should also be highlighted here. The President must accept the government's resignation, if the Sejm passes a vote of no confidence or fails to pass a vote of confidence, or when a newly elected parliament convenes for its first session.[136] If the government resigns as the result of Prime Minister's resignation, the President has the right to reject that resignation.[137]

In Estonia the system is somewhat different than in Poland, and the parliament has the right to nominate a candidate for the Prime Minister in the third, and not the second attempt. In Estonia, a new candidate for the Prime Minister is nominated by the

President within 14 days of the government's resignation.[138] If the candidate wins a vote of confidence in the parliament, they form a government and present it to the President for the appointment within seven days. If the candidate nominated by the President is not approved by the parliament, or if they fail to form a government, the President may nominate a new candidate. If the President does not nominate a new candidate, or if the second candidate does not win a vote of confidence or fails to form the government, the right to nominate a candidate for the Prime Minister is passed onto the parliament. The candidate selected by the parliament must form the government and present it to the President for appointment. If the government is not formed in this attempt, the President calls a snap election.[139]

In Czech Republic, the Chamber of Deputies may also play and active role in appointing the Prime Minister. If the government fails to win the vote of confidence in the Chamber of Deputies within 30 days of its appointment by the President, the procedure is repeated – the President appoints the Prime Minister and individual ministers at the Prime Minister's proposal. If the government fails to win a vote of confidence for the second time, the President appoints the Prime Minister at the proposal of the Chairman of Chamber of Deputies. If the vote of confidence is not passed in this attempt, the President may dissolve the Chamber of Deputies.[140]

The President's position in forming the government is somewhat stronger in Slovakia and Latvia, where the right to nominate the Prime Minister is not passed to the parliament. The Constitutions also do not expressly determine that the President should respect the election results when selecting the Prime Minister.[141] This procedure is comparable to other systems. The President appoints the Prime Minister and the ministers at the Prime Minister's proposal, and the government must win a vote of confidence in parliament.

In the majority of examined systems the President is also responsible for dismissing the Prime Minister and individual ministers.[142] This responsibility correlates to the President's right to appoint the Prime Minister and other ministers, although the power related to dismissal is only formal, since the President is bound by a prior decision of the parliament or Prime Minister. Czech President dismisses individual government ministers at the proposal of the Prime Minister. The President can also dismiss the entire government, when the government that should resign refuses to do so.[143] The system is similar in Slovakia, where the President dismisses the government if the parliament passes a vote of no confidence, or fails to pass a vote of confidence. The Slovak President also dismisses individual ministers at the proposal of the Prime Minister or if the parliament passes a vote of no confidence against them.[144] Presidents in Estonia, Poland, and Lithuania have the same powers in this regard, with the Lithuanian President only accepting the minister's resignation if the parliament passes a vote of no confidence against them.[145] The Romanian Constitution, under which the President is responsible for dismissing individual ministers at the proposal of the Prime Minister,

also specifically regulates the situation in which the political composition of the government should change due to the dismissal of several ministers, in which case the approval of parliament is required. Among the studied constitutions, the Romanian Constitution is also the only one expressly prohibiting the President from dismissing the Prime Minister.[146]

4.1.2 Nominating Candidates for Prime Minister

In only three of the examined new European Union democracies, the President nominates the candidate for the Prime Minister to be elected by the parliament – in Bulgaria, Hungary, and Slovenia. In these countries, investiture is not required, as it is replaced by the vote. The Bulgarian system is somewhat specific, as it still requires the vote of confidence, which additionally ties the work of the government to the parliament.
In Hungary the President nominates a candidate for Prime Minister, to be elected by the parliament. If the candidate is not elected, the President must nominate a new candidate within 15 days. If the parliament does not elect the President's candidate within 40 days of the first vote, the President may dissolve the parliament. The Prime Minister takes office on the day of their election, and the government is constituted when the President appoints the ministers at the proposal of the Prime Minister.[147]

In Bulgaria, the Prime Minister is also elected by the parliament following the President's nomination.[148] Unlike in Hungary, the Bulgarian President must consult with parliamentary parties and respect their opinion before nominating the candidate for the Prime Minister. The formation of government in Bulgaria can be divided into pre-parliamentary and parliamentary phases. After consulting with the political parties, the President authorizes the candidate proposed by the largest party to present the composition of the government. If the candidate fails to present the composition of the government within seven days, the President gives the same authorization to the candidate nominated by the second largest parliamentary party. If the second candidate fails to present the composition of the government within seven days, the President may call on any of the smaller parliamentary parties to nominate their candidate. In this third round, the President is not obliged to consider the proposals of political parties.[149] In 1992, the candidate from the smallest parliamentary party became the Prime Minister.[150]
If the candidate succeeds in forming the government, the President then nominates them to be elected by the parliament. The deputies first elect the Prime Minister, and then vote on the entire government proposed by the Prime Minister. If they elect the Prime Minister but vote against the government as a whole, it is deemed that the new government was not formed. The parliament also has the power to dismiss the Prime Minister and individual ministers at the proposal of the Prime Minister.[151] This method of forming the government gives the legislative body greater influence and control, so in Bulgaria the role of the parliament is not strengthened only in its relation to the Prime Minister, but also in its relation to the government as a whole. When a government

cannot be formed, the President appoints a caretaker government, dissolves the parliament, and calls snap election, which happened in 1997. During the time between the dissolution of parliament and the snap election, the President practically runs the government, as the caretaker government, which must offer its resignation to the newly elected parliament, reports to the President.[152]

4.1.3 Powers of The President of Slovenia in the Formation of Government

Under the Slovenian Constitution, the President has the right to nominate a candidate for Prime Minister to be elected by the National Assembly (after consulting with heads of deputy groups).[153] The President thus has very limited power in proposing candidates in the formation of government.[154] If the nominated candidate is not elected, the President may repeat the consultation process and nominate another or the same candidate within 14 days, and candidates may also be nominated by deputy groups or a group of at least ten deputies.[155] If several candidates are nominated within this deadline, the vote is taken on each candidate individually, starting with the candidate nominated by the President, and then, if this candidate is not elected, votes on other candidates in the same order as the nominations were filed. If none of the candidates is elected, the President dissolves the National Assembly and calls a new election, unless the National Assembly decides to take vote on the Prime Minister again within 48 hours, in which case a majority of votes cast by the deputies present suffices. Accordingly, the Slovenian President cannot prevent the formation of a minority government. If none of the candidates is elected even in this vote, the President dissolves the National Assembly and calls a new election.[156]

Under the Slovenian Constitution, the President may propose a candidate for Prime Minister three times. In the first round this is their obligation and they are the sole proponent, while in the second and third round their nomination is optional, and others may also file their nominations.[157] The question arises, however, as to the likelihood of the President actually influencing the selection of the Prime Minister.[158] The following applies: the greater the diversity and dispersion in the political arena, and consequently the weaker the coalition, the more important is the role of the President.[159] Of course the President will nominate candidates for Prime Minister who have realistic chance of winning the necessary majority in the National Assembly. The National Assembly then appoints and dismisses ministers of the government at the proposal of the elected Prime Minister (Article 112 of the Constitution).

Under the Constitution, the National Assembly actually decides on the government twice, which decreases the Prime Minister-designate's chance of forming a competent government, and assuming total responsibility for its work. This exaggerated electoral function of the National Assembly puts the government in a position that is in many aspects closer to the position of an executive body in an assembly system than to the position of the government in a parliamentary system.[160] The remnants of this mentality

are best reflected in the fact that ministers are appointed and dismissed by the National Assembly at the proposal of the Prime Minister.[161] This method of appointing ministers may result in a government comprised of ministers who won a majority in the parliament, instead of ministers whom the Prime Minister finds best and most competent.[162] The hearing of candidates before relevant parliamentary commissions and committees, which is based on the American system, is another specific feature of the Slovenian system.[163] This additionally strengthens the role played by the National Assembly in the appointment of ministers. It is clear that this procedure of appointing ministers as determined by the Constitution is inconsistent with the nature of the parliamentary system and the principle of separation of powers stipulated by the Constitution.

Compared to other systems and considering the theoretical premises, the Slovenian procedure for forming the government is specific, and it is accordingly hard to classify Slovenia as a country with the parliamentary system. The President has the right to nominate a candidate for the Prime Minister to be elected by the parliament under two other constitutions – Hungary's and Bulgaria's. However, only the position of the Slovenian President is further weakened by the fact that others may also nominate their candidates. In the majority of examined systems the President is involved in the appointment of ministers. Slovenia and Bulgaria are the only exceptions, and Slovenia is also the only country where the ministers are appointed by the legislative body. It would be reasonable to resolve this issue by following the example of the German Constitution or e.g. Czech Constitution, under which the President appoints the Prime Minister and, at the Prime Minister's proposal, ministers, after which the government seeks a vote of confidence from the parliament.[164]

4.2 President's Powers in Election and Appointing Officials

4.2.1 Appointing and Nominating State Officials

The President is responsible for appointing (the highest) state officials in the majority of new EU democracies, with the parliament playing a stronger role in Latvia and Slovenia. Constitutions grant this power to Presidents due to their (neutral) position in the government system. This is aimed at providing a balance in relation to other state bodies, especially the legislative body, and accordingly weakening political influence over certain public offices. Last but not least, a presidential appointment also leads to a better reputation in a society. Systems in the examined countries can be divided into those where the appointments of officials are regulated by the constitution and those where these appointments are regulated by relevant laws in accordance with the constitutional mandate. The President's role i.e. powers in appointing state officials in a system depend primarily on whether the President is completely independent in making these decisions, or whether they must cooperate with other bodies.

In the majority of the examined countries, the President is involved in appointing the management of the central bank. Only in Latvia, Romania, and Bulgaria is this under the exclusive power of the parliament. In almost one half of the examined countries (the Czech Republic, Estonia, Lithuania, Slovenia), the President is also involved in the appointment of the president of the Court of Auditors. In certain countries, the President is also responsible for appointing the director of the intelligence agency.

Under the Czech Constitution, the President appoints the president and vice-president of the Court of Auditors at the proposal of the Chamber of Deputies, which does not require a countersignature by the Prime Minister or a relevant minister. [165] The President also dismisses these two officials at the proposal of the Chamber of Deputies, which is a power granted to them not by the Constitution, but by the relevant law.[166] The President also appoints and dismisses the central bank governor and vice-governor, and other members of the central bank's management, which does not require a countersignature either.[167] Under the Polish Constitution, the President nominates a candidate for the office of the president of the National Bank of Poland to Sejm. The President also independently appoints one third of the members of the Council for Monetary Policy, which is a body of the central bank.[168] The Polish President also appoints and dismisses members of the National Security Council, which is the President's advisory body for external and internal security.[169] Estonian President also nominates candidates for the offices of Auditor General, Chairman of the Board of the Bank of Estonia, and Chancellor of Justice, who are appointed by the parliament. The governor of the central bank is appointed and dismissed by the President at the proposal of the board of the Bank of Estonia. [170] If an appointment breaches the law or contravenes national interest, the President may refuse to appoint a certain state official.[171] In 2000, for example, the President refused to appoint a candidate nominated by the Bank of Estonia's board to the office of the governor of the bank.[172] Under the Constitution, the Lithuanian President nominates candidates for the offices of Auditor General and the Chairperson of the Board of the Bank of Lithuania, who are appointed by the parliament. With the approval of the parliament, the Lithuanian President also appoints the director of the Security Service, and other state officials, when determined by the law.[173] Under the provisions of the Hungarian Constitution and the Act on the Magyar Nemzeti Bank, the President appoints the governor and vice-governor of the central bank (at the proposal of the Prime Minister), which requires the countersignature of the Prime Minister.[174]

The Slovak Constitution does not expressly regulate the appointment of individual state officials by the head of state; instead it includes a provision granting the President the power to appoint the highest state officials where this is determined by the relevant law.[175] Under the law, the Slovak President appoints and dismisses the governor and vice-governor of the Slovak central bank at the proposal of the government and with the approval of the National Council.[176] At the proposal of the government, the Slovak President also appoints and dismisses the president of the national statistics office, and the director of the intelligence agency.[177] Romanian and Bulgarian constitutions also

have provisions that only determine that the President appoints state officials in cases stipulated by relevant laws.[178] The only provision expressly regulating appointments in the Romanian Constitution gives the President the power to nominate the candidate for the director of the intelligence agency, who is then appointed by the parliament.[179] According to the relevant legislation, the Bulgarian President is responsible for numerous appointments. The President appoints, inter alia, three members of the management board of the Bulgarian central bank, the director of the intelligence agency, and (at the proposal of the government) the state secretary at the Ministry of Interior.[180]

In addition to the aforementioned powers, the section of this paper on appointments also examines the President's powers in forming the judicial branch of government. These appointments are not part of the President's executive powers, however they concern state officials, and these powers significantly affect the President's position. A comparison will allow us to critically assess the appropriateness of the Slovenian system in regard to these powers.[181] In almost all new EU democracies (except Bulgaria, Latvia, and Slovenia), the President holds the power to appoint judges, usually in collaboration with a relevant body or a so called judicial council. The system is somewhat different in Estonia, where the President appoints judges at the proposal of the Supreme Court.[182] In Bulgaria, one of the three countries where the President does not appoint judges, judges are appointed by the Judicial Council.[183] The Latvian President is in a similar position in relation to the formation of the judicial branch of government. The Constitutional Court and other judges in Latvia are appointed by the parliament without any involvement of the President.[184] Lithuanian system also deserves a closer look. The Lithuanian Constitution determines different procedures for the appointment of judges based on the type of the judge. Supreme Court judges are appointed by the parliament at the proposal of the President. Other judges and presidents of courts are appointed by the President after consultation with the judicial council. The parliament's approval is required for the appointment of judges to the Court of Appeal.[185] In the majority of examined countries, the President only formally approves the candidates nominated for judges, however this is not a formal duty of the President that cannot be refused, but is the President's right.[186] Presidential appointment of judges at the proposal of another body is the most common way in which the head of state is involved in the appointment of judges.[187]

In comparison with the appointment of regular judges, legislative bodies play a stronger role in the appointment of Constitutional Court judges. In almost one half of the examined countries (the Czech Republic, Slovakia, Romania, and Bulgaria), Constitutional Court judges are appointed by the President. In Romania and Bulgaria, the Presidents share this power with other entities, and as a result they only appoint one third of all Constitutional Court judges. The Czech President is also restricted when it comes to forming the Constitutional Court, since the cooperation i.e. approval of Senate is required for the appointment of Constitutional Court judges. Under the Czech Constitution, the lower house of the parliament cannot influence the composition of the

Constitutional Court. The Slovak President is not completely independent in appointing Constitutional Court judges either, and must select them from the candidates proposed by the parliament. The Slovak parliament must submit a list with twice as many candidates as there are Constitutional Court judges under the Constitution. They system is different in Poland, Hungary, Estonia, Latvia, Lithuania, and Slovenia, where the Constitutional Court judges are appointed or elected by the parliament. In Lithuania and Slovenia, candidates are nominated by the President.[188] In Estonia, where the Supreme Court is the highest court in the country and is thus responsible for constitutional reviews, Supreme Court judges are appointed by the Parliament at the proposal of the Chief Justice of the Supreme Court. The President only has the power to propose a candidate for the Chief Justice of the Supreme Court to the parliament. In Poland, the appointment of constitutional court (Constitutional Tribunal) judges is in the hands of the lower house of the parliament, while the President appoints the president of the Constitutional Tribunal and their deputy at the proposal of the General Assembly of the Judges of the Constitutional Tribunal.

4.2.2 Proposed Powers of the President of the Republic of Slovenia

Under Article 107 of the Constitution, the President has the power to appoint state officials where this is determined by the relevant laws. The President's power to (directly) appoint state officials has so far not been stipulated by any law; however certain laws have granted new powers to the President, even though the Constitution does not expressly regulate that. The President now has the power to submit to the National Assembly nominations of candidates for appointment to certain public offices. The Human Rights Ombudsman Act gives the President the power to submit to the National Assembly nominations for candidates for human rights Ombudsman.[189] Under the Court of Audit Act, the President selects candidates for the offices of the president of the Court of Audit, and their first and second deputy from the received applications, and submits to the National Assembly a nomination for their appointment.[190] Under the Bank of Slovenia Act, the President is responsible for nominating candidates for the offices of the governor and vice-governor of the Bank of Slovenia, as well as members of the Governing Board of the Bank of Slovenia, who are then appointed by the National Assembly.[191] Under the Act on Nomination of Candidates from the Republic of Slovenia for Judges at International Court, the President has the power to propose candidates for international courts to the National Assembly.[192] The Information Commissioner Act determines that the President must propose to the National Assembly a candidate for appointment to the office of the information commissioner.[193] The Integrity and Prevention of Corruption Act meanwhile prescribes the procedure, in which the President is involved in the final phase of appointing the Commission for the Prevention of the Corruption. The President appoints the Chief Commissioner and their deputy from among the candidates selected by a selection committee.[194]

The question arises whether the legislators have overstepped the boundaries of the President's constitutional powers by granting them the power to nominate candidates, since the Constitution only determines expressly that the appointment of state officials by the President should be regulated by relevant laws, but does not stipulate the same for nominating candidates. If we apply the argument a maiori ad minus, the President should also have the right to nominate candidates and not only appoint state officials.[195] The view that legislators overstepped the boundaries of the President's constitutional powers in these cases seems more appropriate.[196] Despite the open question of whether the aforementioned provisions are in compliance with the Constitution, we can conclude that the President's right to nominate candidates in the procedure of electing or appointing officials is extremely important, perhaps even decisive, since the National Assembly may only appoint or elect candidates nominated by the President to these offices.[197] We have found that the Slovenian system is significantly different from the comparable systems when it comes to the number of cases in which the President nominates candidates for state offices.

Another big difference lies in the way the judicial branch is formed, and the President's involvement in the procedure, as the Slovenian President does not have the power to appoint judges, who are appointed by the National Assembly at the proposal of the Judicial Council instead. The President is however involved in the formation of the Judicial Council, five members of which are elected by the National Assembly at the proposal of the President, who nominates candidates from among university professors of law, attorneys, and other lawyers (Article 131 of the Constitution). The procedure for appointing or electing judges as applied in our system may be questionable, especially if we consider the requirement for the independence of judges. By the nature of things, decisions of the National Assembly are political, which also holds true for elections and appointments in general, and the election of judges accordingly.[198] We would recommend amending the Slovenian Constitution, and giving the President the power to appoint judges at the proposal of an appropriately composed Judicial Council.[199] Slovenia would thus introduce the procedure for appointing judges, which is widely used in similar systems and which is compliant with the principle of the separation of powers, and the characteristics of the parliamentary system.

When it comes to the formation of the Constitutional Court, the Slovenian system, in which the Constitutional Court judges are elected by the National Assembly at the proposal of the President, does not prima facie seem to be different from the systems in place in the examined countries. Such a system (especially considering the majority required for an appointment) doubtlessly allows political parties to influence the election of judges and consequently the work of the Constitutional Court.[200] This can become a problem, since the Constitutional Court can affect the functioning of the state and the politics due to its powers.[201] One of the possible safeguards is requesting a stronger majority for the election of Constitutional Court judges.

4.3 Countersignature

With the countersignature, the government assumes responsibility for the President's decisions, however the countersignature by the Prime Minister or a relevant minister does not only represent the acceptance of political responsibility, but is also a precondition for the validity of the legal documents signed by the President.[202] The institute of countersignature should ensure unity in running the country, it however limits the already weak powers granted to the President in a parliamentary system by adding the obligation of countersignature, which detracts from any independence the head of state has in making decisions.[203]

Among new EU democracies, the Slovenian and Estonian constitutions are the only two that do not stipulate that the President's documents should be countersigned.[204] In Romania, the Czech Republic, Slovakia, Hungary, and Lithuania, the Constitution specifies the cases when the President needs a countersignature of the Prime Minister.[205] The countersignature is most frequently required for the appointments and dismissals of diplomatic representatives, for pardonings, for concluding international treaties, and for conferring recognitions, titles and highest military ranks. In the Czech Republic, the countersignature is also required for the appointment of judges. Contrary to the above listed constitutions, the Bulgarian and Polish Constitutions specify the cases in which the countersignature is not required.[206] The countersignature is not required inter alia when the President promulgates an adopted law, or when they send an adopted law back to the parliament for reconsideration, when they dissolve the parliament or call a general election. Under the Polish Constitution, the countersignature is also not needed for President's legislative initiatives, and for the appointment of judges. Under Latvian Constitution, the countersignature is required for any documents except for the dissolution of the parliament and the formation of the government.[207]

The Slovenian system, which does not require a countersignature from the Prime Minister and relevant ministers on the President's documents, is therefore an exception, although there are no fundamental arguments against introducing this institute in the Slovenian Constitution despite smaller existing powers of the President (in comparison to other countries).[208] On the other hand, the question of whether it would make sense to introduce countersignature into our Constitution arises, especially if we consider the fact that the National Assembly is in a much stronger position in its relation to the government, as well as the President.[209] Accordingly, the introduction of the countersignature into the Slovenian system, especially in the President's powers to nominate candidates, would be an even greater departure from the principle of the separation of powers, and the parliamentary system.

5 Conclusion

The parliamentary system is in place in all the examined new EU democracies, with the executive powers divided between the head of the state and the government led by the Prime Minister. Although the President's powers in such a system primarily tend to reside in representation and launching initiatives, the study has revealed that the position of the President i.e. the extent of his executive and legislative powers in modern systems varies.

1. Some facts about the position of the head of state, and the associated classification of political systems should be summarized. There are various criteria used for assessing the role or position of the President. Of course certain powers are not just a dead letter, and the actual application and use of individual powers should be considered. Especially in new democracies a more restrictive approach is required (considering the relatively short period), since the practice has not been fully established yet. We can conclude that Slovenia has a parliamentary system with individual elements of the assembly system in place. Hungary, Estonia, and Latvia have a typical parliamentary system with an indirectly elected President. Slovakia and the Czech Republic are partial exceptions (due to the election system). The President has a stronger position in Poland and Lithuania, which corresponds to the direct election, which gives the President greater legitimacy. These two systems have some elements of the parliamentary presidential system. Bulgaria could tentatively be examined in this group due to the past political and personal ambitions pursued by the office of the President, however not based on actual constitutional powers. This also applies to Romania, where the powers of the President were clearly demarcated by amending the Constitution. Systems with a powerful President have proven to be effective and appropriate in the transitional period, when a stable political system was necessary, which the parliamentary system with a large number of political parties rarely provides. After stabilization in the political arena, the majority of examined countries proceeded to gradually curb the President's powers. Even in systems where the President is granted broader powers and thus given stronger influence on the work of legislative and executive bodies, the President exercises these powers less frequently, which also affects the potential duration of cohabitation.

2. In the powers examined in the legal area we can conclude by saying that they are the broadest and therefore the most important set of presidential powers. Although individual Presidents (Hungarian, Polish, Lithuanian, and Latvian) have a legislative initiative at their disposal, in practice it is but rarely exercised. Thus the most important power that the President can use to affect the wording of an act is the right to suspensive veto. Namely the President in all the examined systems promulgates laws, and in doing so also has (except in Slovenia) the right to legislative veto, which parliament can "circumvent". Here the weight of the President's veto depends on the number of deputies who must support the law in order for it to be adopted. The effect the President

has on the wording of a law is also dependent on whether or not it is permitted for a vetoed law to be amended before a new round of voting or not. In all the systems it is the case that if parliament once again approves the law, the President no longer has the right to legislative veto. In Romania, Estonia, Poland, and Hungary the President also has the power of constitutional veto. The President in the systems examined in general must decide whether or not to use the constitutional or legislative veto. Estonia and Hungary are exceptions here, as it is possible to use both vetoes for the same law. In systems where the President does not hold the right of constitutional veto as a type of ex ante review of constitutionality they have the right to request a constitutional review of the law after its promulgation and its coming into force. The Slovenian system is yet again an exception, as it does not recognize the President's right in the legislative process to a legislative or constitutional veto, nor to even request a review of constitutionality. Accordingly it would certainly serve well to strengthen the role of the President in terms of legislative powers.

3. In the majority of the countries examined the President has the power to call elections and call the constitutive sitting of parliament. The President can also generally call or request that regular or special sittings of parliament be called. The more important presidential power, on the basis of which a relationship is established between the President, parliament, and the government, is definitely the power to dissolve parliament. This type of presidential power is most often conditional with parliament's inability to form a government, or due to the government losing support in parliament. In the event that a government is not formed, the President must dissolve parliament only in Poland, Bulgaria, Estonia, and Slovenia. In the majority of countries the President may solely decide whether or not to dissolve parliament or not in a given scenario. Parliament may be dissolved when the government loses parliamentary support during the President's term, as these bodies are inextricably linked. Even in this case the final decision on dissolving parliament rests with the President. This holds true for the Slovak, Czech, Estonian, and Lithuanian systems. The Slovenian system is unique in this regard, as its Constitution obligates the President to dissolve the National Assembly if it fails to issue a vote of confidence. Due to past experience with dissolution, it would serve to emulate the Latvian system in terms of dissolving parliament, as in Latvia the right to dissolve parliament is not conditional upon parliament's inability to form a government, or due to a parliamentary majority vote of no confidence in the government. The President can propose the dissolution of parliament at any time, whereupon a referendum follows. The President's decision is adopted if it is voted for by a majority of those who cast votes, after which parliamentary elections follow. In the event that a majority of the voters in a referendum are against dissolving parliament, the President's office is terminated.

4. When examining the President's executive powers we have found that the President's powers in the formation of the government were among the most significant. In the majority of the examined countries the President appoints the Prime Minister, who must

then win a vote of confidence in the parliament. When selecting the Prime Minister, the President must consider the election results, since the work of the government depends on the trust of the parliament. The role that the legislative body plays in the formation of the government is stronger in countries, where the parliament has the right to nominate a candidate for Prime Minister if the President's candidate fails. This applies to the Polish, Czech, and Estonian systems. In only three of the examined countries, the legislative body plays the decisive role: in Bulgaria, Hungary, and Slovenia, where the Prime Minister is elected by the parliament at the proposal of the President. The position of the Slovenian President is further weakened by the fact that, unlike in Hungary and Bulgaria, other proponents may also nominate their candidates. Ministers are usually appointed by the President at the proposal of the Prime Minister. This is only a formal approval i.e. appointment of the proposed members of the government. The Slovenian system has the most specific procedure for appointing ministers, which makes it rather hard to classify it among parliamentary systems.

5. In the majority of systems the President appoints (the highest) state officials. Most frequently, the President is involved in appointing the governor and vice-governor of the central bank, or members of the central bank's management board, and in appointing the president of the court of auditors. In two of the examined countries, Latvia and Slovenia, the position of the President in appointing officials is weakened, as the majority of state officials (including judges) are appointed by the parliament. Nevertheless, the Slovenian President plays a very important role in the process of electing and appointing state officials by nominating candidates for some of the highest state offices, which are the guardians of constitutional principles in their essence, as the National Assembly may only elect these state officials from among the candidates nominated by the President. Considering the powers held by the Slovenian President, we can conclude that the President's power to nominate candidates for state officials is of key importance.

6. The institution of countersignature, which is obligatory for certain of the President's decisions, should also be highlighted when it comes to the executive powers. By countersigning, the Prime Minister or relevant ministers assume political responsibility for the President's decision, and give validity to the President's legal acts. The Slovenian system, which does not require a countersignature, is an exception, although there are no fundamental reservations against introducing this institution in the Slovenian Constitution.

Notes

[1] More in T. Dubrovnik: Predsednik republike v parlamentarnih sistemih vzhodne Evrope, in: Javna uprava, 45 (2009) 4, p. 155-179 and T. Dubrovnik: Sistem volitev in pristojnosti predsednika republike v baltiških državah in v Sloveniji, in: Revus (2010) 12, p. 165-179. and T. Dubrovnik: Položaj šefa države v izvršilni oblasti novih članic EU, in: Javna uprava, 48 (2012) 3/4, p. 141-170. and T. Dubrovnik, Tadej: Pristojnosti predsednika republike na zakonodajnem področju v bivših socialističnih ureditvah. in: Javna uprava, 50 (2014) 1/2, str. 41-70, and T. Dubrovnik: The position, election and powers of the President of the Republic of Estonia, in: Lex localis 7 (2009) 1, str. 19-45 and T. Dubrovnik: Položaj predsednika republike na izvršilnem in zakonodajnem področju v novih demokracijah EU: magistrska naloga, Ljubljana 2013.

[2] About these powers I. Kaučič: Funkcije predsednika republike in državni zbor, in: 1. strokovno srečanje pravnikov s področja javnega prava, 1995, p. 257-272.

[3] Cf. J. McGregor: The Presidency in East Central Europe, in: RFE/RL Research Report, 3 (1994) 2, p. 23.

[4] Cf. I. Kaučič, F. Grad: Ustavna ureditev Slovenije, p. 279. More about political systems and the position of the President in A. Lijphart (ed.): Parliamentary Versus Presidential Government.

[5] Cf. C. Lucky: A Comparative Chart of Presidential Powers in Eastern Europe, pp. 81–94 and T. Frye: A Politics of Institutional Choice: Post-Communist Presidencies, pp. 523–552. The authors analyze the constitutional powers of the President, distinguishing between powers exercised by the President independently and those exercised together with another body. Cf. A. Siaroff: Comparative presidencies: The Inadequacy of the Presidential, Semi-Presidential and Parliamentary Distinction, pp. 287–312. The criteria highlighted by Siaroff were the election system and the powers of the President in forming the government and appointing candidates to positions, as well as the right to participate in government sessions. Shugart and Carey divided the powers of the President into legislative and non-legislative, and then measured individual powers by examining the extent of the president's independence in exercising those powers, cf. M. S. Shugart, J. M. Carey: Presidents and Assemblies: Constitutional Design and Electoral Dynamics. For an updated and modified analysis see L. K. Metcalf: Measuring Presidential Power, pp. 660–685.

[6] Lijphart has emphasized that when adopting the constitution, new democracies face two main decisions: selecting a parliamentary or presidential system of government, and selecting a majoritarian or proportional voting system. Cf. A. Lijphart: Constitutional Choices for New Democracies, pp. 72–84.

[7] Cf. I. Kaučič, F. Grad: Ustavna ureditev Slovenije, p. 280. The Constitutional Court of the Republic of Slovenia has stressed that the President is part of the executive branch of the government; however the Constitution gives the office independence in relation to the National Assembly. Cf. Constitutional Court of the Republic of Slovenia Decision no. U-I-57/06 of 29 March 2007, Official Gazette of the Republic of Slovenia, no. 33/2007.

[8] In 1991 the Constitutional Court of Hungary took the position that the President is not part of the executive branch of government, but operates outside of it. The President is a position sui generis with a representative role, cf. J. Dieringer: Das politische System der Republik Ungarn: Entstehung - Entwicklung - Europäisierung, pp. 161, 168, cf. Constitutional Court decision no.

48/1991 of 26 September 1991, published in English and with notes in L. Solyom, G. Brunner (ed.): Constitutional Judiciary in a New Democracy: The Hungarian Constitutional Court, pp. 159–171.

[9] In the EU, the presidential system is in place in Cyprus.

[10] In the EU, the semi-presidential system is in place in France. On the typology of political systems and typical representatives in J. Hartmann: Westliche Regierungssysteme: Parlamentarismus, präsidentielles und semi-präsidentielles Regierungssystem.

[11] Duverger has determined the following criteria for identifying a semi-presidential system: direct election of the President, stronger power of the President, and the existence of a government that depends on the trust of the parliament. Cf. M. Duverger: A New Political System Model: Semi-Presidential Government, pp. 165–187.

[12] Cf. M. S. Shugart, J. M. Carey: Presidents and Assemblies: Constitutional Design and Electoral Dynamics, pp. 23–25.

[13] More about the given classification of examined countries in W. Ismayr: Die politischen Systeme der mittel- und osteuropäischen EU-Beitrittsländer im Vergleich, pp. 5–17, W. Ismayr: Die politischen Systeme der baltischen Staaten, pp. 110–119, W. Ismayr: Die politischen Systeme der EU-Beitrittsländer im Vergleich, pp. 5–14, W. Ismayr: Die politischen Systeme Osteuropas im Vergleich, pp. 9–78.

[14] Under the Lithuanian constitution, foreign policy is led by the President in collaboration with the government (Article 84 of the Constitution of the Republic of Lithuania of 1992, with subsequent amendments and supplements; hereinafter referred to as the Lithuanian Constitution). It should be emphasized that Lithuanian voters voted against the presidential system at a referendum in 1992. For the influence of the American presidential system on the systems of government in new EU democracies see T. Dubrovnik: Following the U.S. Model?: Presidential Powers in East European Democracies.

[15] Cf. also V. Pugaèiauskas: Semi-Presidential Institutional Models and Democratic Stability: Comparative Analysis of Lithuania and Poland, pp. 88–113. The author compares the Lithuanian, Polish, and French semi-presidential systems.

[16] For a comparison between the Romanian and Polish semi-presidential systems see I. Tanasescu: The Presidency in Central and Eastern Europe: A comparative analysis between Poland and Romania.

[17] The President's staff exceeds the legally prescribed number, and it should be emphasized that President's advisers are equal to ministers. Cf. A. U. Gabanyi: Das politische System Rumäniens, p. 638.

[18] On the reasons for introducing direct presidential election in Eastern European countries see F. W. Rüb: Schach dem Parlament! Regierungssysteme und Staatspräsidenten in den Demokratisierungsprozessen Osteuropas, pp. 173–242, cf. also P. Jerabek, P. Jerabek, N. Vierbücher: Das Ende der Amtsperiode des slowakischen Staatspräsidenten Kováč und die Verfassungskrise in der Slowakischen Republik, pp. 1–5.

[19] Croatia also limited the powers of the President based on the amendments to the Constitution in 2000, replacing the semi-presidential system with the parliamentary system. Cf. N. Zakošek, T. Maršić: Das politische System Kroatiens, p. 784.

[20] Cf. T. Beichelt in D. Keudel: Horizontale Gewaltenteilung: Präsidenten, Regierungen und Parlamente, p. 74 and J. Toplak and T. Dubrovnik: Presidential powers in the Eastern European democracies: a comparative overview.

[21] Cf. T. Schmidt: Das politische System Lettlands, in: W. Ismayr (ed.): Die politischen Systeme Osteuropas, 3rd edition, Vs Verlag, Wiesbaden 2010, p. 145.

[22] Cf. A. Krouwel: Measuring presidentialism and parliamentarism: An Application to Central and East European Countries, in: Acta Politica, 38 (2003) 4, p. 333-364. Cf. G. Tsebelis, T. P. Rizova: presidential Conditional Agenda Setting in the Former Communist Countries, in: Comparative Political Studies, 40 (2007) 10, p. 1155-1182, in which the authors analyze the President's right of veto in former communist countries and conclude that the President's legislative powers are not necessarily dependent on the system of government.

[23] Article 118 of the Constitution of the Republic of Poland from 1997, with subsequent amendments and additions (hereinafter referred to as the Polish Constitution), Article 9 of the Fundamental Law of Hungary from 2011 (hereinafter referred to as the Hungarian Constitution), Article 68 of the Lithuanian Constitution, Article 47 of the Constitution of the Republic of Latvia from 1922, with subsequent amendments and additions (hereinafter referred to as the Latvian Constitution).

[24] Article 103 of the Constitution of the Republic of Estonia from 1992, with subsequent amendments and additions (hereinafter referred to as the Estonian Constitution), Article 154 of the Constitution of the Republic of Bulgaria from 1991, with subsequent amendments and additions (hereinafter referred to as the Bulgarian Constitution), Article 150 of the Constitution of Romania from 1991, with subsequent amendments and additions (hereinafter referred to as the Romanian Constitution).

[25] Article 235 of the Polish Constitution, Article S of the Hungarian Constitution.

[26] Article 32 of the Rules of Procedure of the Polish Sejm (Monitor Polski 2009, 5, 47, with subsequent amendments and additions); Article 79 of the Rules of Procedure of the Latvian Saeima (of 2 March 2006; with subsequent amendments and additions); Article 68 of the Lithuanian Constitution; Article 6 of the Hungarian Constitution.

[27] The situation is different when a draft bill or amendment to the Constitution are submitted by voters, as Article 78 of the Latvian Constitution states that a group of at least one tenth of the voters may submit to the President of the Republic a fully elaborated draft bill (or an amendment to the Constitution), which the President shall then present to the parliament. If the parliament does not pass this draft bill, it is submitted to a referendum (following the Swiss example).

[28] Cf. W. Ismayr: Die politischen Systeme der EU-Beitrittsländer im Vergleich, in: Aus Politik und Zeitgeschichte, (2004) 5/6, p. 8 and W. Ismayr: Die politischen Systeme der baltischen Staaten, in: Der Bürger im Staat: Die baltischen Staaten, 54 (2004) 2/3, p. 111.

[29] Cf. K. Merusk: The Republic of Estonia, in: C. Kortmann, J. Fleuren, W. Voermans (ed.): Constitutional Law of 10 EU Member States: The 2004 Enlargement, Kluwer Law International, 2006, p. III/25.

[30] Between 2004 and 2008, the President of Lithuania submitted 130 draft bills, while the government submitted 991 and the parliament 2171. Cf. J. Tauber: Das politische System

Litauens, in: W. Ismayr (ed.): Die politischen Systeme Osteuropas, 3rd edition, Vs Verlag, Wiesbaden 2010, p. 185.

[31] More on the promulgation duty of the President of the Republic I. Kaučič: Predsednik republike med ustavo in politično prakso, in: Podjetje in delo, 32 (2006) 6/7, p. 1615-1628.

[32] Article 87 of The Constitution of the Slovak Republic from 1992, with subsequent amendments and additions (hereinafter referred to as the Slovak Constitution) and Article 51 of the Constitution of the Czech Republic from 1992, with subsequent amendments and additions (hereinafter referred to as the Czech Constitution). Such provision was already part of the former common Constitution.

[33] Cf. Article 71 of the Lithuanian Constitution.

[34] Article 87 of the Slovak Constitution

[35] Cf. V. Pavlicek, M. Kindlova: The Czech Republic, in: C. Kortmann, J. Fleuren, W. Voermans (ed.): Constitutional Law of 10 EU Member States: The 2004 Enlargement, Kluwer Law International, 2006, p. II-39.

[36] More in K. Vodicka: Das politische System Tschechiens, VS Verlag, Wiesbaden 2005 and Z. Mansfeldová: Das tschechische Parlament im Zeichen allmählicher Stabilisierung, in: S. Kraatz, S. Steinsdorff (ed.): Parlamente und Systemtransformation im Postsozialistischen Europa, Leske + Budrich, Opladen 2002, p. 111-126.

[37] Cf. Office of the President of Estonia: Powers and Responsibilities: Responsibility in regard to legislation, available at www.president.ee/en/president/legal-authority/index.html, on 13 December 2012. Cf. T.Dubrovnik: The position, election and powers of the President of the Republic of Estonia, in: Lex localis, 7 (2009) 1, p. 26.

[38] Cf. W. Ismayr: Die politischen Systeme Osteuropas im Vergleich, in: W. Ismayr (ed.): Die politischen Systeme Osteuropas, 3rd edition, Vs Verlag, Wiesbaden 2010, p. 24.

[39] Article 50 of the Czech Constitution and Article 75 of the Latvian Constitution. On legislative veto in the Polish system L. L. Garlicki: The Presidency in the New Polish Constitution, in: East European Constitutional Review, 6 (1997) 2&3, p. 81-89.

[40] Article 50 of the Czech Constitution and Article 98 of the Rules of Procedure of the Czech Chamber of Deputies (90/1995, with subsequent amendments and additions); Article 64 of the Rules of Procedure of the Polish Sejm; Article 107 of the Estonian Constitution and Article 114 of the Rules of Procedure of the Estonian parliament (RT I 2003, 24, 148, with subsequent amendment and additions); Article 101 of the Bulgarian Constitution and Article 76 of the Rules of Procedure of the National Assembly of Bulgaria (State Gazette 58/2009, with subsequent amendments and additions).

[41] About the Lithuanian President's pocket veto V. A. Vaičaitis: The Republic of Lithuania, in: C. Kortmann, J. Fleuren, W. Voermans (ed.): Constitutional Law of 10 EU Member States: The 2004 Enlargement, Kluwer Law International, 2006, p. VI/26.

[42] Cf. Article 71 of the Lithuanian Constitution and the Constitutional Court's ruling "On the Law on State Pensions and the Law on the President of the Republic" of 19 June 2002.

[43] About the Latvian President's right of veto cf. Articles 71, 72 of the Latvian Constitution.

[44] Cf. President of Latvia: The president of Latvia Vaira Vike-Freiberga during her Presidency (1999-2007), available at www.president.lv/pk/content/?cat_id=2163&lng=en, on 13 October 2012.
[45] Cf. D. Iljanova: The Republic of Latvia, in: C. Kortmann, J. Fleuren, W. Voermans (ed.): Constitutional Law of 10 EU Member States: The 2004 Enlargement, Kluwer Law International, 2006, p. V/28.
[46] Article 75 of the Latvian Constitution.
[47] Article 77 of the Romanian Constitution, Article 122 of the Polish Constitution, Article 6 of the Hungarian Constitution, and Article 107 of the Estonian Constitution.
[48] In practice, the Polish President rarely exercises the right of legislative veto and the constitutional review is more frequent. More in L. L. Garlicki: Das Verfassungsgericht im politischen Prozess, in: O. Luchterhandt (ed.): Neue Regierungssysteme in Osteuropa und der GUS. Probleme der Ausbildung stabiler Machtinstitutionen, Berlin Verlag Arno Spitz, Berlin 1996, p. 275-310.
[49] Between 1990 and 2010 the Hungarian President exercised the right of constitutional veto for 37 laws, returned 39 laws to the parliament for reconsideration, and submitted three draft bills to the parliament. Cf. The Hungarian National Assembly: The role of the President of the Republic in legislation 1990-2010, available at www.parlament.hu/angol/append/role_of.htm, on 17 October 2012. More on Hungarian President's constitutional veto in A. Sajo: The Republic of Hungary, in: C. Kortmann, J. Fleuren, W. Voermans (ed.): Constitutional Law of 10 EU Member States: The 2004 Enlargement, Kluwer Law International, 2006, p. IV/31.
[50] More on the powers of the President of Estonia in H. J. Uibopuu: Die Kompetenzen des estnischen Staatspräsidenten nach der Verfassung 1992, in: Recht in Ost und West (ROW), 37 (1993) 3, p. 65-77 and issue 4, p. 107-118.
[51] Article 17 of the Latvian Constitutional Court Law (of 5 June 1996, with subsequent amendments and additions); Articles 12, 16 of the Bulgarian Constitutional Court Act (State Gazette 67/1991, with subsequent amendments and additions); Article 87 Of the Czech Constitution and Article 64 of the Czech Constitutional Court Act (182/1993 Sb., with subsequent amendments and additions); Article 125 of the Slovak Constitution and Article 18 Act on the Organization of the Constitutional Court of the Slovak Republic, on the Proceedings before the Constitutional Court and the status of its Judges (of 20 January 1993, with subsequent amendments and additions).
[52] Article 106 of the Lithuanian Constitution.
[53] These entities are: members of the National Assembly, the National Council, the Government and voters. Articles 88 and 97 of the Constitution of the Republic of Slovenia (hereinafter referred to as Slovenian Constitution), (Uradni list RS, no. 33I/1991-I, no. 42/1997, 66/2000, 24/2003, 69/2004, 69/2004, 69/2004, 68/2006.
[54] The decision made by the National Assembly after the veto is final.
[55] Cf. C. Ribičič: Šef države ali šef protokola, in: Pravna praksa, 21 (2002) 19, p. 4-5, where the author states that the office of the President should be strengthened by granting the President the right of constitutional veto, similarly to the Hungarian system. Cf. A. Teršek: Predsednik in ustava - ponižanje in razžaljenje!?, in: Pravna praksa, 25 (2006) 7/8, p. 31, where the author

advocates a direct connection between the office of the President and protection of constitutionality. The author asserts that the President should have the right to waive signature of a bill under the argument of unconstitutionality, and to request a constitutional review.

[56] Also according to the majority opinion of the expert group of the National Assembly Constitutional Commission, this sort of power would make sense, but it disproportionately strengthens the position of the President, as is characteristic for a parliamentary system. Cf. I. Kaučič: Razvojna pot projekta ustavnih sprememb 2008-2011, in: I. Kaučič et al. (ed.): Ustavna reforma ustavnega sodstva, zbornik gradiv, 2008-2011, Faculty of Law, University of Ljubljana, 2011, p. 35-36.

[57] For more about the possibility of introducing the constitutional veto in Slovenia and its consequences cf. I. Kaučič: Predsednik republike med ustavo in politično prakso, in: Podjetje in delo, 32 (2006) 6/7, p. 1628.

[58] Ribarič expands the list of reasons for which a substantive constitutional review could be requested, saying that in addition to obvious unconstitutionality, the reasons should also include possible damaging consequences, which would be impossible to prevent even in a procedure for assessing constitutionality. Cf. M. Ribarič: Predsednik republike, in: L. Šturm (ed.): Komentar Ustave Republike Slovenije, Graduate School of Government and European Studies, Ljubljana 2002, p. 835.

[59] Cf. Constitutional Court of the Republic of Slovenia decision n. U-I-104/01 of 14 June 2001, Uradni list RS, no. 52/2001.

[60] Cf. I. Kaučič: Predsednik republike med reprezentativno in izvršilno funkcijo, in: 10th Days of Public Law, 2004, p. 27.

[61] Cf. also I. Kaučič: Predsednik republike med ustavo in politično prakso, in: Podjetje in delo, 32 (2006) 6/7, p. 1627.

[62] Idem S. Nerad: Razmerje predsednika republike do sodne oblasti, in: 10th Days of Public Law, 2004, p. 71.

[63] For more on the President's right to substantive review of a law's constitutionality, see E. Kerševan: Vloga predsednika republike v zakonodajnem postopku z vidika varstva vladavine prava, in: Pravnik, 64 (2009) 11/12, p. 656 and 659.

[64] This type of condition for acting in lieu of the President is not included in the Slovenian Constitution. Cf. S. Zagorc: Nezdružljivost funkcije in nadomeščanje predsednika republike, in: 10th Days of Public Law, 2004, p. 95-112 and I. Kaučič: Predsednik republike, in: L. Šturm (ed.): Komentar Ustave Republike Slovenije, Dopolnitev - A, Faculty of Postgraduate Government and European Studies, Ljubljana 2011, p. 1227-1230.

[65] More on referenda cf. I. Kaučič: Referendum in druge oblike neposredne demokracije, in: I. Kaučič (ed.): Zakonodajni referendum, Inštitut za primerjalno pravo in GV Založba, Ljubljana 2010, p. 21-40.

[66] Article 95 of the Slovak Constitution, Article 98 of the Bulgarian Constitution, Article 90 of the Romanian Constitution, Article 125 of the Polish Constitution, Article 8 of the Hungarian Constitution.

[67] Articles 17 and 63 of the Czech Constitution, Article 64 and 98 of the Bulgarian Constitution, Article 98 of the Polish Constitution, Articles 60 and 78 of the Estonian Constitution, and Articles 57 and 84 of the Lithuanian Constitution.

[68] Article 7 of the Romanian Law for Election of the Members of the Chamber of Deputies and of the Senate (Official Gazette of Romania, 887/2004, with subsequent amendments and supplements, Article 25 of the parliamentary Election Law of the Slovak Republic (no. 333/2004, of 13 May 2004, with subsequent amendments and supplements, Article 17 of the parliamentary Election Law of Latvia (of 25 May 1995, with subsequent amendments and supplements).

[69] Cf. M. Ribarič: Predsednik republike v procesu političnega odločanja, II. strokovno srečanje pravnikov s področja javnega prava, 1996, p. 84.

[70] In Article 12 the Latvian Constitution determines that a newly elected parliament is to be convened at the constitutive sitting on the first Tuesday in November.

[71] Article 34 of the Czech Constitution, Article 3 of the Hungarian Constitution, Article 82 of the Slovak Constitution, Article 75 of the Bulgarian Constitution, Article 63 of the Romanian Constitution, Article 109 of the Polish Constitution, Article 65 of the Lithuanian Constitution, Article 66 of the Estonian Constitution.

[72] Article 78 of the Bulgarian Constitution, Article 68 of the Estonian Constitution, Article 84 of the Lithuanian Constitution, Article 20 of the Latvian Constitution.

[73] Article 34 of the Czech Constitution, Article 66 of the Romanian Constitution.

[74] Article 82 of the Slovak Constitution.

[75] Articles 12-16 of the National Assembly Elections Act /ZVDZ/, (Uradni list RS 109/2006-UPB1, 54/2007 Odl.US: U-I-7/07-22, Up-1054/07-24, 49/2008 Skl.US: U-I-272/07-12) and Articles 81 and 85 of the Slovenian Constitution.

[76] In calling elections, the President primarily determines the date of their announcement and their execution. More on presidential legal acts S. Zagorc: Pravni akti predsednika republike, Zbornik znanstvenih razprav, 65 (2005), Faculty of Law, University of Ljubljana, p. 323-344.

[77] In terms of eastern European countries the Russian President has the greatest powers in the event it is impossible to form a government. When the State Duma rejects the presidential candidate for Prime Minister, the President of the Russian Federation names the Minister themselves, simultaneously dissolving the Duma and calling early elections. More F. Grad, I. Kristan, A. Perenič: Primerjalno ustavno pravo, Faculty of Law, University of Ljubljana, 2006 p. 337; and F. Grad: Položaj šefa države v ustavni ureditvi ruske federacije, in: Zbornik znanstvenih razprav, 58 (1998), Faculty of Law, University of Ljubljana, p. 57-70.

[78] Cf. E. Tanchev, M. Belov: The Republic of Bulgaria, in: C. Kortmann, J. Fleuren, W. Voermans (ed.): Constitutional Law of 2 EU Member States: Bulgaria and Romania: The 2007 Enlargement, Kluwer Law International, 2008, p. I/75.

[79] Where a so-called "partial" dissolution of parliament is also possible. In this scenario, the President has the power to call a sitting of the dissolved parliament and determine its schedule of affairs. Latvia and Slovenia are the only systems considered where the Constitution allows a dissolved parliament to still convene, as in Latvia sittings are called and led by the dissolver, and in Slovenia a disbanded parliament can meet at its own initiative. Cf. Article 49 of the Latvian

Constitution and Constitutional Court of the Republic of Slovenia decision no. U-I-23/12-14 of 5 April 2012, Uradni list RS, no. 30/2012.

[80] Articles 33 and 35 of the Czech Constitution. The Czech Chamber of Deputies has never been dissolved.

[81] Article 35 of the Czech Constitution.

[82] Article 102 of the Slovak Constitution, Article 99 of the Bulgarian Constitution.

[83] Article 58 of the Lithuanian Constitution.

[84] Article 3 of the Hungarian Constitution.

[85] Article 98 of the Polish Constitution.

[86] Article 89 of the Romanian Constitution.

[87] Article 99 of the Bulgarian Constitution, Articles 98 and 155 of the Polish Constitution, Article 89 of the Lithuanian Estonian Constitution.

[88] Article 3 of the Hungarian Constitution.

[89] Article 89 of the Romanian Constitution.

[90] Article 35 of the Czech Constitution.

[91] Article 102 of the Slovak Constitution.

[92] Article 58 of the Lithuanian Constitution.

[93] Cf. J. Tauber: Das politische System Litauens, in: W. Ismayr (ed.): Die politischen Systeme Osteuropas, 3rd edition, Vs Verlag, Wiesbaden 2010, p. 177.

[94] Article 87 of the Lithuanian Constitution.

[95] On the relationship between the representative body and the government cf. F. Grad: Parlament in vlada, Uradni list RS, Ljubljana 2000, p. 76.

[96] Article 97 of the Estonian Constitution, Article 58 of the Lithuanian Constitution.

[97] Articles 35 and 44 of the Czech Constitution, Article 102 of the Slovak Constitution.

[98] Article 225 of the Polish Constitution.

[99] Article 3 of the Hungarian Constitution.

[100] Article 119 of the Estonian Constitution.

[101] Article 35 of the Czech Constitution.

[102] Cf. V. Pavlicek, M. Kindlova: The Czech Republic, in: C. Kortmann, J. Fleuren, W. Voermans (ed.): Constitutional Law of 10 EU Member States: The 2004 Enlargement, Kluwer Law International, 2006, p. I/75.

[103] Article 102 of the Slovak Constitution.

[104] Articles 48-50 of the Latvian Constitution.

[105] In accordance with the constitutional amendment adopted in 2009, one-tenth of voters may demand that a referendum be called on dissolving parliament. A referendum on dissolution is impossible in the last 6 months of the President's term (Article 14 of the Latvian Constitution).

[106] A similar system, in which parliament can be dissolved on the basis of a referendum and the initiative of the President, is known among member states of the European Council only in Kyrgyzstan. Cf. Venice Commission: Note on the Issue of Dissolution of Parliament, Study No. 426 / 2007, Strasbourg, 8 November 2007, p. 3, available at www.venice.coe.int/docs/2007/CDL-AD%282007%29037add4-e.pdf, of 28 October 2012.

[107] Cf. K. Pētersone: Latvian President Initiates Dissolution of the parliament, in: Latvian Institute Factsheet (2011) 4, p. 3-5, available at www.latvia.lv/sites/default/files/2011_05_31__no_4_latvian_resident_initiates_dissolution_of_the_parliament.pdf. Cf. also the OSCE/ODIHR report: The Republic of Latvia Early Parliamentary Elections 17 September 2011, Warsaw December 2011, p. 3, available at www.osce.org/odihr/elections/86363, 28 October 2012.
[108] Cf. results of the Central Election Commission of Latvia: Elections & Referenda: Referenda: Referendum on dissolution of the 10th Saeima, available at http://web.cvk.lv/pub/public/29980.html, 28 October 2012.
[109] Article 105 of the Estonian Constitution.
[110] Articles 102 and 160 of the Slovak Constitution.
[111] Cf. F. Grad: Nekatere značilnosti razmerij med državnim zborom, državnim svetom, predsednikom republike in vlado, in: Javna uprava, 31 (1995) 4, p. 468.
[112] Articles 111 and 117 of the Slovenian Constitution.
[113] Cf. I. Kaučič: Vloga predsednika republike v parlamentarnem sistemu, in: Podjetje in delo, 37 (2011) 6/7, p. 1063-1064.
[114] Cf. I. Kaučič: Predsednik republike med reprezentativno in izvršilno funkcijo, in: 10th Days of Public Law, 2004, p. 29.
[115] Cf. F. Grad: Ustavna ureditev organizacije državne oblasti, in: I. Kaučič (ed.): Dvajset let Ustave Republike Slovenije: pomen ustavnosti in ustavna demokracija, The Faculty of Law and the Constitutional Court of the Republic of Slovenia, Ljubljana 2012, p. 59. For more on the limited role of the President in resolving conflicts between the government and the National Assembly due to the institution of constructive no confidence c.f. J Pogorelec: Položaj predsednika republike, in Pravna praksa, 24 (2005) 43, p. 3.
[116] Cf. M. Ribarič: Institucija predsednika republike ob 10-letnici ustave, in: 7th Days of Public Law, 2001, p. 105-119.
[117] In the German system the President may decide after 3 rounds of voting for Chancellor whether or not to dissolve the Bundestag or appoint a Chancellor who has received a relative majority of votes, and thus support the formation of a minority government. More in I. Kaučič: Položaj predsednika republike v izvršilni oblasti, in: VI. dnevi slovenske uprave, 1999, p. 53-61. In the countries examined the constructive vote of no confidence also exists in Hungary and Poland, where it was introduced by the new Constitution (1997), due to poor experience with previous (unstable) governments.
[118] Article 64 of the Czech Constitution.
[119] Article 87 of the Romanian Constitution.
[120] Article 46 of the Latvian Constitution.
[121] Cf. D. Iljanova: The Republic of Latvia, pp. V/38 and V/46.
[122] Cf. R. Kipke: Das politische System der Slowakei, p. 321.
[123] Article 97 of the Lithuanian Constitution.
[124] Article 96 of the Lithuanian Constitution. More about the executive powers of the Lithuanian President in A. Hollstein: Das staatsorganisatorische Modell der neuen litauischen Verfassung: Ein dritter Weg zwischen präsidialem und parlamentarischem System?, pp. 109–113.
[125] Article 141 of the Polish Constitution.

[126] About different systems of government formation see I. Kaučič: Predsednik republike med reprezentativno in izvršilno funkcijo, p. 30.
[127] About the formation of government in Romania see Articles 85, 103, and 107 of the Constitution.
[128] In Lithuania, the government must seek a new vote of confidence from the parliament if more than one half of the ministers are replaced (Article 101 of the Lithuanian Constitution).
[129] These amendments to the Romanian Constitution represented a shift from the semi-presidential to the parliamentary system. Cf. C. Ionescu: Romania, p. II/70. Cf. Articles 85 and 106 of the Romanian Constitution of 1991, and Articles 46 and 52 of the Law for the Revision of the Constitution of Romania, no. 429/2003 (Official Gazette of Romania no. 758/2003).
[130] About the role of the Lithuanian President in L. Talat-Kelpša: The presidency and democratic consolidation in Lithuania, pp. 156–169.
[131] Article 92 of the Lithuanian Constitution.
[132] For the semi-presidential system in the period of so called Small Constitution and the adoption of the new Constitution see E. Bos: Verfassungsgebung und Systemwechsel: Die Institutionalisierung von Demokratie im postsozialistischen Osteuropa.
[133] Cf. K. Ziemer and C. Y. Matthes: Das politische System Polens, pp. 212–225 and C. Y. Matthes: Polen und Ungarn - Parlamente im Systemwechsel: Zur Bedeutung einer politischen Institution für die Konsolidierung neuer Demokratien.
[134] Cf. J. Juchler: Politische Polarisierung in Polen: Zur Entwicklung seit den Präsidentschaftswahlen, pp. 315–326.
[135] For the formation of government in Poland see Articles 154 and 155 of the Constitution, and also B. Banaszak: The Republic of Poland, p. VIII/33.
[136] If Sejm passes a vote of no confidence, it must elect a new Prime Minister, who is then appointed by the President, since the Polish system recognizes the institute of the constructive vote of no confidence. The constructive vote of no confidence was introduced by the new Constitution (1997) due to negative experience with previous (unstable) governments.
[137] Articles 158–162 of the Polish Constitution, cf. also B. Banaszak: The Republic of Poland, p. VIII/21.
[138] The Estonian government must resign when the first session of the newly elected parliament is convened, if the Prime Minister resigns or dies, or if the parliament passes a vote of no confidence against the government or Prime Minister (Article 92 of the Estonian Constitution).
[139] For the formation of government in Estonia see article 89 of the Constitution, cf. also M. Lagerspetz, K. Maier: Das politische System Estlands, p. 91.
[140] Article 68 of the Czech Constitution.
[141] For the formation of government in Slovakia see Articles 110–113 of the Slovakian Constitution) and A. Bröstl: The Slovak Republic, p. IX/22. For the formation of government in Latvia see Articles 55 and 56 of the Constitution and T. Schmidt: Das politische System Lettlands, pp. 139–140.
[142] The Latvian Constitution is the only one without express provisions on dismissal.

[143] Articles 74 and 75 of the Czech Constitution. Under Article 73 of the Constitution, the government must resign if the parliament rejects a vote of confidence or passes a vote of no confidence.
[144] Articles 115 and 116 of the Slovak Constitution.
[145] Articles 90 and 92 of the Estonian Constitution, Articles 159 and 161 of the Polish Constitution, and Articles 92 and 101 of the Lithuanian Constitution. In six of the examined countries – Estonia, Lithuania, Latvia, Slovenia, Poland, and Slovakia –parliament can pass a vote of no confidence against individual ministers.
[146] Articles 85 and 107 of the Romanian Constitution.
[147] Article 16 of the Hungarian Constitution.
[148] The formation of the government in Bulgaria is based on the Greek Constitution of 1975.
[149] For the formation of the government in Bulgaria see Articles 99 and 108 of the Bulgarian Constitution.
[150] Cf. also S. Riedel: Das politische System Bulgariens, p.681.
[151] Article 84 of the Bulgarian Constitution.
[152] Cf. E. Tanchev, M. Belov: The Republic of Bulgaria, pp. I/73–I/75.
[153] Article 111 of the Slovenian Constitution. Rules of Procedure of the National Assembly determine that, within 30 days of the National Assembly being constituted, the President must propose a candidate for the Prime Minister to the National Assembly (Article 225 of PoDZ-1, Official Gazette of the RS no. 92/2007-Official Consolidated Text 1, 105/2010, 79/2012 Constitutional Court Decision). The question arises whether such a deadline can be determined by the Rules of Procedure, since the Constitution does not prescribe one. Cf. M. Ribarič: Predsednik republike v procesu političnega odločanja, p. 91.
[154] Cf. I. Kaučič: Pristojnosti predsednika republike pri oblikovanju vlade, pp. 1125–1135. More in I. Kaučič: Vloga predsednika republike v parlamentarnem sistemu, pp. 1057–1066.
[155] The fact that the candidate for the Prime Minister can be nominated by the President and other proponents at the same time is a specific feature of the Slovenian system. The system is different in Poland, the Czech Republic, and Estonia, where the parliament gets the exclusive right to appoint (or nominate a candidate for) the Prime Minister, if the President's candidate fails to garner sufficient support.
[156] Bulgaria, Estonia, and Poland are the only other countries where the President must dissolve the parliament in the event that a government is not formed. In other countries the President may decide whether or not to dissolve the parliament in a given scenario. Among Eastern European countries, the Russian President has the broadest powers in the event that the formation of government fails. When the State Duma rejects the presidential candidate for Prime Minister three times is a row, the President of the Russian Federation names the Prime Minister, simultaneously dissolving the Duma and calling snap election. More in F. Grad, I. Kristan, A. Perenič: Primerjalno ustavno pravo, p. 337 and F. Grad: Položaj šefa države v ustavni ureditvi ruske federacije, pp. 57–70.
[157] The purpose of the framers of the Constitution to only give the President the option without imposing the obligation of nominating a candidate in the second and third round is clear. Cf. S. Zagorc: Institut protipodpisa aktov šefa države, p. 92.

[158] In practice, the National Assembly elected a Prime Minister that was not nominated by the President only on one occasion.
[159] Cf. M. Ribarič: Odnos med predsednikom Republike Slovenije in vlado, p. 52.
[160] Cf. F. Grad: Nekatere značilnosti razmerij med državnim zborom, državnim svetom, predsednikom republike in vlado, pp. 457–476 and F. Grad: Državni zbor in oblikovanje vlade, pp. 1114–1124.
[161] Cf. M. Cerar: Položaj in vloga predsednika Republike Slovenije, p. 769.
[162] Cf. C. Ribičič: Predsednik republike kot element stabilnosti v parlamentarnem sistemu, p. 87.
[163] Cf. I. Kaučič: Položaj predsednika republike v izvršilni oblasti, p. 59.
[164] Cf. M. Ribarič: Institucija predsednika republike ob 10-letnici ustave, pp. 105–119.
[165] Article 97 of the Czech Constitution.
[166] Article 10 of the Act Concerning the Supreme Audit Office (no. 166 of 20 May 1993, with subsequent amendments and supplements). The Supreme Audit Office is an independent body that controls the management of the state assets, and national budget spending.
[167] Article 62 of the Czech Constitution and Article 6 of the Act on the Czech National Bank (no. 6/1993, with subsequent amendments and supplements).
[168] Article 227 of the Polish Constitution.
[169] Articles 135 and 144 of the Polish Constitution. Under Article 214 of the Constitution, the President also appoints three members of the National Council of Radio Broadcasting and Television.
[170] Article 78 of the Estonian Constitution. The Chancellor of Justice is an independent official who reviews the legislative and executive branches for conformity with the Constitution and the laws (Article 139).
[171] Cf. K. Merusk: The Republic of Estonia, p. III/27.
[172] Cf. M. Brkljacic et al: Constitution Watch: A country-by-country update on constitutional politics in Eastern Europe and the ex-USSR: Estonia, pp. 16–18.
[173] Articles 84, 126, and 133 of the Lithuanian Constitution.
[174] Article 41 of the Hungarian Constitution and Articles 47 and 48 the Act on the Magyar Nemzeti Bank (no. CCVIII, of 2011, with subsequent amendments and supplements). The Hungarian President also appoints university rectors and professors, and approves the appointment of the president of the Hungarian Academy of Sciences (Article 9 of the Constitution). The President also appoints the president of the Budget Council, a body that is involved in the adoption of the budget (Article 44 of the Constitution).
[175] Article 102 of the Slovak Constitution. The Slovak President also appoints university rectors and professors, and three members of the Judicial Council (Articles 102 and 141 of the Constitution).
[176] Article 7 of the Act of the National Council of the Slovak Republic on the National Bank of Slovakia (No. 566/1992, of 18th November 1992, with subsequent amendments and supplements).
[177] Article 6 of the Act of the National Council of the Slovak Republic on State Statistics (No. 540/2001, with subsequent amendments and supplements), and Article 3 of the Act of the

National Council of the Slovak Republic on Slovak Information Service (of 21 January 1993, with subsequent amendments and supplements).

[178] Article 94 of the Romanian Constitution, Article 98 of the Bulgarian Constitution.

[179] Article 65 of the Romanian Constitution.

[180] Cf. E. Tanchev, M. Belov: The Republic of Bulgaria, p. I/69 and President of the Republic of Bulgaria: Institution: Constitutional provisions: Participating in the constituting of public bodies, available at www.president.bg, as on 27 May 2013.

[181] For a comparison of how the appointment of highest state officials is regulated in examined systems, see *J. McGregor*: *The Presidency in East Central Europe*, pp. 26–27.

[182] On the appointment of Constitutional Court judges see Articles 1 and 9 of the Hungarian Constitution; Articles 134 and 142 of the Romanian Constitution; Articles 63 and 84 of the Czech Constitution; Articles 134 and 145 of the Slovak Constitution; Article 147 of the Bulgarian Constitution; Articles 179 and 194 of the Polish Constitution and Article 5 of the Constitutional Tribunal Act of the Republic of Poland (Dz. U. no. 102/643, of 1 August 1997, with subsequent amendments and supplements); Article 150 of the Estonian Constitution; Articles 103 and 112 of the Lithuanian Constitution.

[183] Under Article 129 of the Bulgarian Constitution, the Chairman of the Supreme Court is appointed and dismissed by the President at the proposal of the Judicial Council. The President may not deny an appointment or dismissal if the Judicial Council repeats the proposal. When the Constitution was amended in 2004, deputies were granted the right to propose the dismissal of the Chairman of the Supreme Court to the President, which the Constitutional Court later declared as unconstitutional (as it violates the principle of the separation of powers and independent judiciary). Cf. Constitutional Court of the Republic of Bulgaria Decision, No. 7/2006 of 13 September 2006.

[184] More about the formation of the judicial branch of government in Latvia in D. Iljanova: The Republic of Latvia, pp. V/47–V/56.

[185] In 2006, the Constitutional Court stressed that the President may appoint judges only after receiving an opinion from the judicial council. Cf. Constitutional Court of the Republic of Lithuania Decision, No. 13/04-21/04-43/04, "On the constitutional system of the judiciary and its self-government, on appointment, promotion, transfer of judges and their dismissal from office" of 9 May 2006.

[186] Cf. I. Kaučič: Predsednik republike in sodstvo, pp. 1252–1253.

[187] More in S. Nerad: Razmerje predsednika republike do sodne oblasti, pp. 59–61.

[188] The Lithuanian President nominates only one third of the Constitutional Court judges.

[189] Article 2 of ZVarCP (Official Gazette of the Republic of Slovenia, no. 71/1993, revised 15/1994, 56/2002-ZJU, 109/2012).

[190] Article 8 of ZRacS-1 (Official Gazette of the Republic of Slovenia, no. 11/2001, No. 20/2006-ZNOJF-1, 109/2012). It should be examined whether such a procedure for appointing state auditors, as well as the procedure for appointing judges, except for Constitutional Court judges, is appropriate, cf. M. Ribarič: Predsednik republike v procesu političnega odločanja, p. 89.

[191] Articles 35, 36 and 37 of ZBS-1 (Official Gazette of the Republic of Slovenia, 72/2006-UPB1, 59/2011).

[192] Article 6 of ZPKSMS (Official Gazette of the Republic of Slovenia, No. 64/2001, 59/2002, 82/2004 Constitutional Court Decision: U-I-120/04-14).
[193] Article 6 of ZInfP (Official Gazette of the Republic of Slovenia, no. 113/2005, 51/2007-ZUstS-A, 14/2010 Constitutional Court Decision: U-I-303/08-9).
[194] Article 9 of ZIntPK (Official Gazette of the Republic of Slovenia, no. 69/2011-UPB2).
[195] Cf. S. Zagorc: Pravni akti predsednika republike, pp. 323–344.
[196] More in I. Kaučič: Predsednik republike med reprezentativno in izvršilno funkcijo, p. 25.
[197] Ibid., p. 33.
[198] Cf. M. Ribarič: Nekateri vidiki ustavnega položaja predsednika republike, pp. 119–134.
[199] Cf. M. Ribarič: Predsednik republike med ustavo in politico, p. 81.
[200] Constitutional Court judges are elected by the National Assembly with the majority of votes of all deputies (Article 14 of the Constitutional Court Act /ZUstS/ Official Gazette of the Republic of Slovenia, no. 64/2007-UPB1,108/2007 Constitutional Court Order: U-I-259/07-10, 109/2012). Considering the nature of the National Assembly, its decision is always political, and the President can only buffer individual political ambitions, but cannot completely avoid the ratio of political powers in the parliament. Cf. I. Kaučič: Sprememba ustavne ureditve volitev ustavnih sodnikov, p. 1507.
[201] Cf. F. Grad: Sistem organizacije državne oblasti, pp. 35–36.
[202] The Lithuanian Constitutional Court pointed out that even though the document is countersigned by a minister, the President is not relieved of the responsibility, if the document gravely violates the Constitution or the given oath. Cf. Constitutional Court of the Republic of Lithuania Decision, no. 40/03, "On a decree of the President of the Republic" of 30 December 2003.
[203] More in S. Zagorc: Institut protipodpisa aktov šefa države. P. 36. Cf. also M. Ribarič: Predsednik republike, p. 838.
[204] The Estonian Constitution only prescribes the institute of countersignature in the event that the Estonian parliament cannot meet, and the President issues a decree that has the force of law and is necessary to protect the interest of the state (Article 109 of the Constitution).
[205] Article 100 of the Romanian Constitution, Article 63 of the Czech Constitution, Article 9 of the Hungarian Constitution, Article 102 of the Slovak Constitution, Article 85 of the Lithuanian Constitution.
[206] Article 102 of the Bulgarian Constitution, Article 144 of the Polish Constitution.
[207] Article 53 of the Latvian Constitution.
[208] Cf. I. Kaučič: Predsednik republike, p. 1241 and M. Ribarič: Predsednik republike, p. 142.
[209] Cf. S. Zagorc: Institut protipodpisa aktov šefa države, p. 125.

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