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THE SYSTEM OF CHECKS AND BALANCES IN A PRESIDENTIAL REPUBLIC

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The article examines the system of checks and balances in a presidential republic, which ensures the balance of power and prevents its usurpation. Presidential republics exist in the United States, many countries of Latin America, Africa, South Korea, the Philippines, and some former Soviet republics – Kazakhstan, Tajikistan, Turkmenistan, and Uzbekistan. The article analyzes the elements of the system of checks and balances in the classical presidential form of republican government: the presidential veto, the legislative powers of the parliament, the role of the judiciary in constitutional control, as well as the impact of impeachment mechanisms and the possibility of parliamentary investigation of the executive branch. The system of checks and balances in the United States differs from other presidential republics. In these countries, the separation of powers is violated. The president is officially and unofficially vested with superpresidential powers. For example, the president is vested with the right of legislative initiative and the right to dissolve the parliament. The article emphasizes that the effectiveness of the system of checks and balances depends not only on the formal legal mechanisms enshrined in the constitution, but also on the political culture, the level of civic awareness and democratic traditions of society. The results of the study show that in order to ensure the stable functioning of a democratic regime in a presidential republic, it is necessary not only to comply with the formal norms of separation of powers, but also to develop political institutions that promote a balanced separation of powers and prevent the concentration of power in one hand. The author offers recommendations on how to improve this system in modern presidential republics, including the need to strengthen the independence of the judiciary, increase the accountability of the executive branch and create effective mechanisms of parliamentary control.

Key words: presidential republic, system of checks and balances, separation of powers, president, government, parliament, court, impeachment, veto.

Introduction. The system of checks and balances is an integral component of a presidential republic, where the separation of powers is implemented through interaction and mutual control between the executive, legislative, and judicial branches. The origins of this concept trace back to the works of Charles-Louis de Montesquieu, who formulated the principle of the separation of powers, and the ideas of James Madison, embedded in the U.S. Constitution. Over the centuries, this system has undergone evolutionary changes, adapting to the political realities of different countries while remaining a key instrument for maintaining democratic order.

Recent literature review. Among the numerous studies and publications that address the issue of checks and balances in a presidential republic, the works of researchers such as O. Valevskyi, N. Haidaienko, Kh. Zabavska, V. Rebkalo, I. Salo, L. Sylenko, V. Surnin, and others deserve special attention.

The purpose of this article is to analyze the peculiarities of the functioning of the system of checks and balances under the presidential form of government.

Discussion. The classic example of a presidential republic is the United States. The presidential-republican form of government has also been implemented in most Latin American countries, many African

states, South Korea, the Philippines, and several former Soviet republics, including Kazakhstan, Tajikistan, Turkmenistan, and Uzbekistan. In some presidential republics (such as Egypt, Kazakhstan, Peru, and Uzbekistan), there is the position of an administrative prime minister, who lacks significant governing powers and operates according to the directives of the president.

In a presidential republic, there is a strict separation of powers, characterized by the formal isolation of the branches of government and the absence of close functional relationships between them. The system of checks and balances plays a crucial role in maintaining this structure. Such a division of power is enshrined in the U.S. Constitution of 1787 (Constitution of the United States, 1787). However, the independence and autonomy of each branch of government do not imply their complete detachment from one another. In practice, such isolation could lead to inefficiency, conflict, or even governmental paralysis. Therefore, a mechanism of mutual cooperation, checks, and balances has developed within presidential republics to ensure both the independence and interaction of all branches of government.

The legislative power, represented by the parliament, holds the exclusive right to pass laws. No other authority or state body possesses such a right. The president is not granted the power of legislative initiative. Moreover, members of the executive branch, in some cases—such as in the United States—do not have the right to access parliamentary chambers (except when the president delivers an address to a joint session of Congress). However, in practice, these strict rules are not always consistently enforced. Members of the executive branch participate in the work of parliamentary committees and commissions, though not in plenary sessions of the chambers. The executive branch is responsible for preparing the most significant legislative proposals, as it has the necessary administrative apparatus, information resources, and other capabilities (Shapoval, 1997, pp. 216–217). However, when the executive branch lacks the formal right to legislative initiative, it must find alternative ways to bring legislative proposals before the parliament. One such method involves shaping a particular policy direction within which legislators affiliated with the president's party introduce initiatives on behalf of the executive. In some cases, members of parliament may present government-backed legislative proposals for consideration.

All these strict rules limiting the executive branch's access to parliament are designed to preserve the independence of the legislative branch. However, it is equally important to ensure the legal authority and independence of the executive branch itself. As noted by V. V. Ladychenko, this is achieved through two main mechanisms. First, the executive branch is independent of the legislative branch. It is formed by the president. In a presidential republic, the head of state is the sole bearer of executive power. The president is elected through general elections by the entire population of the country. However, in the United States, elections traditionally consist of several stages. Voters cast their ballots for presidential electors, who in turn elect the head of state. Since, in practice, electors always vote for the candidate of the party from whose list they were elected, the results of the vote for electors essentially determine who will become the American president. Second, in a presidential republic, the government is not accountable to the parliament. However, the executive branch is also not granted the authority to dissolve parliament (the lower house) prematurely or to call early parliamentary elections (Ladychenko, 1998, p. 70).

The independence and autonomy of each of the three branches of government, especially the legislative and executive branches, should not serve as an obstacle to their cooperation. Moreover, effective governance is impossible without their interdependence and interaction.

Theoretically, this requirement stems from the unity of state power and the general direction of state policy. Such unity does not exclude differences in how state power is exercised by various government bodies, nor does it eliminate the possibility of disputes within the government itself. Differences, and consequently contradictions, are inevitable due to the existence of multiple branches of government. However, the principle of unity requires that such differences not escalate into confrontation and conflict. On fundamental issues of state policy, all branches of government must act in coordination, as failure to do so would make governance impossible, inevitably leading to anarchy and disintegration.

The thesis of the simultaneous separation and interaction of the branches of government was emphasized by the U.S. Supreme Court in the case of U.S. President R. Nixon. In its ruling, the Court stated: "The Constitution envisions that the branches of government will be both separate and interdependent, autonomous and reciprocally interacting" (The Living U.S. Constitution, 1983, p. 730).

The challenge lies in ensuring that no branch of government remains unchecked or operates arbitrarily. This is where the practical implementation of the principle of separation of powers comes into play through the well-known "system of checks and balances". Its purpose is to maintain an equilibrium among the branches of government, preventing the usurpation of powers by one branch at the expense of another, avoiding potential conflicts, and ensuring close cooperation between the branches in the process of developing legal decisions.

The system of checks and balances originated in the United States. It is based on several key principles.

First, all three branches of government have different sources of formation. The legislative branch, represented by Congress, consists of two chambers: the Senate and the House of Representatives, each of which is formed in a distinct manner. The House of Representatives is elected directly by the people through a voting electorate. According to the 1787 Constitution, the Senate was originally to be elected by state legislatures. However, the 17th Amendment (1913) introduced direct elections for senators, significantly altering the plans of the Founding Fathers. In modern U.S. political practice, "the composition of the Senate is determined independently by each state" (Constitution of the United States, 1787). The president, as the head of the executive branch, is elected indirectly by the Electoral College, whose members are, in turn, chosen by the people. The judicial branch, represented by the Supreme Court, is formed through a joint process involving the president and the Senate.

Canadian professor P. Ordeshook believes that the developers of the American political and legal system – A. Hamilton, J. Madison, and G. Washington – considered the different sources of formation of the three branches of government as a safeguard against any of these institutions gaining unchecked power (Ordeshook, 2016, pp. 44–45).

Second, all government bodies have different terms of office as defined by the Constitution. The House of Representatives is elected for a two-year term. The Senate does not have a fixed term, as one-third of its members are re-elected every two years, ensuring continuity. The president serves a four-year term, while Supreme Court justices hold their positions for life. This variation in term lengths provides the branches of government with a degree of independence from one another and prevents their simultaneous renewal, ensuring governmental stability and continuity.

Third, the system of checks and balances is designed to neutralize any attempts at power usurpation by any branch of government. Congress has the authority to reject the president's legislative proposals, including budgetary bills, which he submits through messages. The Senate can reject any presidential nominee for high federal positions, as approval requires a two-thirds majority vote in the Senate. Ultimately, Congress can hold the president accountable through an established impeachment process.

Fourth, the most significant tool of presidential influence over the legislature is the power of veto. The veto (from Latin *veto*—"I forbid") is an act in modern states that suspends or prevents the enactment of a decision made by another authority (Shliakhtun, 2005, p. 45). The right to issue such an act (to impose a veto) is known as the power of veto. The presidential veto in the United States has distinct features: a) It rejects an entire bill rather than specific articles or provisions within it; b) It has a suspensive nature, meaning it does not permanently block a bill but requires further legislative action. To override a presidential veto, each chamber of Congress must vote again on the bill with a two-thirds majority. As a result, the mere threat of a veto often compels legislators to consider the president's proposals more carefully.

In U.S. constitutional practice, the president's use of the "pocket veto" is a notable feature. This veto applies to bills passed by Congress within the last ten days of its session. According to the U.S. Constitution, the president must either sign or veto a bill sent by Congress within ten working days while Congress is in session. However, if the bill is sent to the president less than ten days before the session ends, the president can simply hold onto it without taking any action until the session concludes, thereby preventing the bill from becoming law. Due to the principle of discontinuity, which stipulates that all bills introduced during a congressional session do not carry over to the next session, Congress cannot resend the bill to the president for approval.

Fifth, impeachment is a fundamental element of the system of checks and balances. According to Section 4, Article II of the U.S. Constitution (1787), the President of the United States may be removed from office "upon conviction in an impeachment trial for treason, bribery, or other high crimes and misdemeanors" (Constitution of the United States, 1787). However, despite this broad range of possible charges, the impeachment process against U.S. presidents has been initiated only a few times in the country's history.

In 1868, impeachment proceedings were brought against Andrew Johnson (related to the illegal dismissal of the Secretary of War). In 1998–1999, impeachment was initiated against Bill Clinton (concerning perjury and obstruction of justice in the Monica Lewinsky case). In September 2019, the Speaker of the House of Representatives initiated impeachment proceedings against Donald Trump, accusing him of pressuring Ukrainian President Volodymyr Zelenskyy to investigate alleged corruption involving Hunter Biden (son of Joe Biden) in exchange for military and financial aid. However, in February 2020, the U.S. Senate did not support Trump's impeachment, and he was acquitted.

In other presidential republics, impeachment has been applied multiple times. In 1993, President Fernando Collor of Brazil and President Carlos Andrés Pérez of Venezuela were removed from office. In March 2016, Brazilian President Dilma Rousseff was impeached on corruption charges. In March 2017, South Korean President Park Geun-hye was removed from office through impeachment for violating laws and the constitution, including corruption, abuse of power, extortion, and disclosure of state secrets.

The first countries to adopt the presidential form of government following the U.S. model were Latin American nations. In these countries, the presidency dominates all other institutions, and their parliaments do not have the same level of control over the executive branch as the U.S. Congress does. Judging by both official and unofficial presidential powers, it can be said that the Latin American model of presidential authority is not just presidential but rather "superpresidential".

In political science, the term "superpresidential" republic is used to denote a specific type of republican form of government characterized by the dominance of the president in the structure of state power. In a superpresidential republic, there is no balance among the branches of government, as the division of powers is heavily skewed in favor of the head of state (Shliakhtun, 2005, p. 512).

At the same time, the Latin American model of the presidency retains some elements of democratization. In most of these countries, the president is elected for a single term, which acts as a safeguard against the establishment of a personal dictatorship. Additionally, many Latin American states have long-established multiparty systems, fostering both parliamentary and extra-parliamentary opposition to presidential power. In recent years, the judiciary has also shown a tendency toward greater independence, indicating a gradual redistribution of governmental functions among various branches of the state mechanism (Zelinska, 2008, p. 45).

In many Asian and African countries, a presidential-republican form of government has also developed. However, the Afro-Asian model of the presidency is characterized by even greater authoritarianism, often verging on outright totalitarianism. Presidents in most of these countries not only combine the roles of head of state and head of government but also act as leaders of the ruling parties. Moreover, these ruling parties are often either the sole political party or the dominant force in the political landscape of these countries, allowing presidents to appoint their loyalists not only to government positions and local authorities but even to parliaments. These legislatures lack real legislative power, functioning as mere rubber-stamp institutions that approve all decisions made by the head of state. Constitutionally, these parliaments are not protected from the president's arbitrary actions and can be dissolved at the president's discretion. Similarly, the judiciary, like the legislature, is fully dependent on the president, who personally appoints judges and controls their activities.

Furthermore, presidential power in Asia and Africa does not tolerate even weak opposition. It is no coincidence that in academic literature, such governance models are often referred to as "presidential monarchies" (Kolomiiets, 1998, p. 159). The presidents of countries such as Ghana (under Kwame Nkrumah), Guinea (under President Sékou Touré), and Zaire (under President Mobutu), among others, were not only political leaders but also chief ideologues of their nations, responsible for establishing official state ideologies that were mandatory for all citizens. Finally, the leaders of Zaire, Tunisia, Uganda, and Equatorial Guinea were even declared presidents for life.

Conclusions. Thus, an analysis of presidential republics demonstrates that, in practice, the system of checks and balances functions differently across various countries. In the classical model, exemplified by the United States, the separation of powers is maintained through a complex system of mutual control, including presidential veto power, legislative oversight, an independent judiciary, and the impeachment mechanism. However, in other countries that have adopted the presidential system, the checks and balances system is often undermined. In such states, the president wields extensive powers and can exert influence over other branches of government.

To strengthen the effectiveness of the system of checks and balances in presidential republics, several measures should be considered: ensuring judicial independence through mechanisms of constitutional oversight and anti-corruption initiatives; enhancing executive accountability by expanding parliamentary oversight of the actions of the president and the government; optimizing the impeachment process to prevent its misuse for political purposes and to guarantee an objective and fair procedure; promoting political culture and increasing civic awareness, both of which are crucial for the stable functioning of democratic institutions.

Войчук А. Система стримувань і противаг у президентській республіці

У статті досліджується система стримувань і противаг у президентській республіці, яка забезпечує баланс влади та запобігає її узурпації. Президентська республіка є в США, багатьох країнах Латинської Америки, Африки, Південній Кореї, на Філіппінах та в деяких колишніх радянських республіках – Казахстані, Таджикистані, Туркменістані, Узбекистані. Аналізуються елементи системи стримувань і противаг за класичної президентської форми республіканського правління: право вето президента, законодавчі повноваження парламенту, роль судової влади у конституційному контролі, а також вплив механізмів імпідменту й можливість парламентського розслідування щодо

виконавчої влади. Система стримувань і противаг у США відрізняється від інших президентських республік. У цих державах порушується поділ влади. Президент офіційно і неофіційно наділяється суперпрезидентською владою. Наприклад, президент наділяється правом законодавчої ініціативи, правом розпуску парламенту. У статті підкреслюється, що ефективність системи стримувань і противаг залежить не лише від формальних правових механізмів, закріплених у конституції, але й від політичної культури, рівня громадянської свідомості та демократичних традицій суспільства. Результати дослідження свідчать, що для забезпечення стабільного функціонування демократичного режиму в президентській республіці необхідно не лише дотримуватися формальних норм поділу влади, але й розвивати політичні інститути, які сприяють збалансованому поділу владних повноважень та запобігають концентрації влади в одних руках. Запропоновані рекомендації щодо вдосконалення цієї системи у сучасних президентських республіках, включаючи необхідність посилення незалежності судової влади, підвищення підзвітності виконавчої влади та створення ефективних механізмів парламентського контролю.

Ключові слова: президентська республіка, система стримувань і противаг, поділ влади, президент, уряд, парламент, суд, імпічмент, вето.

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