

STABILITY AND CONFLICT OF INTER-INSTITUTIONAL RELATIONS WITHIN THE FRAMEWORK OF POLISH SEMI-PRESIDENTIALISM OF THE PERIOD OF THE “SMALL CONSTITUTION” (1992–1997)

The article is dedicated to studying the parameters of stability and conflict of inter-institutional relations within the framework of Polish semi-presidentialism of the period of the “Small Constitution” (1992–1997). The study is based on the fact that this period of the development of the Polish political system was the first stage in the development of Polish semi-presidentialism in the recent political history of this country. It is argued that the early stage of the development of Polish semi-presidentialism was characterized by quite significant conflicts in inter-institutional relations. The author argued that Poland chose a rather complex scenario of political and inter-institutional relations during the period of 1992–1997, since the formalized attributes of Polish semi-presidentialism at that time were significantly modified by the lack of political traditions and personal characteristics of Polish politicians, especially presidents. In general, the Polish semi-presidential system of 1992–1997 often provided incentives for power and inter-institutional conflicts and political/constitutional destabilization, especially if certain constitutional conditions, including the powers of political institutions, were ambiguous. Thus, it is established that both formally and politically, the Polish early case of semi-presidentialism not only foresaw, but even dictated the possibility and probability of inter-institutional conflicts, even when different political institutions and their personalities represented the same electoral majority or even a parliamentary majority.

Keywords: inter-institutional relations, system of government, semi-presidentialism, president, parliament, government, prime minister, “Small Constitution”, Poland.

STABILNOŚĆ I KONFLIKT STOSUNKÓW MIĘDZY INSTYTUCJONALNYCH W RAMACH POLSKIEGO SEMIPRZEZYDENCJALIZMU W OKRESIE „MAŁEJ KONSTYTUCJI” (1992-1997)

W artykule zostały przeanalizowane parametry stabilności i konfliktowości stosunków międzyinstytucjonalnych w ramach polskiego semiprezydencjonalizmu w okresie „małej konstytucji” (1992-1997). Ten okres rozwoju polskiego systemu politycznego przyjęto za postawę pierwszego etapu rozwoju polskiego semiprezydencjonalizmu w najnowszej historii politycznej państwa. Argumentowano, że wczesny etap rozwoju polskiego semiprezydencjonalizmu

charakteryzował się sporymi konfliktami w stosunkach międzyinstytucjonalnych. Uzasadiono, że Polska wybrała dość skomplikowany scenariusz uregulowania stosunków politycznych i międzyinstytucjonalnych w latach 1992-1997, gdyż sformalizowane atrybuty polskiego semiprezydencjalizmu w tamtym czasie uległy znacznej modyfikacji przez brak określonych tradycji politycznych. Stwierdzono, że polski system semiprezydencjonalizmu w latach 1992-1997 często stwarzał bodźce do konfliktów o władzę i konfliktów międzyinstytucjonalnych oraz destabilizacji politycznej i konstytucyjnej, zwłaszcza jeśli pewne normy konstytucyjne, w tym dotyczące uprawnień instytucji politycznych, były niejednoznaczne. W ten sposób ustalono, że zarówno formalnie, jak i politycznie, polski semiprezydencjonalizm nie tylko przewidywał, ale wręcz dyktował możliwość i prawdopodobieństwo konfliktów międzyinstytucjonalnych, nawet gdy różne instytucje polityczne reprezentowały tę samą większość wyborczą nawet większość w parlamencie.

Słowa kluczowe: stosunki międzyinstytucjonalne, system rządów, semiprezydencjonalizm, prezydent, parlament, rząd, premier, „mała Konstytucja”, Polska.

СТАБІЛЬНІСТЬ І КОНФЛІКТНІСТЬ МІЖІНСТИТУЦІЙНИХ ВІДНОСИН У РАМКАХ ПОЛЬСЬКОГО НАПІВПРЕЗИДЕНТАЛІЗМУ ПЕРІОДУ «МАЛОЇ КОНСТИТУЦІЇ» (1992–1997)

У статті проаналізовано параметри стабільності і конфліктності міжінституційних відносин у рамках польського напівпрезиденталізму періоду «Малої Конституції» (1992–1997). За основу взято той факт, що цей період розвитку польської політичної системи – це перший етап розвитку польського напівпрезиденталізму в новітній політичній історії цієї держави. Аргументовано, що ранній етап розвитку польського напівпрезиденталізму характеризувався доволі значними конфліктами у міжінституційних відносинах. Обґрунтовано, що Польща обрала доволі складний сценарій впорядкування політичних та міжінституційних відносин упродовж періоду 1992–1997 рр., оскільки формалізовані атрибути польського напівпрезиденталізму в цей час доволі суттєво модифікувалися відсутністю політичних традицій та персональними характеристиками польських політиків, передусім президентів. Загалом констатовано, що польська напівпрезидентська система періоду 1992–1997 рр. часто створювала стимули для владних та міжінституційних конфліктів і політичної та конституційної дестабілізації, особливо якщо певні конституційні умови, в тому числі стосовно повноважень політичних інститутів, були неоднозначними. Відтак встановлено, що і формально, і політично польський ранній кейс напівпрезиденталізму не лише передбачав, а й навіть диктував можливість і спроможність і ймовірність міжінституційних конфліктів, навіть коли різні політичні інститути та їхні

персоналії представляла одну й уявляють ту ж виборчу вибірку – більшістьчи навіть більшість у парламенті.

Ключові слова: міжінституційні відносини, система правління, напівпрезиденталізм, президент, парламент, уряд, прем'єр-міністр, «Мала Конституція», Польща.

In 1997, Poland adopted a current constitution, which, according to most researchers, defines the inter-institutional system and the system of government of our state as semi-presidential. Accordingly, the period from 1997 to the present is largely and quite comprehensively covered by the available scientific research, which reveals the signs and consequences of Polish semi-presidentialism. However, the available research does not sufficiently cover the parameters of inter-institutional relations in Poland before the adoption of the current constitution, in particular the period between 1992 and 1997, when the so-called "Small Constitution" was in force in Poland. This, in turn, actualizes the formulation of research on the stability and conflict of inter-institutional relations within the framework of Polish semi-presidentialism of the "Small Constitution" period.

This issue was considered in a rather small array of available scientific research of the late twentieth century, in particular in the research of such scientists as T. Frye¹, B. Geddes², K. Jasiewicz³, A. Lijphart⁴, J. Linz⁵, A. Maleckaite⁶, J. McGregor⁷, M. Shugart⁸, R. Taras⁹, J. Wiatr¹⁰.

They mostly state that the political system of Poland in the period 1992-1997 (after the adoption of the "Small Constitution") was a model of a mixed, hybrid or so-called semi-presidential system of government or, in other words, an agreement to correct the shortcomings of "pure" models of the government systems – presidential and parliamentary, – especially in the relation to the democratic stability of political institutions and the regulation of stability and overcoming the conflict of inter-institutional relations. However, in this regard, scholars have

¹ Frye T., Politics of Institutional Choice: Post-Communist Presidencies, "Comparative Political Studies" 1997, vol. 30, nr. 5, s. 523–552.

² Geddes B., Initiation of New Democratic Institutions in Eastern Europe and Latin America, [w:] Lijphart A., Waisman C. (eds.), Institutional Design in New Democracies: Eastern Europe and Latin America, Wyd. Westview Press 1996.

³ Jasiewicz K., Poland: Walesa's Legacy to the Presidency, [w:] Taras R. (ed.), Postcommunist Presidents, Wyd. Cambridge University Press 1997, s. 130–167.

⁴ Lijphart A., Democratization and Constitutional Choices in Czechoslovakia, Hungary and Poland, 1989–91, "Journal of Theoretical Politics" 1992, vol. 4, nr. 2, s. 207–223.; Lijphart A., Presidentialism and majoritarian democracy, [w:] Linz J., Valenzuela A. (eds.), The failure of presidential democracy: Comparative perspectives: vol. 1, Wyd. Johns Hopkins University Press 1994, s. 3–87.

⁵ Linz J., Presidential or Parliamentary Democracy: Does It Make a Difference?, [w:] Linz J., Valenzuela A. (eds.), The failure of presidential democracy: Comparative perspectives: vol. 1, Wyd. Johns Hopkins University Press 1994, s. 3–87.

⁶ Linz J., Presidential or Parliamentary Democracy: Does It Make a Difference?, [w:] Linz J., Valenzuela A. (eds.), The failure of presidential democracy: Comparative perspectives: vol. 1, Wyd. Johns Hopkins University Press 1994, s. 3–87.

⁷ McGregor J., The Presidency in East Central Europe, "RFE/RL Research Report" 1994, vol. 3, nr. 2, s. 23–31.

⁸ Shugart M., Executive-Legislative Relations in Post-Communist Europe, "Transition" 1996 (December 13), s. 6–11.; Shugart M., Of Presidents and Parliaments, "East European Constitutional Review" 1993, vol. 2, nr. 1, s. 30–32.

⁹ Taras R., Consolidating Democracy in Poland, Wyd. Westview press 1995.

¹⁰ Wiatr J., Executive-Legislative Relations in Crisis: Poland's Experience, 1989–1993, [w:] Lijphart A., Waisman C. (eds.), Institutional Design in New Democracies: Eastern Europe and Latin America, Wyd. Westview Press 1996.

clearly understood that the expected stability of Polish (and any other similar) semi-presidentialism depended on a whole list of preconditions. In particular, first, it was expected that within the established system of government there should be incentives to find an inter-institutional compromise, because institutional and intersectional conflicts are theoretically natural for semi-presidentialism. In addition, secondly, it was understood that semi-presidentialism can be stable only if the political and institutional environment is stable; including regulated and established political norms, institutions and traditions, including stable political, party and electoral systems. This was especially important against the background of the fact that in the early 90's of the twentieth century in virtually all new democracies, including Poland, lacked the listed requirements of stable semi-presidentialism. Therefore, it has often been suggested that the system of government may lead to democratic instability in a relatively short period of time. Although this could not be verified in the case of the 1992-1997 models, after all, it was replaced by a modified model of semi-presidentialism following the adoption of a new constitution in 1997.

At the same time, it should be noted that the classification of the Polish model of inter-institutional relations and the system of government in 1992–1997 as semi-presidential is not a self-evident issue. The fact is that in the political science of the early 90's of the twentieth century there were many arguments against this¹¹, including the observation of researchers that this model *de jure* and *de facto* approached parliamentarism or modified parliamentarism¹². However, in contrast, Poland's "Small Constitution" of 1992 still met the criteria of a semi-presidential model of government. The fact is that the president of Poland was elected by popular vote for a fixed term, and the government headed by the prime minister was collectively responsible (i.e. could terminate his powers) exclusively to parliament. At the same time, the president nominated the prime minister, who had to be approved by parliament. But as part of the statement that the government was subject to parliamentary trust (or distrust) and its survival depended solely on parliament, the president did not have the formal authority to dismiss either individual ministers or the entire government and prime minister¹³. Accordingly, the issues of interinstitutional relations between the President, the Prime Minister / Government and the Parliament were definitely on the agenda, and thus the verification of whether the Polish constitutional model of 1992-1997 was free from ambiguities that could create and escalate conflicts between presidents and prime ministers or to disrupt the stability of the dual system of executive power.

To answer this question, we must first consider the status and powers of the various political institutions of this historical period of Polish semi-presidentialism. According to the Basic

¹¹ Hollstein A., Valstybes organizacinis modelis Lietuvos Konstitucijoje: treciasis kelias tarp prezidentines ir parlamentines sistemose?, "Politologija" 1999, vol. 2, s. 17–56.

¹² Eruolis D., Lithuania, [w:] Berglund S. (ed.), *The Handbook of Political Change in Eastern Europe*, Wyd. Edward Elgar 1998

¹³ Pugaciuskas V., *Institucinių modelių įtaka demokratijos stabilumui: Lietuvos ir Lenkijos pusiau prezidentizmo lyginamoji analizė*, Vilnius 1999.

Law of 1992, the Polish President was “the highest representative of the Republic of Poland and the guarantor of the continuity of state power.” Although governments in Poland were solely accountable to parliament for their collective action, the Polish “Small Constitution” clearly defined the option of individual accountability of ministers, including to the president and the Sejm (parliament). In addition, the President of Poland was given foreign policy powers, but he had to cooperate with the Prime Minister and the relevant Minister on foreign policy. On the other hand, the main powers of foreign policy were given not to the President, but to the Council of Ministers (government). The situation was compounded by the fact that the president was the commander-in-chief of the Polish armed forces. In addition, as in the “classic” case of contemporary European semi-presidentialism in France, the Polish president could convene and chair cabinet meetings, although the prime minister was certainly the prime minister, and therefore the president did not possess his competencies.

The Polish president, like his French counterpart, also had the right to call national referendums. However, in contrast, the powers of the Polish president were clearly limited by the condition that the government conducts all cases that were not regulated by other authorities or local governments.

Accordingly, subsequent to the results of a qualitative analysis and description of the constitutional model of inter-institutional relations in force in 1992–1997, Poland was indeed a semi-presidential country. However, some objections or inconsistencies arise when applying quantitative analysis tools to Poland at the time. Thus, we notice significant features of the positioning of the system of government in Poland on the basis of its quantitative comparison with other countries in the region, in particular through the prism of assessing and comparing the powers of presidents, who were sometimes stronger in formally parliamentary republics¹⁴. On the other hand, as A. Melekeit points out, an analysis of the comparison of the powers of presidents in Central and Eastern Europe in the early 1990s¹⁵ showed that the powers of Polish presidents corresponded almost entirely to French “ideal type” of semi-presidentialism. And even more, because the assessment of the legislative and non-legislative powers of the Polish president, which were based on the “Small Constitution” of 1992, showed that they were slightly higher than that of his French homologue. Therefore, the Polish model, although with some corrections, was largely placed in the paradigm of the French model, and therefore was semi-presidential.

Therefore, it is important to appeal to the fact that in the case of semi-presidentialism it is necessary to focus not only on the constitutional powers of presidents, but also on the palette of political practice and the real political process. The fact is that constitutional rules are just

¹⁴ McGregor J., *The Presidency in East Central Europe*, “RFE/RL Research Report” 1994, vol. 3, nr. 2, s. 23–31.; Frye T., *Politics of Institutional Choice: Post-Communist Presidencies*, “Comparative Political Studies” 1997, vol. 30, nr. 5, s. 523–552.; Shugart M., *Executive-Legislative Relations in Post-Communist Europe*, “Transition” 1996 (December 13), s. 6–11.

¹⁵ Maleckaite A., *Constitutional Framework of State and Consolidation of Democracy: Semi-presidential Regimes. The Case of Eastern Europe*, Wyd. Central European University 1994, s. 44.

“rules and frameworks of the game” and they do not always speak of a political process. Instead, other factors are important, including customs, traditions, and the influence of personal qualities of officials, including depending on the outcome of the presidential and parliamentary elections. And this is not surprising, because the personal qualities of politicians are certainly more important than any circumstances, although the semi-presidential model of government, at least in the constitutionalized context, does not clearly indicate this, but it is quite obvious at the level of real politics.

Accordingly, it is clear that the personal influence of representatives of political institutions can inevitably become an institutionalized long-term political tradition that can modify the formal and constitutionalized “rules and frameworks of the game” in the context of semi-presidentialism. The experience of the Fifth Republic in France is the most obvious in this respect. After all, its constitution of 1958, as amended in 1962 (after which it actually became semi-presidential), “sought” to create a non-dominant and not omnipotent president, but instead the formation and implementation of national policy was preserved in the government cabinet headed by the prime minister. In addition, the presidency in France was initially considered exceptional, and the main one was arbitration. However, the constitution quickly became formal and France gained a system of dualism of executive power, in which the “first head” of executive power is traditionally and de facto the president, although constitutionally it is not him but the prime minister. In this context, it is important that the process of drafting the constitution and its internal “spirit” in France was influenced by the vision of a prominent leader – General Charles de Gaulle¹⁶. After his election as president, he ensured maximum use of the president’s prerogative to first appoint individuals to public office. By electing “obedient” prime ministers, he has established a tradition where the president is strong not only in the constitutional spheres of foreign affairs and defense policy, but in all spheres of domestic policy in general. That is why the successors of Charles de Gaulle were already forced to act in the same manner. This had one profound “side effect” as a result of which party resources shifted to supporting presidential candidates rather than candidates parties to the parliament. Accordingly, between presidents and prime ministers in France, except in some cases of cohabitation (coexistence), constructions of peaceful complementarities have been established, and in all others the situation has become quite obvious the presidency over presidents, even though that this is not regulated by the constitution at all. All this means that the stabilization of inter-institutional relations in France has been guaranteed by extraconstitutionality and mainly by political traditions that previously met and still meet the dominant expectations of the electorate. These factors not only guide political behavior, but also stimulate fundamental changes in the party system, as a result of which the political system in France is able to survive virtually any “circumstance”.

Unlike France, Poland in the period 1992-1997 did not start the semi-presidential system from a clearly defined position of the president. In our country, the presidency was the result

¹⁶ Elgie R., *Political Leadership in Liberal Democracies*, Wyd. Macmillan Press 1995, s. 62–63.

of compromises between political forces, which could be tentatively called “communists” and “anti-communists.”

Negotiations on institutional reform and the status of the president were characterized by the struggle for direct political gain, rather than the goal of establishing an effective and most productive mechanism of power relations. At the same time, B. Geddes in his work “Initiation of new democratic institutions in Eastern Europe and Latin America” emphasizes that in Poland a relatively strong presidency was the prerogative of the “communists”¹⁷. Similar is Lijphart’s statement from his cross-national political science study, “Democratization and Constitutional Elections in Czechoslovakia, Hungary, and Poland”, that “old” parties in Poland sought to maintain their influence by supporting the institution of a strong president¹⁸. However, the Polish case was characterized by a misunderstanding: the Polish presidency was originally designed for a specific person – W. Jaruzelski. It was believed that he would be a strong and effective president and would maintain the continuity of communist rule in Poland. The Communists, however, suffered a crushing defeat in the election, and the presidency later ceased to be used in their original appointment. However, according to E. Wiatr, this was enough for the role of the president, in particular, to consider him as an important political figure, including “anti-communists”¹⁹. As a result, the semi-presidential constitution of 1992 was supported both by political forces that defended the conditionally “parliamentary” constitution and by those who supported broader presidential powers. The latter were probably in favor of the semi-presidential model, at least because it allowed for the strengthening of presidential power by political means.

Accordingly, the Polish president from the initial stages of choosing an institutional design in the state had to be seen as a strong constitutional actor. This was especially demonstrated by the first democratically elected President of Poland, L. Valensa, who was given the opportunity to use much broader powers (actually designed for another person) and even tried to increase them, contrary to constitutional regulations. It is important to note here that at the beginning of his presidency L. Valensa had more legitimacy than the parliament, as only 35 percent of the representatives of the Sejm were elected democratically (such were the rules of elections for the first post-communist parliament in Poland). L. Walesa approved radical socio-economic reforms and successfully rejected the growing public discontent, which led to a point of open confrontation with the Seim.

The latter achieved several victories in this confrontation, and the government of J. Olszewski (1991-1992) even managed to position itself as an institution of a secondary presidency. This confrontation was especially acute during the so-called “neo-communist” Sejm, elected

¹⁷ Geddes B., *Initiation of New Democratic Institutions in Eastern Europe and Latin America*, [w:] Lijphart A., Waisman C. (eds.), *Institutional Design in New Democracies: Eastern Europe and Latin America*, Wyd. Westview Press 1996, s. 21.

¹⁸ Lijphart A., *Democratization and Constitutional Choices in Czechoslovakia, Hungary and Poland, 1989–91*, “*Journal of Theoretical Politics*” 1992, vol. 4, nr. 2, s. 207–223.

¹⁹ Wiatr J., *Executive-Legislative Relations in Crisis: Poland’s Experience, 1989–1993*, [w:] Lijphart A., Waisman C. (eds.), *Institutional Design in New Democracies: Eastern Europe and Latin America*, Wyd. Westview Press 1996, s. 105.

in 1993, which even led to a constitutional crisis. This allowed President L. Valencia to use his authority to appoint key ministers. Eventually, the president even resorted to an open confrontation with the government and, after threatening to dissolve parliament, forced him to replace the then prime minister by a two-thirds majority. In general, according to K. Yasievich²⁰, during his presidency L. Walesa survived three “hostile” parliaments and six governments, of which only two could be described as more or less friendly to the president.

In contrast, the style of the next democratically elected president in 1992-1997 differed significantly from the style of his predecessors. This can be explained by the imposition of formal restrictions on presidential power, which was established by the “Small Constitution” of 1992. Also, in addition, the different political style could be explained by the personal qualities of the presidents – L. Valensa and his successors O. Kwasniewski. The fact is that O. Kwasniewski began to pursue less “presidential” policy. During the period of his term as head of state before the 1997 parliamentary elections, his level of activity was generally insignificant. Although the coalition of the pro-presidential Union of the Democratic Left and the Polish Peasants’ Party had a majority in the Sejm, the president usually observed political events from a distance and handed over power to the prime minister. In contrast, political activity and activism increased after the parliamentary elections and the adoption of the current constitution in 1997, when a center-right and opposition coalition was formed, but this was already part of the next (outside the scope of the “Small Constitution”) stage of development of Polish semi-presidentialism.

The previous focus of our attention, especially in the period 1992–1997, points to the clear existence in Polish political practice of the influence of personal qualities of presidents on the political process. The fact is that the presidents of the time retained their influence, even when they were in a state of cohabitation with “hostile” parliaments or avoided active politics. All this leads to the conclusion that in Poland during the period of the “Small Constitution” the long-term traditions of semi-presidentialism were virtually absent, although the attributes of the latter were clearly visible. However, unlike in France, the political practice of Poland’s first democratically elected president was not embodied in a “material” constitution and was not a guideline for the political practice of his successors. However, due to the fact that it was during this period that presidents were typically distanced from drafting the current 1997 constitution, they began to be perceived as secondary, as various constitutional drafts did not reflect their vision and limited their future actions.

This means that here, too, the personal qualities of presidents proved to be crucial, as they led to the distancing of heads of state from politics or to their constant search for immediate political alliances and their changes (although the situation after 2015 in Poland, though within the current constitution and outside the field of research of this article, has changed significantly).

²⁰ Jasiewicz K., Poland: Walesa’s Legacy to the Presidency, [w:] Taras R. (ed.), *Postcommunist Presidents*, Wyd. Cambridge University Press 1997, s. 130–167.

In practice, this manifested itself, for example, in the fact that Polish President O. Kwasniewski considered it inappropriate and improper to remain bound by the methods established by his predecessor L. Walesa. In addition, O. Kwasniewski presented an excellent political orientation than his predecessor. While, for example, in the same France, the successor of Charles de Gaulle was also a supporter of his principles and the strengthening of the importance and role of the president. However, in contrast, O. Kwasniewski was far from positioning himself as a "symbolic" / weak president. However, despite the fact that the first Polish presidents still managed to take certain extra-constitutional measures, such as the dismissal of prime ministers who had the support of the parliamentary majority, Polish parliaments instead managed to limit presidential powers. At the same time, it is very important that both spectrums of action did not actually lead to the disruption of democracy in Poland. However, feeling the lack of traditions of political behavior in the semi-presidential system, political actors were ready to repeat the same steps in different conditions and different contexts. Therefore, purely theoretically, such actions, both practically and theoretically, have begun to be perceived or assessed as unexpected and potentially destructive for governmental and democratic political stability. This is particularly important given the fact that during 1992–1997, the situation of the Polish presidents' lack of institutionalized political traditions in some cases could even lead to constitutional impasse. Moreover, in the case of semi-presidentialism, it would be very bold to say that constitutions provide for all possible situations and that a political system that lacks political traditions is less vulnerable in situations of formal impasse and institutional conflict²¹.

This situation is complemented by the nature of the duality of national elections in the semi-presidential system of government, which was Poland during 1992-1997. Accordingly, the shortcomings of Polish semi-presidentialism of this period were mainly related to direct presidential elections and separation of presidential and parliamentary elections as they were asynchronous.

This is particularly important given the theoretical assumption that the stability of semi-presidential (as well as presidential) systems may be jeopardized by limited transparency of elections and the political process, in particular through a possible reassessment of the candidate's victory, and the fact that "the winner gets everything" from the election and from the established term of the powers. At the same time, the analysis of the Polish presidential elections of the early-mid 90s of the XX century successfully confirms that during this period the political transparency and especially the predictability of the political process and the responsibility of the presidents decreased. This problem of transparency and accountability was directly created by L. Valens, in particular by making unexpected political decisions (such as the appointment in 1992 of the opposition candidate V. Pavlyak to the post of Prime Minister, although the government was never created). Instead, the predictability of President O. Kwasniewski was

²¹ Linz J., Presidential or Parliamentary Democracy: Does It Make a Difference?, [w:] Linz J., Valenzuela A. (eds.), *The failure of presidential democracy: Comparative perspectives*: vol. 1, Wyd. Johns Hopkins University Press 1994, s. 3–87.

somewhat higher, but even so, after the 1997 parliamentary elections, transparency was reduced by the need to cohabit the president with a center-right majority in parliament. Accordingly, it is pertinent to argue that the problem of transparency in semi-presidential systems of government, such as Poland in the early 1990s, is even more acute than in presidential systems, as the president's responsibility is a priori reduced not only by the possibility of electing a "foreign" candidate and the likelihood of cohabitation with the opposition prime minister and parliament. In addition, the transparency of the parliamentary and governmental political process is also reduced, as these institutions must take into account the advantages of the president. In some cases, this inter-institutional balance can be seen as a force for semi-presidentialism, but as A. Leiphart observes, every president, the general public and even researchers believe that the president's demands are stronger than the demands of parliament²². Accordingly, such situations can be either stabilized or destabilized by the popularity of officials. Even though Poland deviated from the danger of delegative democracy in the early 1990s, L. Walesa was quite popular during certain periods of his presidency, and the surplus effect was also noted when the high popularity of the official increased the popularity of the presidency as institution. This was reflected in the fact that the Polish presidency during this period was more popular than other institutions with democratic legitimacy, including parliament and the cabinet.

All this is complemented by the fact that the president in semi-presidentialism is positioned as a person elected for a fixed term. Therefore, a fixed term is not typically perceived as a problem of semi-presidentialism, especially given that the government cabinet depends on a parliamentary majority and must therefore respond accordingly to the problems that arise.

However, in contrast, a fixed term does not encourage the president to cooperate with other political forces. The head of state can easily ignore the opposition to parliament without any threat to his survival. In addition, the president may try, especially at the end of his term, to shift responsibility for his actions and decisions to the government, even if the latter is formed from a presidential party or coalition of parties. Nevertheless, even purely theoretically and practically in the case of Poland in 1992-1997, the semi-presidential system of government in some respects is characterized by negative features, including the possibility of inter-institutional collapse, due to a fixed / immovable term of the head of the state power. If we talk about the analyzed Polish case, in it, mainly unlike the French case, presidents could dissolve their opposition parliament only under certain conditions during the formation of government cabinets, but the government was by no means formed after the presidential election. Therefore, the newly elected President of Poland was obliged to cohabit with the government during this period, while the latter was supported by a majority in parliament, which was anti-presidential. Thus, fixed presidential and parliamentary terms in semi-presidentialism actually played a political role in Poland in the period 1992-1997, because in this case and in case of inter-institutional collapse, the president

²² Lijphart A., *Presidentialism and majoritarian democracy*, [w:] Linz J., Valenzuela A. (eds.), *The failure of presidential democracy: Comparative perspectives*: vol. 1, Wyd. Johns Hopkins University Press 1994, s. 102.

could seek a way out only through extra- or unconstitutional measures. For example, the Polish political practice of that period demonstrated that President L. Valensa was successful in finding political solutions in the face of such inter-institutional impasse.

However, in theory, this asymmetry of the Polish constitutional model was unfavorable for the president, and could be very unfavorable for governmental stability and political stability, because it created incentives to “bypass” the constitution²³. Although, as R. Taras notes, in the Polish case, in an unfavorable scenario of inter-institutional relations, the president could try to find a way out of the situation of political immobilism by issuing special decrees (thus bypassing parliament) or trying to carry out constitutional reform. And even if in this context the president also proved ineffective and did not try to find a way out of the stalemate, in Poland there was still the possibility of illegal interference of the armed forces in the political process²⁴. It helped in this case in Poland that this country did not follow the radical scenario, primarily due to the consolidation of the party and electoral system.

Therefore, what happened in Poland and as a result of which this country remained politically stable is not a guarantee of semi-presidentialism, but often extra-institutional factor, especially against the background of experienced and tested cases between party and party confrontation between President L. Valensa and opposition to him and factionalized parliaments. This became possible due to the fact that against the background of consolidation of the party and electoral system in Poland with its semi-presidential system, the institution of the president theoretically and practically (at least since of its election O. Kwasniewski), although it did not always become an instrument of strengthening political parties in the country. The fact is that the institution of the president began to be regarded by parties as the main and determining “prize” in the political system, and the desire to win this “prize” stimulated the development and strengthening of parties²⁵.

The consideration of the peculiarities of inter-institutional relations / conflicts and the possibilities of their stabilization can be supplemented by analyzing the presidential and parliamentary elections in Poland for their synchronicity or asynchrony. Poland is in line with the theoretical trend that asynchronous presidential and parliamentary elections are one of the main conditions for divided government and cohabitation, which are potentially dangerous in cases of political systems without political customs and traditions and asymmetric semi-presidentialism. The fact is that a presidential majority in parliament is most possible when the parliament is elected at the same time as the president, and this has been clearly demonstrated by French practice since 2002 (when some amendments were made to the French constitution regarding the term of office of the president). In addition, similar conclusions are confirmed by the Polish elections, but within the framework of semi-presidentialism under the rules of

²³ Shugart M., Of Presidents and Parliaments, “East European Constitutional Review” 1993, vol. 2, nr. 1, s. 30–32.

²⁴ Taras R., Consolidating Democracy in Poland, Wyd. Westview press 1995, s. 172.

²⁵ Tallat-Kelpa L., Pusiau prezidentizmas Lietuvoje ir jo ataka politinio re.imo stabilumui: Politikos mokslo specialybes bakalauro darbas, Wyd. VU Tarptautinio santykio ir politikos mokslo institutas 1998, s. 16–21.

the 1997 constitution, which encouraged the formation, functioning and competition of two stable inter-party blocs. However, in contrast, the model of the Polish constitution of 1992-1997 established a certain asymmetry in the relations and powers of the president and the prime minister. In particular, it was regulated that the allocation of “residual” powers (powers not defined by the then “Small Constitution”) was in favor of the non-president (as in many other semi-presidential states, especially Eastern Europe, in the early 90’s of the twentieth century, whereas instead in favor of the Prime Minister and the Government. This position looked more conducive to inter-institutional stability, as it ensured that one member of the whole team was in principle unable to usurp the powers that are by definition important in special cases.

In general, this gives grounds to state that the Polish semi-presidential system of 1992-1997 often created incentives for political and constitutional destabilization between the authorities and inter-institutional conflicts, especially if certain constitutional conditions, including the powers of political institutions, were ambiguous.

However, even if the Polish “Small Constitution” provided existing mechanisms to prevent or resolve such conflicts, all political and formal measures underlying such a semi-presidential system of government by definition could not solve the fundamental uncertainty of the executive diarchy or the dualism of the executive. Accordingly, both formally and politically, it was clear that the Polish early case of semi-presidentialism not only foresaw but even dictated the possibility and likelihood of inter-institutional conflicts, even when different political institutions and their personalities represented the same electoral majority or even a parliamentary majority. This was exacerbated by the fact that regulated or probable political conflicts in Poland in the period 1992-1997 tended to develop in constitutional debates and disagreements, as well as in political struggles for power, i.e. in conflicts on which state, governmental and democratic stability directly depended. This was primarily due to the fact that Poland did not have a political tradition of semi-presidentialism, but began immediately with a rather complex model of inter-institutional relations in the triangle “president – government – parliament”. In addition, the situation in Poland was intensified not only by constitutional ambiguities, but also by deviations from the tried and tested models of semi-presidentialism that had previously been applied in other European countries.

Therefore, we can safely say that the model of semi-presidentialism tested in Poland in 1992-1997 experienced quite significant shortcomings of the political model of government. Thus, the country could potentially be described as “dangerous” in terms of lowering government / political stability and intensifying inter-institutional conflicts. That is why a period of several years of testing this system of government in Poland gave politicians and the research pool the opportunity to conclude the need to modernize semi-presidentialism to a more traditional and formal framework, such as the French or Portuguese model, which resulted in increased political stability and harmonization of options and parameters of inter-institutional relations.

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