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### DIFFERENT FORMS OF PARLIAMENTARISM AND THE FACTORS DETERMINING THE VARIATIONS



*Parliamentarism can be implemented in a few versions: parliamentary-cabinet, cabinet-parliamentary, parliamentary-presidential and parliamentary-committee. It is, thus, an internally diversified system. It is influenced by a number of factors, among others, the type of party system, the way of granting the non-confidence vote and dissolving the parliament, as well as the scope of so called delegated legislation. In contemporary parliamentary democracies aspirations to strengthen executives can be observed.*

**Key words:** system, party, parliamentarism, parliament, president, government.

As it is known, the division of power is one of the fundamental principles of democracy and the relations which appear between the legislative and executive powers let the political systems be classified as parliamentary and presidential. Simultaneously, a vital characteristic is diversification of parliamentary solutions in democratic countries of the world. Whereas the implementation of the presidential system in its modified form may lead to various problems and crisis situations<sup>1</sup>, parliamentarism is a flexible system implemented successfully in a number of versions: parliamentary-cabinet, cabinet-parliamentary, parliamentary-presidential (mixed) and parliamentary-committee. One should also remember about rationalized parliamentarism with stronger than in the classic parliamentary-cabinet position of the head of state.

Above all, in the parliamentary and presidential systems, the principle of the division of power is realized differently. In case of presidentialism, the powers are separated (principle of separation)<sup>2</sup>. In turn, in parliamentarism, the legislative and executive powers interact at various levels, restrain each

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<sup>1</sup> Experiments with the presidential system were undertaken in some countries of Latin America and Africa. The residential system was of ten used tere to cover civil or military dictatorships. The mechanizm characteristic to the residential system can be traced in Europe, in the political system of Cyprus, though it is slightly different to the assumptions and practices applied in the United States of America.

<sup>2</sup> It should be underlined that in this version of political system — as can be observed in the United States of America — tere are some mechanisms aimed at mutual restrain. These are so called exceptions from the principle of separation of powers [7, p. 87].

other and thus do not let the other side gain permanent domination. The ideal situation would be balance; yet, contemporarily it is more and more difficult to achieve. It can be stated that parliamentary systems in democracies are significantly diversified. It should be emphasized that within parliamentarism there are even extreme versions. Both the mixed system with predominance of executive power, as well as parliamentary-committee system with domination of legislative power, fall into this category. Consequently, which relations between legislative and executive, which procedures, mechanisms and solutions most diversify parliamentary democracies? Before the question can be answered, let us first characterize shortly the above mentioned forms of parliamentarism.

## I. Forms of parliamentarism

### 1. *Parliamentary-cabinet system*

The parliamentary-cabinet system which was finally formed at the beginning of the XXth century in Great Britain, is frequently implemented in democracies, especially in the European ones. Its fundamental characteristics are relations between the head of state, the parliament and the government (cabinet) and their cooperation. The constitution and constitutional practice built significant predominance of the parliament, elected in free elections<sup>3</sup>, over the government. The head of state, namely the monarch or president, who — in the classic form of this system — is elected by the parliament, is not obliged to participate in every day political ‘conflicts’. The head of state in the parliamentary-cabinet system is, above all, the guard of the constitution, of the inseparability, sovereignty and be the symbol of the country. The specific feature of this system *przesądza* the mechanism of appointing of the government and the question of its political responsibility. The prime minister — most frequently representing the party which won the parliamentary election — places a motion to appoint ministers, who are then appointed by the head of state<sup>4</sup>. Subsequently, the prime minister, in a legally set time, presents in the parliament the composition and political program of the government, and places a motion for granting of the confidence vote. Finally, what is vital in the parliamentary-cabinet system, the support (confidence) of the parliament entitles the government to undertake its constitutional powers. Thus, the government gains ‘its mandate to rule of the parliament’s will’ [1, p. 98]. The government bears political responsibility to the parliament<sup>5</sup> which can grant to the whole government or

<sup>3</sup> In case of two chamber parliament both chambers can be elected in competitive elections, which is obligatory in case of at least the first chamber.

<sup>4</sup> In Sweden the competences connected with designation of the prime minister were taken from king and, in the mid 70s of the XX c., given to the chairman of the parliament, called *talmane* (see: 6, p. 41, sec. 6, paragraph 2).

<sup>5</sup> It is so called political responsibility or parliamentary and it is the basic principle of widely understood parliamentary system. Lack of this principle shifts the system of government towards presidential system.

to its single minister a non-confidence vote. In the situation of lack of confidence among the deputies, further activity of the cabinet or a minister is impossible in this system. To avoid permanent predominance of the legislative power over the cabinet, the executive power may decide to dissolve parliament and announce preterm elections. The head of state gains such power in cases defined in the constitution of a given state. The parliament gains more significant predominance over the cabinet in a country with fragmentary multi-party system. The government acting in such conditions often has unstable political support in the parliament and is thus prone to internal crisis and, in consequence, disqualification from office. As a protection measure against occurrence and consequences of conflicts, what many countries with the parliamentary-cabinet system implemented is departure from its classic form and introduction of new elements to strengthen the executive power. The president, elected directly by the nation, is granted a strong position and gains greater influence on the composition of the government and its policies, mitigates and encourages the relations between the parliament and the cabinet or can mandate referendum. It is then defined as rationalized parliamentarism, fostered by an increased electoral threshold, which restrains small parties from entering the parliament and also by constructive non-confidence vote that impedes the parliament to dissolve the government.

Another specific form of the parliamentary-cabinet system is the chancellor system with reinforced constitutional position of the head of government (chancellor)<sup>6</sup>.

## ***2. Cabinet-parliamentary system***

In the cabinet-parliamentary system, the constitution and constitutional practice formed predominance of the government over the parliament and thus led to a reverse situation as compared to the parliamentary-cabinet system. The cabinet gains predominance over the parliament most frequently in two-party system, which is not often observed. The best example is contemporary Great Britain [7, p. 61—75], where the governments are supported in parliament by the deputies from their own party which won over half of the seats in the House of Commons, they are stable and act strongly, not endangered. The difference between both political systems can easily be defined by the analysis of the procedure of establishing the government. Thus, in the cabinet-parliamentary system, similarly as in the previous case, the head of state appoints the prime minister and, on his motion, the ministers. A significant difference makes the fact that so appointed (by the monarch or the president) cabinet does not have to seek confidence in the parliament and starts immediately the realization of its competences. The government is highly independent, but so is the head of state. Consequently, all executive power gained certain, even psychological, predominance over legislative power. In this type of political system it is the prime minister — as the leader of the party which won the election and has majority in the parliament — who becomes the key figure. The head of the

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<sup>6</sup> See: [8 pp. 118—129].

government — in the most advantageous time the cabinet — can place a motion to the head of state to dissolve the parliament and organize pre-time elections. It should be taken into consideration that parliamentarism is the system of mutual limitation and restraint of powers. Thus, to avoid permanent domination of the government, the government is politically responsible to the parliament. Yet, the head of state, both in the cabinet-parliamentary and parliamentary-cabinet systems, does not bear political responsibility, but it does — like the ministers of the government, constitutional responsibility. To make it precise, in both cases the executive power consists of two bodies and thus ‘it is dispersed between two institutions; one person head of state and collegial government with the prime minister’ [2, p. 170]. The ministers can be at the same time deputies, which tightens — both organizational and functional— bounds between the parliament and the government.

### *3. Parliamentary-presidential system*

The parliamentary-presidential system, also referred to as mixed<sup>7</sup> or half-presidential, in its model form can be currently observed in the Vth French Republic<sup>8</sup> and it bounds — in an interesting way — the features of parliamentary-cabinet and the presidential systems. The way the president is elected is taken from the presidential system, and thus the president is elected by the nation in general election and then has the key position in the country. ‘The president guarantees the national independence, territorial integration, the continuation of the country and independence of judiciary branch, guards the constitution, leads negotiations and ratifies international treaties’ [6, p. 37]. The president leads meetings of the cabinet and the final motions formulated the head of state at the final stages of the meetings make the most important matters and they are so realized. The president signs the decrees passed during the session of the cabinet, appoints candidates to high civil and army posts, leads various inter departmental councils, and supervises the army. What significantly enforces the constitutional position of the president of France is art. 20 of the constitution of the Vth Republic, which states that, the president ‘specifies and leads the politics of the Nation’ [4, p. 40]. The president does not bear political responsibility to the parliament and implements certain forms of rule on his own without permission (counter signer)” [5, p. 165]. The president bears legal responsibility for constitutional infringement. As in the presidential system, the seat in parliament excludes the possibility of governmental post. Equally essential, in this form of governing, are traces of the parliamentary-cabinet system. In every day work, the government is led by the prime minister, who is appointed by the head of state. In France, the head of the cabinet can act in parliament any time, seeking there the vote of confidence. The government deals with current administration and bears political responsibility to the parliament and to the president. The parliament may be dissolved by the head of state before the

<sup>7</sup> This definition most specifically refers to this type of political system.

<sup>8</sup> In a similar form it was also implemented in Portugal — until 1982 and until recent times in Finland — up to 2000.

term of office. In the mixed system, with a strong constitutional position of the president, the principle of separation is not applied, though characteristic to residential system. Moreover, the executive was separated, it is dualistic and the legislative is weakened. The practical implementation of the mixed showed, at least in France, that it is characterized by a high degree of flexibility. A potential crisis situation can be coped with both the parliament — granting the government the vote of confidence, as well as the president — disqualifying the cabinet from the office or dissolving the representative body.

#### ***4. Parliamentary-committee system***

The parliamentary-committee system, also called Abbey government or Assembly government, based on French solutions and Jacobean constitution enrolled there in 1793 [9, p. 87]. Nowadays, the parliamentary-committee system in a democratic form is implemented only in Switzerland and is based on domination of the legislative power elected by the nation in a free election. Two other powers, executive and <sup>9</sup> judiciary<sup>10</sup>, come from the parliament and they depend on it in a natural way. It can be rightly characterized as uniformity of state authority in this system of government and ‘the existing system of cooperation between parties’ being its great advantage [3, p. 95]. The question about the level of democracy seems essential in such situation, while the classic system considering the division of powers regarded as one of the requirements in democratically organized states. The answer is simple: full democracy in Switzerland is protected by the sovereign, that is the nation, which has the possibility to frequent use of direct democratic forms in all variations. The parliament, practically all the time, ‘feels the breath of the nation’ and can not risk making bad or controversial decisions, because the nation will not accept such solutions. The presented system requires ban on joining the functions of deputies and members of the cabinet, it does not allow dissolution of parliament before the term of office expires, there is no procedure of revoking the government from office. Its activities can only be corrected in form of parliamentary discussion and agreements achieved in that way.

## **II. Reasons for diversifications of parliamentarism**

### ***1. The character of party system***

The influence of a specific party system on the relations legislative — executive should be analyzed first. As it was mentioned in the opening part of this article, in states characterized by fragmentary multi-party system it is the parliament that gains predominance over the cabinet. It should be

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<sup>9</sup> In Switzerland it is formed by the Federal Council (government) including 7 people. Its chairman is automatically the president of State. Political struggle about this position is not observed here, because it does not accumulate power and rotates every year.

<sup>10</sup> The parliament appoints judges and their deputies who become the Federal Court of Switzerland. The Court reports to the Parliament.

emphasized that the government functioning in such conditions has often weak support in the parliament. The party coalition, which is supposed to be political backup to the government and give it basis for the activities, is often unstable. The cabinet becomes prone to internal crisis which often ends with the cabinet's dismissal.

The above described situation can be observed in the countries where the parliamentary-cabinet system was implemented. A certain protection against the initiation, consequences and recurrences of conflicts — yet, highly probable because of the unstable party system — is implementation into the parliamentary-cabinet system some elements that strengthen the executive, especially the head of state. Then, it is so called rationalized parliamentarism. Strengthening the position of the head of state — who is also supposed to ease the conflicts that the parliament encounters with relations with the government — made a significant qualitative change, which shifted the parliamentary-cabinet system into direction of parliamentary-presidential system (mixed). Still, it is worth mentioning that: two-party, two-and-half party and multi-party with one dominant party systems give solid basis for governing. Therefore, they strengthen the cabinet both in relations with the parliament and within the executive power. In particular, the role of the head of government is enforced and the prime minister becomes the key figure in the country (the cabinet-parliamentary system, the chancery system).

## ***2. The right of the parliament to grant a non-confidence vote to the government***

As it is known, in parliamentary systems, one of the ways of controlling the government by the parliament and also the most spectacular one, as bringing strong effect — is the right of the latter body to granting a non-confidence vote to the whole government or to a single minister. Such restrictive way of recalling the government from office is most often the result of negative evaluation of the government's political activities and questioning its ability to govern<sup>11</sup>. The government's responsibility to the legislative power is the core value of parliamentarism.

It can also be stated that, in this scope, legal regulations of some countries facilitate the parliament to grant a non-confidence vote to the government, in others it is hindered. Consequently, the institution of non-confidence vote becomes a factor differentiating parliamentary systems. Where legal construction regarding non-confidence vote is simple and unsophisticated, does not require qualified majority, it strengthens legislative in relations with government which has to be careful throughout all term of office, so that not to put the parliament into jeopardy. The opposite legal norms protect the government and enforce its position in relations with the parliament. The analysis of constitutions of various countries in the world leads to the statement that tendencies to limitation of the parliaments' rights to granting the government the non-confidence vote become more and more popular in parliamentary democracies.

<sup>11</sup> Sometimes it is also realization of certain policy of a political party (coalition) in power which wants to improve (or keep) its political situation and regain a good result in the coming parliamentary elections.

To the disadvantage of the parliament, for example, there is the idea of legally sanctioned delay at considering of a non-confidence vote motion placed by the deputies. It refers to a situation when such motion can be voted in the parliament only after 48 hours following its placement or after a few, or even after several days. Theoretically, it is assured so that the deputies do not act emotionally, but have time to analyze the situation. In practice, the prime minister and the ministers get precious time for pressure, extra explanations, talks with the members of parliament and the cabinet benefits from the overall situation. For example, after 7 days it may appear that in the parliament there is no necessary majority to pass the motion, although it was in the parliament before. The parliament's freedom in controlling function is also limited by, more and more frequently used, constructive non-confidence vote which gives way to overthrow the government or the prime minister, but only with simultaneous appointment of their successors. The parliament has here a more difficult task. It would be less complicated to grant the usual non-confidence vote and, in the discussed case, usually under time pressure, it is necessary to find a candidate to the position of a new prime minister. Consequently, motions of constructive non-confidence vote are not often placed. As a result, such legal regulation protects the government and acts to its advantage.

Certain legal bequests that concentrate the controlling function of the parliament in one chamber are manifestation of the tendency to protect government and limit the legislative's rights. In most countries, where the parliament consists of two chambers, the principle of political responsibility of the cabinet to both chambers was abandoned.

### ***3. The executive's right to dissolve the parliament***

The executive power in parliamentarism has the right to dissolve the parliament. Significant differences in legal regulations giving basis for dissolution of the parliament can be observed. It should be emphasized that, for example, the president of France (mixed system) can do it in a relatively easy way. When, for example, the National Essembly grants a non-confidence vote to the government, the prime minister places to the president the decision of the cabinet on removal from office. The President of the French Republic can reject it and dissolve the first chamber of the parliament [7, p. 98]. This regulation, in an evident way, enforces the role of the president, who is part of the executive, among the main organs of power.

In classic parliamentary-cabinet system, in a similar situation, the head of state has to accept the government's disqualification from office, leaving the parliament in its form. The parliament won the battle with the government and thus executed its controlling function freely. Generally, in this form of parliamentarism, dissolving the parliament by the executive is difficult.

The government and — especially the prime minister — can benefit from the procedure of dissolving the parliament by the executive in the cabinet-parliamentary system in Great Britain. Thus, at any time and practically in the most convenient to the government and the governing party

time, the prime minister proposes and the monarch dissolves the House of Commons. It is due to conventions and the head of the cabinet deciding to do so, takes into consideration the economic situation of the country, social moods in the country, international treaties and also the condition of the party in opposition [7, p. 66].

#### ***4. The right of the executive power to enactment of executive regulations***

The executive power more frequently and more bravely interferes into traditional competences of the legislative power, it can thus, to some extent, create law. These special competences are realized — among others — through executive regulations. Thus, with legal acts subordinate to laws to implement the competences. Such fact is neither strange, nor sensational, it is still worth mentioning that laws are often enacted in parliaments in their frame forms. And such situation involves greater generality, which simultaneously requires a growing number of executive regulations.

In the relations executive-legislative this phenomenon is to the advantage of the first power.

#### ***5. The executive's right to enact decrees with force of laws***

Another, even more disadvantageous to the parliament, factor is so called delegated legislature. It happens when the parliament on the basis of parliamentary proxies or, on the basis of constitutional regulations, the executive power gains the possibility to enact legal acts with power of laws, more often referred to as decrees with force of laws. It should be stated that — in fact — the executive power gains the possibility to enact part of the state's legislation. In such situation the parliament loses the exclusive legislative power, and thus the executive gains importance. Consequently, the classic principle of division of powers is significantly detrimented.

#### ***6. Legislative initiative***

While in the presidential system the legislative initiative — at least officially — is given entirely to the deputies, in parliamentarism — depending on the country—different bodies are entitled to it: the deputies, citizens (folk initiative), heads of state and governments.

Practically, in many parliamentary democracies the most active subject in this area is the government. In some countries this body places even 90—95% bills of law, while the deputies — often without stricture or reflection — agree<sup>12</sup>. Even though the situational contexts is against them. It should be emphasized that the government — placing numerous bills of law — gives directions to the legislation. Moreover, legal acts guarantee the government in some fields (i. e. budget, financial issues). In such parliamentary democra-

<sup>12</sup> In the parliamentary systems — like i.e. in Poland — complaints and regrets of the deputies on indolence of the government when it concerns placement of bills can be annoying. The deputies are also entitled to do it.



cies, where the tendencies to widen the areas and so the issues included by exclusive legislative initiative of the executive power are observed, the executive gains predominance over the parliament.

### **7. The right to suspending vote**

It should be remembered that the executive power has, though this is not the rule, ‘the weapon’ in form of suspending vote. The head of state can refuse signing a bill enacted by the parliament and send it back to the deputies for further discussion. If the head of state overuses it and it is difficult for the parliament to reject it (i. e. qualified majority requirement), the whole mechanism strengthens the executive and weakens the legislative power.

In conclusion, it should be stated that widely understood parliamentarism is an internally diversified system. The most influential factor is the character of party system in a given country; the form of legal regulations regarding control of the government, especially what concerns granting of the non-confidence vote by the parliament; the form of laws that enable the executive to dissolve the parliament; the scope of issuing executive regulations by the executive power, the possibility to enact decrees with force of laws, frequency of legislative initiative and the way of using the right to suspending vote. The analyzed cases can lead to conclusions that in contemporary parliamentary democracies there are tendencies to strengthen the executive power.

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