

THE CONSTITUTIONAL AND POLITICAL POSITION OF THE EXECUTIVE POWER IN POLAND AFTER 1989

THE SUMMARY

After falling of the Communism The President and the Government became crucial constitutional institutions in Poland. In 1989-93 the fundamental political and economical reforms were initiated by the Government. But at the same time, in 1990, one of the main problems was absence of constitutional and political foundations for stability and decisivity oh the Executive Power.

In 1989 Poland inherited the Government, typical to the soviet model, devoid of subjectivity, which was a kind of federation of independent ministries. "The Round Table Pact" opened the process of reconstruction of the democratic State. The dualism of Communist Party and State Institutions vanished. The constitutional state organs acquired "the right" to take the decisions. But in 1989-93 the constitutional position of the Executive Power and the shape of all the constitutional system was caused by agreements and political compromises, not as results of conscious constitutional decisions.

Passing "The Small Constitution" in 1992 and after that the Electoral Law in 1993, promoting to form the government majority in the Parliament, brought partially the positive changes. But the problem wasn't completely solved .The constitutional law has still many bad regulations - it concerns particularly indistinct delimitation of the competencies : of the President and Government - and absence of the real government centre didn't allow for leading the coherent state policy. These constitutional faults weren't eliminated even in the new Constitution, ratified in referendum on May the 25th, 1997.

Now we have the constitutional situation, where the Electoral Law favours to the stability of the Government, but still there are no constitutional and institutional circumstances for coherence and efficiency of the Executive Power. The indispensable reforms would cause : to reduce possibilities of conflicts between the President and the Government, to reconstruct the Centre of the Government around the Prime Minister, and decentralisation of the State. The above changes can't be executed as a single act. But we can think and hope, that these changes create the set of conditions giving abilities to the efficient government under circumstances of the Democratic State .

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THE FINAL REPORT

THE INTRODUCTION

After falling of the communism, the President and the Government become the crucial institutions in Poland. In 1989 - 93, the fundamental political and economical reforms were initiated by the Government. Simultaneously, just in 1990, one of the main constitutional problems was the absence of the constitutional and political basis of stability and decisivity of Executive Power. The "Small Constitution" /1992/ and the Franchise /1993/ promoted composing the government majority in the Parliament.. But this problem still exists. The constitutional law has many imperfect regulations / indistinct delimitation of competencies between The President and the Government/ and the absence of the real Government Centre doesn't give chances for the coherent policy of the State. In such circumstances, the problem of stability and decisivity of the Executive Power is still the central point of the public debate in Poland.

The main purpose of my work is to describe the constitutional and political position of the authority of the President and the Government in contemporary Poland and to form the project of the constitutional reforms to improve the Executive Power. The structure of my research work is as follows : the first is a review of the literature used in my work, the second one shows the Executive Power in the Communistic State /this part of my work presents what regulations and institutions we had inherited in the moment of falling of Communism/. The third chapter shows the evolution of Executive Power - from the "Round Table Pact" up to resolving of the "Small Constitution" and the Franchise in 1993. Chapter IV gives the analysis of present position of the Executive Power with the corrections introduced in the new Constitution. Chapter V has a comparative character and shows Czech and Hungarian political systems and finally the last chapter presents the plans of the constitutional reforms, necessary to ameliorate the Executive Power in Poland.

The general thesis is : the stability and decisivity of the Executive Power in contemporary Poland depends on the coexistence of following factors :

1. The Electoral Law to form a basis of the stabile government majority.
2. Reconstruction of the institutions creating the Government Centre.
3. Changes of the Constitution for an exact delimitation of the competencies of the President and Government and enlarging of the government qualifications for proclaiming the Law.

CHAPTER I THE LITERATURE

The bibliography, include hereunder contains full list of the literature used in my research work. In general, we can distinguish three categories of publications. In the first there are the treatises concerned the position of the Executive Power in Poland after 1989. More of them are the treatises strictly constitutional, with no politological analysis. Such peculiarity have /mentioned in bibliography/ the works of the constitutionalists : Leszek Garlicki, Maria Kruk, Marian Kalas, Pawe³ Sarnecki, Wojciech Sokolewicz. Among of its is distinguishable the book by Ryszard Mojak about the presidency in time of constitutional transitions. This book combines the elements of politological and constitutional analysis. (Ryszard Mojak, 1994. "The Institution of the President of Poland in the Time of Constitutional Transition". Warsaw.) But I had to carry on a controversy with the thesis of some of the works.

I couldn't agree with the point of view expressed by Wojciech Sokolewicz, that the authority of the president in the presidential-parliamentary system forms a threat for "democracy and liberal values ". (Wojciech Sokolewicz, *Between the parliamentary - cabinet system an presidential -parliamentary system : the limited but active presidency in Poland and Rumania*). In the text I'm. carrying on a controversy with the partial papers concerned to the particular problems, like composing of the government (Andrzej Kulig, 1994. "The Basis Problem of Composing of The Government") or the competencies of the government to lay down the decrees valid like statute.

The second and in my opinion the most important group form the publications concerned the reforms of the Government Centre and the ways and methods of budget works. Here the most important are the treatises of Micha³ Kulesza and Hubert Izdebski. Both authors saying that the reconstruction of the government is the crucial factor to improve the executive power in Poland, inspired many fragments of my work.

The third groups contains the works about the Executive Power in the West. Its usefulness for my Project consist in presentation of the standardised solutions

promoting the stability and efficiency of the Executive Power in democratic States. Such is the the eminent comparative work of polish Author Jerzy Stembrowicz. (Jerzy Stembrowicz, 1982. "the Government in the Parliamentary System". Warsaw.) In this group there are also the works concerned the Executive Power in Czech Republic and in Hungary.

CHAPTER II

THE EXECUTIVE POWER IN THE COMMUNIST STATE

In 1989 Poland inherited the government, typical to Soviet model, devoid of subjectivity, which was a kind of federation of independent ministries.¹ We remember, that the communist regime assumed the dualism of party and state structures. In fact, the state institutions, including Government and local administration submitted to Communist Party. Real authority was concentrated in PZPR stages. The official formula : "Party leads, Government governs a State". This formula indicates that Government had an managing part only. The Communist Party leaded with instructions and directives submitted to the Government to execute them. The "subjectivity" of the Government was bigger

¹ The system of the communist state was the subject of some important treatises published in Poland in the eighties. The spokesmen of the theory of the common interests, Jerzy Drygalski and Jacek Kwacieniewski were of opinion, that the crucial importance to understand the essence of the communist state are the notions like : the centralism, monoparty system, political system like a monolith. In their work "(Un) Real Socialism" they asserted, that: " the main right of the communist state is the blockade of the institutional articulation of the social and political interests. Considering this blockade of free articulation of interests, the structure of the party and the state had to be maximally unified". In order to preserve the socialism of the soviet type, the state has to wage a constant war with the community to prevent the free articulation of interests, specially in political institutions, but also everywhere, where it could be the source of destruction. This is the absolutely crucial condition of permanency of the system and main right of its activity." / Jerzy Drygalski, Jacek Kwacieniewski, 1989. "(Un) Real Socialism", p.8./. Then all the machinery of the communist state was fixed to blockade the articulation of various interests. It was a reason of the fundamental attributes of People's Republic of Poland : "the leading part" of the communist party, the inner centralism in the party, and the right of unity of the state authority. Theory of the unity of the interests allowed to its advocates for reconstruction of the communist state. In People's Republic of Poland the real centre of the was not in the formal organs of the state, but it was in the institutions of the communist party. It was the communist party who formed the political will, transmitted it to the state organs and controlled the realisation of the previously issued instructions. The party state adopted the right of the unity of state power like a function of the unity of the interests. In accordance with the constitution the extreme organ of the state power was the parliament. The Board of the Ministers has the executive character. The basic element of the unitary state power system in the regions were the People's Councils. In practise all the institutions of the state, precised in the constitution: The Board of Ministers, the People's Councils, the Judicature, was subordinated to the communist party. The model of the unity of interests didn't explain the aims and the sphere of the authority of the communist state. Jakub Karpiński indicated in his works, that we dealt with the ethatistic state, which functions : proprietary, economical and social were very expanded . The crucial importance had the domination of state property and the destruction of civilian community. /Jakub Karpiński, 1988. "The Communist System in Poland". Warsaw/. Jadwiga Staniszkis, in her book "The Ontology of Socialism" defined the socialist state as dual prerogative state, ignoring the legal regulation of itself, and said, that it's impossible to describe the communist state in detachment to the essential attributes of the socialistic formation, where the crucial importance has expropriation of the community. "...the dual prerogative state is monolithic "creature", splitting in special circumstances to two segments, using the different rights of governing. In each of these segments can occur both : the elements of the party structures and the elements of structures of the state administration." /Jadwiga Staniszkis, 1989. "Ontology of the Socialism". Warsaw, p.82/

in the economical matters. All decisions were settled in special Government Committees : Planning Committee and Economical Committee of the Board of Ministers. Foreign policy, security, national defence - in all these matters decided the Communist Party; Government was only an executor. The constitutional law sanctioned it. In 1976 the Constitution was completed with the rule : PZPR is the guiding force of the public for building the socialism.

The superiority of the Communist Party ensured the specific "personal union". In 1952-54 the Prime Minister and the President of Central Committee of PZPR was the one person. The same was in the middle of eighties. Always the position of Prime Minister was strengthened with his membership in Politic Bureau of PZPR. It is necessary to mention the joint sessions of the Board of Ministers and the Politic Bureau of PZPR, very important in settling the main political destinations. The crucial importance for the relations between the Party and the Government was the personal policy managed by Communist Party, not by the government.

The principle of partition of the authority was ignored in the Constitution of 1952. The State authority should be homogenous and from the formal and constitutional point of view - The Parliament was the supreme organ of the State Authority. In name of constitutional rules the Government was subordinated to the Parliament and their authority was to execute and to manage. In fact, this subordination didn't existed, it was secondary in comparison with superiority of Communist Party. In such conditions, the Parliament appointed the Government not for composing the party coalition /around the Prime Minister and his program/, because the party coalition existed independently of the Government and the appointment of the Government was set accordingly to the former decision of Communist Party and her allies. Jerzy Stembrowicz describes such mechanism in his "The Research of the Government in Polish People's Republic 1952-1980": " Described situation explains the secondary character of subordination of the competencies of the Parliament and The Board of State to the government, whereas the members of the Parliament and the Board of State in majority were the members of communist party and it's allies. The appointment of the government by the Parliament didn't served a purpose, in these conditions, of composing the party coalition around the leader of the government, like in the manyparty system, because the coalition exist independently of the government, and only it's consequence is the official parliamentary

appointment, according to the decisions of the leaders of PZPR, decisions taken jointly with the allies of communist party." ²

Thus the communist party had practical supremacy over the government. The constitutional precedence of the Parliament and Board of State, had only the formal character. The government was the only subject of legislative works, had the legislation initiative and own, autonomous authority of the "lawgiver". The scale of parliamentary legislation initiative was limited, what is more, was generally accepted to consult its substance with the President of the Board of Ministers. The important part played by the government in the legislation was generally crucial, what was caused by legislation initiative and the disposal of proper technical apparatus, and also the absence of alternative solutions in the legislative projects, giving special permission to the Parliament to make a choice between the projects." ³. The position of the President of the Board of Ministers inside the government was strengthened by the rule of proposing of the appointment of the ministers. We can say, the Board of Ministers was the governing team, led by the Prime Minister. The important part played the Presidium of the Government, composed of The Prime Ministers and the Vice-presidents of the Board of the Ministers, the deputies of PM, controlling the other ministers. The "cohesion" of the government can exist only, when it was granted by the superior authority of the Communist Party. The absence of this warranty, the Board of Ministers became only a assemblage of ministries with the weak leadership of the PM.

The relations between The Government and the Party was modified in the second half of the eighties. The position of M. F. Rakowski's Government /the last government before falling of communism/ appointed in autumn of 1988 was characterised on a larger scale of autonomy to PZPR. It was a consequence of insolubility of the crisis of the Communist State and to make responsible for the results of this crisis. The other problem was the progressive importance of Home Office and the Special Services in the hierarchy of the State organs. With no doubt, we can say about the "independence " and augmentation of importance of these institutions inside the Government.

² Jerzy Stembrowicz, 1985. The Research of the Government in Polish People's Republic 1952 - 1980.

³ Jerzy Stembrowicz, 1985. "The Research ..."

CHAPTER III

THE EXECUTIVE POWER. FROM "THE ROUND TABLE PACT" TO THE "SMALL CONSTITUTION" AND THE FRANCHISE. /1989-1993/

In 1989 there was a chance to rebuilt the democratic and efficient State. "The Round Table Pact" opened the process of reconstruction of the democratic State. The dualism of the Communist Party and the State Institutions vanished. The constitutional state organs acquired "the right" to take the decisions. Unfortunately , the constitutional position of the executive power and all the constitutional system were caused by agreements and political compromises, not as a results of conscious constitutional decisions. Jerzy Ciemniewski is right, saying : " The evolution of Communist System, taking place in Poland in 1989-92, was prompted only in a certain degree by the clear vision of constitutional system, which was to built and fully precised political and law conceptions concerned where, in which constitutional systems, being the heritage of the ideas and constitutional practise in the democratic states, are the best inspirations." ⁴

In 1989-93 nobody realised the fundamental constitutional changes, as the new Constitution, the sensible Electoral Law and the reconstruction of the Centre of the Government. Such constitutional situation caused the weakness and instability of the executive power, and also the independence of particular constitutional institutions. " The characteristic attribute of constitutional evolution 1989-91 was the fact of autonomisation of the particular constitutional institutions and its own dynamics. It was caused, among other things, by existing or arising political forces, which acquired here the control and tried to turn it to good account to built own political force."⁵

"The Round Table Pact" brought incomplete results : the Presidency with wide competencies and the Parliament with authorisation subsequent to the regulations of the Constitution of 1952. The "Pact" set up the duality of the Executive Power : of the President and the Government. This agreement supposed that the President should be a "stabiliser" of the political contract and

⁴ Jerzy Ciemniewski, 1993. "The Division of Power in the Small Constitution", in : The Small Constitution in time of Constitutional Transitions". Warsaw., page 19.

⁵ Jerzy Ciemniewski, 1993. "The Division ..."

it would be a warrant of the political affairs of PZPR. The Board of Ministers would be, as before, the managing and executing organ. "The Pact "supposed, that the President should have a majority in the Parliament
For this reason "The Round Table Pact" reserved suitably 65 % seats in the Parliament for Communist Party and its allies.

This "Round Table" model was never realised. The great victory of "Solidarity" in 1989 election questioned all this construction of the "contract democracy". Political position of the President and the Government didn't subsequent to the constitutional law. The result of the election forced President W. Jaruzelski into passivity and, in fact, to the unaccomplishment of his competencies. Then the first "noncommunist" Government, managed by T. Mazowiecki though it has relatively small possibilities , become the fundamental institution of political system.

The Government derived its force to the victory of "Solidarity" in the election. Its characteristic was rather "author's". We can suppose, this Government wasn't appointed in the parliamentary mode. The Parliament "confirmed" the decision of the appointment of P.M. Mazowiecki and his Cabinet. This "author's" mode of appointment caused the unity of this Government.⁶

However, in the Parliament there was no positive majority for the Government, its parliamentary force had "negative" character, because the Contract Parliament hadn't the full mandate and in practise, couldn't execute the political responsibility of the Government to the Parliament. The similar status had the Cabinet leaded by Jan Krzysztof Bielecki, but with difference, because this Cabinet existed as the presidential Government, appointed and controlled by Lech Wałęsa. The constitutionalists often passed this fact over in silence : in the first years after falling of the Communist State, there was no parliamentary governments in Poland. Such mistake made Andrzej Kulig in his article "The Basis Problems of composing of the Government", where he says, that parallel with the beginning of validity of The "April 1989" Statute, caused "the existence of the fact of coalition structure of the Government and parliamentary majority, supporting this Government." The author says also, that the time of

⁶ This fact is confirmed in pronouncement of Bronisław Geremek, the President of Civic Parliamentary Club. "He didn't noticed /T.Mazowiecki - note K.M.U./ anything unusual also in it, that when forming the government he didn't consulted it with his own parliamentary club. In the beginning, the Club tolerated it, but completing of the Cabinet prolonged. /Jacek Źakowski, 1991. "1989. Bronisław Geremek answers, Jacek Źakowski asks". Warsaw./

weakness of the parliamentary government falls on the T. Mazowiecki's term of office, where the practise of the minority governments was fixed. The author's opinion is a big simplification.

Andrzej Kulig is right, indicating the minority character of the cabinets appointed after 1991.⁷ But we can't forget , that stricken with weakness were also the Cabinets leaded by Tadeusz Mazowiecki and Jan Krzysztof Bielecki, appointed not in the parliamentary-coalition mode, with absence of the majority, giving also the safe support.

The absence of the constitutional reforms, in the first year after falling of Communism, brought quickly the negative results : the instability and inefficiency in execution of the Executive Power. The Government had not at its disposal all the constitutional possibilities to set an active legislative policy. The Constitution of 1952 didn't authorised the Government to lay down decrees valid like statute. The government projects of the statutes, tabled to the Parliament, never had such preferences in the Parliament, like these in France or Czech Republic. In 1990 the situation was paradoxical : the Government proposals, formally seconded by the House, were in fact obstructed very often. In 1991, when the factor of the social consent to the "Solidarity" reforms diminished, J. K. Bielecki's Cabinet couldn't acquire the support for any of its crucial projects.

In 1990 The Parliament passed the statute of the presidential election as a general election,; it meant the consolidation of the presidential-parliamentary system. In 1991 were the free election to the Parliament and to the Senate. But the Electoral Law showed favouritism to the small parties. It caused that the Parliament formed in this election had no ability to built the stabile government majority. The structure of the Parliament was dissipated and as formed of a dozen or so clubs and parliamentary circles. The proof of the scale of dissipation is, that 51 mandates /over 10 % of the Diet/ felt to the list with less than 3 % votes. So ion 1991 didn't exist any conditions for stability and efficiency of the Executive Power. The absence of the constitutional regulations caused the conflicts between the President and the Government. The Government had no support from the Parliament and no legal instruments

⁷ Andrzej Kulig, 1994. "The Basis Problems of Composing of the Government". Warsaw. Państwo i Prawo nr 1.

to execute its own program like a law to lay down decrees valid like statutes or preferences for the government legislative initiatives.

The first and the second non-communist Cabinets /T. Mazowiecki's and J. K. Bielecki's/ performed the duties though they hadn't the well organised parliamentary majority. The Governments of J. Olszewski and H. Suchocka were appointed in the parliamentary mode, but they had a minority character. In case of H. Suchocka's Cabinet, the additional and weakening factor was a kind of non-political nature of this Cabinet. The government majority was formed with a coalition of seven parties. The leaders of these parties were out of the government structures; this was the reason of factual division of the real authority between the Cabinet and the party leaders. The crucial matters, like the accepting of the budget or the new taxes were determined by these two groups and then, the procedure of taking the decisions were prolonged. It is necessary to remind that the inner conflict in the government coalition made impossible the application to the Parliament for the authorisation to lay down the decrees. It caused, in great part, of fear that it can reduce the weight of political parties in taking the decisions of the government policy.⁸

The infirmity of the Executive Power was augmented by the political practise of the presidency of Lech Wałęsa. Wałęsa ignored the collaboration /so necessary in the presidential-parliamentary system/ with the political forces represented in the Parliament, in time when there were no political reasons for it /1990-93/. Such collaboration in 1991-93 could restrain the expansion of the post-communist forces and could bring some crucial constitutional changes, like the decentralisation and generalisation of uncommon property. L. Wałęsa selected a model of practise his duties in a kind of solitude, sometimes even the rivalry with the Cabinets assumed by the Parliament /J. Olszewski's, H. Suchocka's/. Ryszard Mojak was in the right, when he wrote : "Political conditions of previous presidency of Lech Wałęsa indicate generally, that efficiency of the presidency in constitutional system of the State can't be

⁸ The separate question is, in polish realities, particularly like in the case of H. Suchocka's cabinet, the Cabinet of the multiparty coalition, where there are rarely the party leaders, has the Board of the Ministers real ability to play an important political part? The admittance that the Board hasn't this ability, there is necessity to construct the new centre of political disposal, but not in opposition to all general constitutional conditions of the political system...". Hubert Izdebski, 1993. "The Functioning and the Machinery of the Board of Ministers and the Prime Minister". Warsaw. p.15.

improved by the presidential-parliamentary system, when the President is not supported by the parliamentary majority".⁹

⁹ "The practice made a distance between the President and the existing political scheme. It's possible to be impressed, that the performance of the presidency is grounded only on fact the source of presidency is the direct election, not the political base. There are many premises indicating that president Wałęsa performs his duties in political solitude. Of course, the fact when the president is not identified with precisely stated political option, he has the great chance to be "the President of all the Poles", but it cause that the constitutional and political position of the state is diminished. The consequence of it is forfeiture of the possibility of efficient performance of his duties...". Ryszard Mojak, 1994. "Institution of the President of Poland in time of Constitutional Transitions 1989-1992" , p.311.

CHAPTER V THE EXECUTIVE POWER TODAY

The rudimentary settlement of the Executive Power was made as an effect of passing on 17.10.1992 "The Small Constitution", which solutions was generally preserved in the new Constitution, passed in the constitutional referendum /27.05.1997 and with the new Franchise. As far, the opinion concerned "The Small Constitution", from the point of view of stability and efficiency of the Executive Power arises many controversies, so the Electoral Law, has with no doubts, the positive opinion.¹⁰ The Electoral Law, passed 28.05.1993 was the last decision of the Parliament of the Ist Term, and as became evident, made the foundations for stability of political system and efficiently prevented its dissipation. The introduction of the electoral quotients (5 % for political party and 8 % for coalition) giving priority for big parties for the methods to count the results in the districts, extorts forming the coalitions and eliminates the small parties from the political life.¹¹ The Parliament elected in September 1993 in the election based on the new Franchise, for the first time after falling the communism, has an ability to form the stabile government majority. It confirmed once more the opinion, that the rudimentary condition to stability of the government is the concentrated structure of the Parliament. The political practise in the last four years confirms also this thesis : the government coalition SLD - PSL has all the time consecutive ability to perform the duties; the changes of the governments were caused by extraordinary circumstances. We can say, that the Electoral Law, that is now in force, is the persistent factor giving stability of the party system, independently of the political character of the government majority.

¹⁰ W.Sokolewicz rightly remarks, that political compromise has negative influence on the substance of the Small Constitution. The price for this compromise, exaggeratedly named in the journalism as the big success was the lack of consequences in some legal constructions and many legal deficiency in the text. "Wojciech Sokolewicz, 1993. "Divided but Equal?", *Przełd Sejmovy* 1.

¹¹ Jerzy Stembrowicz in his work titled "The Government in the Parliamentary System says, that the rationalisation of the parliamentarism materialises only with the existence of stabile structure of the party system. Such experiments failed in IV Republic of France, where the parliament was excessively divided. J. Stembrowicz attaches the great importance to such circumstance and maintained his opinion, that" The stability of the Cabinet in the Federal Republic of Germany is owed to the stability of the party system, not to the constructive vote of censure, nevertheless many of german authors assert, that the durability of German Governments and chancellor democracy are subsequent to the question of the constructive vote of censure."

The pillar of form of the Executive Power in 1992 - 97 was "The Small Constitution"; its solutions were - as we mentioned - in the great parts adopted by the new Constitution . "The Small Constitution" retained the dual construction of the Executive Power, proper for the presidential - parliamentary model. The President, elected in common and general election is the supreme representative of the State in the home and foreign relations . The President has the general management of the foreign policy and inner and outer security of the State. Art. 28 p.2 of the Small Constitution said ; "The President takes care to observe the Constitution of Republic of Poland, watches to the independence and security of the State, sacredness and indivisibility of state territories and to observe the foreign treaties."

The Small Constitution provides the President with competencies concerned to the state security matters : ratification and renunciation of foreign treaties (excluding the treaties concerned the state frontiers, defensive alliances , treaties with a strain on state finances, which require the statutory acceptance of the Parliament as a special statute), superiority of the Army, the right to appoint (with agreement of the Minister of defence) the Chief of General Staff of the Polish Army. With farreaching consequences was imposing an obligation on Prime Minister to consult with the President the candidates to Foreign Office, Ministry of Defence and Home Office; President Wa è sa in his practise meant it as acceptance of his own candidates.

Besides the foreign and defensive matters, the President obtained the competencies, which gave him ability to influence in legislation matters (legislation initiative), and the jurisdiction matters (he can propose a motion to the Constitutional Court for statement of a conformability of the statute or the decree with the Constitution). The analysis of the competencies of the President indicates, that his position is quite similar to the system observed in the V Republic of France. In sphere of personal prerogatives were also : dissolving of the Parliament, legislative initiative , holding an election to the Parliament, signing or refusal of signing the statutes and decrees, tabling motions to The Constitutional Court, designation of the Prime Minister, acceptance of the dismissal of the Board of the Ministers. Author of the monograph, dedicated to the institution of the President in Poland, said :

"The constitutional factual sphere of countersignature or its absence decides what is the kind of systems : parliamentary - cabinet, "semi-presidential" or presidential. The Small Constitution is an example of the situation, where the

significant domain of the state authority, being expressed by the President of Poland, is left over the control and political responsibility. It is proper to add, that the President exercises the right in 20 cases of his personal prerogatives. It shows the real, autonomic authority of the President and makes this solution similar to the model of presidency in the V Republic of France." ¹²

But in contrary to the French model, the Government has no political responsibility to the President, then, the President is not the superior of the Government. The presidential government, based on the Small Constitution appears only, when the Parliament has no ability to form the Board of Ministers in the parliamentary mode. However in all the circumstances the President has the right to use the negative instruments to influence on government majority, for example, with the veto to the statutes or refusal of the signature to the government decrees.

With the validity of the Small Constitution, the constitutional position of the Government was strengthened. It's worth to remind, that the constitutional rules of the Constitution of 1952, assented theory of superiority of the Parliament in the system of state organs, recognised the Board of Ministers as "the supreme executive and manage organ of the state authority." The Small Constitution, accepting the division and the balance of power, restored for the Government its independent constitutional status and introduced the supposition of competencies of the Board of the Ministers, it means the Board may take all decisions, that are not in the competencies of the President or other organ of administrative and autonomy /municipal, territorial/ authority. The Small Constitution decided, that the special duties of the Board of Ministers are : to assert the execution of statutes, to lay down decrees valid like statutes, to lead, control and coordinate of the activity all the organs of State Administration, to protect the interests of the State Treasury, to control the territorial autonomy.

The additional strengthening of the Government was caused by new solutions regulating appointment and dismissal of the Cabinet. Before the Small Constitution there were no conditions concerned the motion for dismissal of the Government. Such motion can be the individual initiative tabled by every of the members of the Parliament, there was also no rules to vote it after specified time. The new regulation said, that the vote of censure should be supported by

¹² Ryszard Mojak, 1994. " The Institution of the President of Poland in time of Constitutional Transitions". Warsaw. Wydawnictwo Sejmowe.

46 members of Parliament at least, and can be voted not earlier than 7 days after its tabling. The Small Constitution improved also the institution of facultative constructive vote of censure, giving to the Parliament the possibility of dismissal the Government and simultaneously appointment of the new Prime Minister. This last solution only partially strengthened the position of Prime Minister.

On the other hand, the Government gained the right to propose a motion to the Parliament for authorization to lay down decrees valid like statute. Art.23 of the Small Constitution said, that "the Parliament can, with statute voted with the absolute majority, authorise the Board of Ministers to lay down decrees valid like statute if the Board propose a justified motion . The statute authorising the Board to lay down decrees would determine the subject and the time of validity of this authorisation. Such regulation cannot concern the matters, like : changes of the Constitution, election of the President ,the Parliament, the Senate and organs of autonomy /territorial, municipal/, the State Budget, the freedom and civil liberties, civil rights, agreement for ratification foreign treaties.

The new Constitution, finally ratified in referendum, confirmed the general solutions taken from the Small Constitution, related to the position of the central organs of the state authority. The changes, regarding the Small Constitution are small, its concerned, among other things, suppression the possibility of usage the presidential veto to the budget bill and reduction from 2/3 to 3/5 of parliamentary majority for refusal the presidential veto to other statutes. Announced before, when the Constitution was prepared, the strengthening of the constitutional position of the Government , didn't came true. The new Constitution introduced the institution of constructive vote of censure as an obligatory procedure of appointment and dismissal of the Government in all the parliamentary term, this factor strengthened the constitutional position of the Prime Minister and the Board of Ministers.

But it is necessary to indicate the erroneous solutions of the new Constitution. The crucial and negative importance has the fact of leaving the controversy between the President and the Government concerned the problems of the Army. The Army should be controlled only be the Prime Minister and the Minister of Defence. We should remember, that the Small Constitution deprived the Prime Minister of appointment of the posts of authority in the

army, giving these competencies to the President, who would consult his decisions with the Minister of Defence. In the constitutional debate these solutions were criticised, proposing the concession of controlling the Army to the Government. In the last moment of the constitutional works, as a presidential amendment, resumed the bad solution, that maintained the dualism of the authority in these matters. Art.134 of the Constitution gives to the President the right of nomination of The Chief of General Staff and Chiefs of Forces for specified time. However the character of such decisions has no peculiarity of personal prerogative and would be consulted with the Prime Minister on the terms of countersignature, in practise these regulations are the maintaining of old, generally criticised solution.

The new Constitution refused to the Government the strong instruments in the matters of legislative and financial policy. The Government has no possibility to join the relationship: the project of the statute and confidence in the Cabinet. This solution, well known in contemporary constitutions - among the others the Constitution of Czech Republic, that I shall remind afterwards - gives the possibility to state the law without the special mode, that is to lay down decrees valid like statute. The new Constitution gave to the Government only the right to treat its project as an urgent, it can quicken the legislative works but it isn't the way to make a political pressure on the Parliament. There are also many reservations to the Government's influence on the financial policy of the State and the mode of the budget works. In the new Constitution there are no regulations to forbid the Parliament to increase the taxes without Government approval; it is necessary for the full Government's responsibility for the state financial policy.¹³ The additional circumstance, that makes the Government weaker, is creating the Board of Monetary Policy, as an organ of the central Bank, with prerogatives /appointment by the President, the Parliament and Senate for 6 years/ will develop as an organ competitive to the Government in the matters of the financial policy of the State.

The more important fault of the executive power, and not resulting from the Constitution, is the absence of the Government Centre and unsatisfactory power of the Prime Minister.¹⁴ The government is still a federation of the

¹³ Marek Dłubowski, 1993. "The Methods of Creating the State Budget". Warsaw. Friedrich Ebert Foundation.

¹⁴ The Board of Ministers is still rather a conference of representatives of the Ministries than the political centre of the Government. There is important necessity of the system to initiate within the

ministries, not a institution with own, homogenous policy. Such "federate" structure of the Government gives bad results everywhere, where the coordination of efforts of several ministries is necessary. Disintegration of the Government is responsible for absence of ability to make a coherent state policy ; the decisions of the Government are "the resultant of forces" of the particular ministries. The statute, called : "The Reform of the Government Centre" passed by Parliament in second half of 1996, didn't change it. This reform rebuilt the former structure into something, with better controllability. The Office of the Board of Ministers, that played two parts : as the special base and headquarters of PM and as the office to control the government administration, was cancelled. Instead of this office, the Parliament created The Office of The Prime Minister ; the competencies of controlling the territorial administration were transferred to the new ministry "Internal Affairs and Administration'. The new element it was the reduction of the economical ministries : Ministry of Foreign Cooperation, Ministry of Building , Ministry of Internal Trade and Services and creation of two new : Ministry of State Treasury and Ministry of Economy. The very important was also passing the statute " The Organisation and Procedure of the Board of Ministers and the Competencies of Ministers" and creation of the Committee of European Integration as "the supreme organ of government administration for programming and coordinating the policy to integrate Poland with European Union and for programming and coordinating the works to adjust Poland to European standards ."

But this reform left out of account the fundamental task : adjusting all the State Centre to its new tasks and challenges. The Prime Minister got no legal and organisational abilities for imposing the coherent policy on the Board of Ministers. Between the particular competencies of the PM, he hasn't any, that give possibility to execute the political discipline. The rule : The Prime Minister lay down a decree the competencies of the Ministers " not mentioned" in the Constitution, in fact is dead, because the competencies of "key" Ministers -....- are fixed strictly in the Constitution and statutes, passed as earlier mentioned reform. The statute, concerned the organisation and mode of work of the Board of the Ministers and delimitation of activities oh the

Board the political debate, conscious, not occasional choice of the priorities and to determine strategical questions, but also the two-way method of transmission in the "political net" :The Board of Ministers, the President, the Parliament, the political parties, the central and territorial administration, the groups of interests...". Hubert Izdebski, 1993. "The Functioning and....". Warsaw. p.15.

Ministers in art. 21 said, that the Board of Ministers " takes the decisions in the consultative mode. In absence of the consent, it's necessary to set on foot voting procedure, in the mode of common majority . The Prime Minister can lose, because he hasn't the right of veto to the decision of Ministers.

The important delimitation of the Prime Minister's power is his relative small part in preparing of the budget bill. The preservation of the kind of "dictatorship" of the Ministry of Finances is the fundamental fault of the reform of the Government Centre. The "editor-in-chief" of budget bill is still the Minister of Finances, exactly the bureaucracy of this ministry. The budget bill is created apart of the Prime Minister - the Office of the PM hasn't the special financial bureau, and in consequence, doesn't control the works on the budget bill - and in the last phase only this budget is presented to the Board of Ministers . In this moment usually there is discussion within the Cabinet concerned corrections of the project of budget bill, that was prepared in Ministry of Finances. It's worth to remind the words of Hubert Izdebski, who indicates the absence of unity of the Government in the budget works :

"the tasks and priorities are defined by the apparatus of the Ministry of Finances, that creates the project independently, without proper consultations, and with its absence in the arbitration mode. The project reach the Board of Ministers so late, the Board is forced to accept it in proposed version, with insignificant corrections. In result, is quite possible / what happened in the end of 1992 / that even the members of the Government call in question in Parliament some of the solutions of the budget bill; such situation is absolutely impossible with the proper procedure."¹⁵

It's necessary to say, that it is the deep constitutional fault, because the conflicts within the Government with the budget matters took place also after 1993, in the circumstances , that the Government of the coalition PSL - SLD had safe and stabile majority. In conclusion : The budget, and looking more widely, the financial policy of the State will be still the function of interests of the Ministry of Finances and other "strong" Ministries. The weakness of the Government appears as an absence of the priority expenses and tasks of the State.

¹⁵ Marek Dłubowski, 1993. "The Methods of Creating the State Budget". Warsaw. Friedrich Ebert Foundation.

CHAPTER VI

THE COMPARATIVE OUTLOOK : CZECH REPUBLIC AND HUNGARY

After falling of the Communism, Czech Republic and Hungary, just like Poland assumed the democratic constitutional systems. The constitutional practise shows that these systems are more stabile and efficient. In Czech Republic the Cabinet of Vaclav Klaus rules consecutive from 1990. We can suppose that the Hungarian political system created a solid basis and the good possibilities for the Executive Power. The Government of J. Antall ruled all terms of the Parliament elected in 1990. It seems to us that the present leftistliberal coalition has a stabile political perspective in full term of the National Assembly.

The open question is : what is the reason of the stability and possibility to rule in these countries? The constitutional system in Czech Republic has the presidential -parliamentary character. The competencies of the President are convenient to the traditional competencies of the Head of the State.¹⁶ The Government bears the responsibility to the Parliament. The Constitution defines the Government as "the Supreme Organ of the Executive Power" and emphasises its collective character. Art. 76 p.2 says "to pass the statute is necessary approval of majority of its members". In the constitutional point of view, the Prime Minister is only the president of the Government, the person who leads the Cabinet and acts in the Cabinet's name. ART. 77 of the Czech Constitution says " The President of the Government organises the works of the Government, conducts its sessions, represents the Governments and executes the other functions, mentioned in the Constitution and other statutes." There aren't any constitutional reasons for the stability and efficiency of the Government. like a constructive vote of censure or strengthening part of the Prime Minister. In Czech Republic they didn't executed the general reform of

¹⁶ "...The general valuation of the form of government, subsequent to written constitutional conception is based on fact, that the parliament is the main organ in the system of the division of the authority, because it has direct people's mandate to perform the duties, personify the constitutional and legislative power, and also decide about the composition of the other powers / apart from the judicature/, which have, however, the defined opportunities of controlling or interference in its activity. The Head of the State isn't, however, the main organ in the structure of the power, but has defined and real opportunities of constitutional activity. All presented above, allow to state, that the form of government in Czech Republic is the parliamentary form of government." Karel Klima,1996. "The Parliament in the system of division of the power in Czech Republic". Warsaw. Przegląd Sejmowy 1.

the Government Centre, but in Hungary they executed it. The Government is still a kind of "federation" of the Ministries. The strong position of the Government is the result of the Franchise / stabile parliamentary majority/ and of the leadership of Vaclav Klaus /his position is quite similar to German chancellorship, though there are no foundations for it in the constitutional law.

The Law stating the influence of the Government in the legislative matters seems very interesting from the Polish point of view. Art. 44 of the Constitution creates for the Government the possibility of a coherence between the government law projects and the statement of confidence.

The Czech Constitution solves a problem of the legislation just then, between the dismissing of the Parliament and the new election. Such a problem appeared in Poland in 1993. The Constitution of Czech Republic authorises the Senate to lay down decrees, valid like statute in all the matters, that can't wait.

The political system of Hungary is very similar to the German model. The President, elected by the National Assemble has only five prerogatives, that didn't need the countersignature of the Prime Minister or the proper Minister.: representing of the State, holding an election, participation in sessions of National Assembly, initiating of the referendum and tabling the motions to the National Assembly for lay down the decree. The reasons, that decided of the position of the Government is the strong position of the Prime Minister, resulted of the appointment of the Prime Minister by the National Assembly /not the Government/ and the constructive vote of censure. The second, similar to the German solutions, is also the Electoral Law, favourable for composing the stabile government coalition. The crucial was the reconstruction of the Government Centre /modelled upon the German chancellorship/ , created by J.Antall. The new precedent element in the constitutional practise of the Hungarian State is the detailed pact, concluded between the parties That are composing the actual government coalition. This pact defines the merits of the government policy and also the mechanisms of the decisive process. This last matter is related with appointment of the unconstitutional / but the coalitional/ post of the vice- P.M.

The common element of Czech and Hungarian systems is a choice of the parliamentary democracy with the homogenous executive (this element eliminates the rivalry between the two parts of the Executive Power, inherent in the Polish system) and the Electoral Law, favourable for the stabile

parliamentary majority. The analysis of the systems of the south neighbours of Poland confirms the opinion about the crucial part of the stabile system for the efficiency of the Democracy.

Beside these elements, it is necessary to indicate the essential differences of the Executive Power in Czech Republic and Hungary. In Czech Republic the stability and the ability to decide depends, in great measure, to the position of the actual Prime Minister, then depends to the very inconstant circumstances. In Hungary the power of the Executive Authority become rooted in the constitutional and the institutional systems. And then, the Hungarian systems seems to be more "mature" and stabile.

CHAPTER VII THE NEW REFORMS

The possibilities of good governing depends in great measure on quality of the institutions, hold in the hands of the politicians who are in authority. Of course, the history knows the accidents - the bad governing with the good institutions. Everybody, who observed the contemporary history of United Kingdom, knows what a deep difference was between the Cabinet leaded by Edward Heath and Margaret Thatcher's Cabinet. These two governments were leaded by Conservatives and performed its duties in the same constitutional circumstances. The Government of Edward Heath has the inner "fractures", and so subordinated to the Trade Unions, that we can say it was a kind of reduced independence of the State. M.Thatcher imposed to her Cabinets the coherence and discipline.

Poland will remain the country with presidentialparliamentary system, and in such schemes there are possibilities of constitutional corrections to higher standard of efficiency of the Executive Power. I don't think, that is possible and profitable the constitutional "revolution" for repeal the presidency based on general election, as proposed Wojciech Sokolewicz, constitutionalist, who recognises the presidential parliamentary system as a threat for "liberal and democratic" values.¹⁷ The change of the constitutional law by means of repeal of common election of the President will be treated by the public as calling in question the civil right to the presidential election .

Now we have such constitutional situation, that the Electoral Law is conducive to government stability, but still we have no circumstances for coherence and efficiency of the Executive Power. The reform should lead to :

- the univocal definition of the part of the President as the supreme representative of the State and institution, who should define the strategic lines of the state policy ,who should have competencies in the matters of security of the State and should integrate the foreign policy. The reform and expectation of the amendments to the constitution would eliminate the danger of antagonism between The President and the Government. Such danger can appear in the situation of cohabitation, as was in 1993-95, and is very possible it would

¹⁷ W.Sokolewicz,1996.Between the Parliamentary Cabinet and the Presidential -Parliamentary system.Warsaw."Przełd Sejnowy."

appear in the future. This is a reason for delimitation of the competencies of the President in the matters of governing the State.

- the creation of the institutional conditions for the coherence of the government policy. It means - the reconstruction of the Government round the Prime Minister. His competencies should delimit the fundamental functions : the programming and controlling of the crucial government programs, the coordination and activity in the creation of the budget, the crucial influence in the legislative process. The budget policy would be the common work of all the Government. The project of the budget bill would be a function of accepted priorities and the Prime Minister, with his Budget Office would have possibilities to control the particular coordinations of the budget expenses. When the project of the budget bill is in the Parliament, the budget would be protected solidary by all Ministers. The reconstruction of the Government Centre and the suppression of his federational structure should bring the possibilities of the efficient availability of the competencies in the legislative activity of the Government. From this point of view is necessary to evaluate the sense of purpose the government decrees. Using the decrees valid like statute is sensible with the strong authority of the Primer Minister and cohesion of the Government. In other circumstances, the ministerial bureaucracy and quarrels between the ministries will decide about substance of the decrees.¹⁸

¹⁸ In the parliamentary system is possible to separate two distinct models of legislative competencies of the parliament and the government. The first of them typical for British and French (III Republic of France) democracy assumes, that all the sources of law should derive from a statute and should act to its application. In this case legislative competencies of the government can't have autonomous character. This competencies are secondary to the statutes they are resulted from. The second model permits for autonomous legislative part of the government. The classical representative of this solution is V Republic of France, which in enumerative way defines the cases voted like a statute, and gives the other cases to the legislative competencies of the government. The XXth century brought the increase of legislative activity of the government. G. Burdeau in his treatise "Traite de sciences politique" concludes :The parliament lays down laws, which in majority are prepared by the government. The government works out, also, the normative government deeds with various names. These are the executive documents for the statutes or even unstatuory acts or the acts which substitute the statutes, from the theoretical point of view, secondary to the statutes, but to be honest , in practise , these acts define sensibly the legal status of the citizens, but the executive acts are considered to be the most important sources of the law." /G.Burdeau, 1976. "Traite de science politique". Paris/. Ryszard Piotrowski in text of "Legislatorial Competencies of the Parliament and Government in Democratic Legal State is questioning the right of the Government to pass the legislatorial decisions indicating, that it may cause a dangerous increase of the importance of the political parties in the legislatorial matters. It's hard to agree with Ryszard Piotrowski's opinion. The participation in the works of the Parliament and Government is obvious aim of political parties. In the parliamentary system the Government has a support of the parliamentary majority, and it is not justifiable to impair the government's right to legislatorial activity. It's necessary to say, that the widening of out-parliamentary legislative may caused "spoiling" of the Law and weakening its reliability. Very

- the decentralisation of the State and the reduction of the special government administration, not submitted to the Voivodes /who are the representatives of the Government in the country/, The centralisation burden the Government with the duties /which should be realised by the local authority. In such situation the Government would concentrate on the fundamental functions of the State, like jurisdiction, inner security, the foreign policy and state defence.

These constitutional changes couldn't be executed as the single act. But I'm quite sure about its necessity, because these changes composed the group of conditions for improvement of Polish democracy and efficiency of governing.

Kazimierz M.Ujazdowski.

FOOTNOTES:

(1) The system of the communist state was the subject of some important treatises published in Poland in the eighties. The spokesmen of the theory of the common interests, Jerzy Drygalski and Jacek Kwaœniewski were of opinion, that the crucial importance to understand the essence of the communist state are the notions like : the centralism, monoparty system, political system like a monolith. In their work "(Un) Real Socialism" they asserted, that: " the main right of the communist state is the blockade of the institutional articulation of the social and political interests. Considering this blockade of free articulation of interests, the structure of the party and the state had to be maximally unified". In order to preserve the socialism of the soviet type, the state has to wage a constant war with the community to prevent the free articulation of interests, specially in political institutions, but also everywhere, where it could be the source of destruction. This is the absolutely crucial condition of permanency of the system and main right of its activity." / Jerzy Drygalski, Jacek Kwaœniewski, 1989. "(Un) Real Socialism", p.8./. Then all the machinery of the communist state was fixed to blockade the articulation of various interests. It was a reason of the fundamental attributes of People's Republic of Poland : "the leading part" of the communist party, the inner centralism in the party, and the right of unity of the state authority. Theory of the unity of the interests allowed to its advocates for reconstruction of the communist state. In People's Republic of Poland the real centre of the was not in the formal organs of the state, but it was in the institutions of the communist party. It was the communist party who formed the political will, transmitted it to the state organs and controlled the realisation of the previously issued instructions. The party state adopted the right of the unity of state power like a function of the unity of the interests. In accordance with the constitution the extreme organ of the state power was the parliament. The Board of the Ministers has the executive character. The basic element of the unitary state power system in the regions were the People's Councils. In practise all the institutions of the state, precised in the constitution: The Board of Ministers, the People's Councils, the Judicature, was subordinated to the communist party. The model of the unity of interests didn't explain the aims and the sphere of the authority of the communist state. Jakub Karpiñski indicated in his works, that we dealt with the ethatistic state, which functions : proprietary, economical and social were very expanded . The crucial importance had the domination of

state property and the destruction of civilian community. /Jakub Karpiński, 1988. "The Communist System in Poland". Warsaw/. Jadwiga Staniszkis, in her book "The Ontology of Socialism" defined the socialist state as dual prerogative state, ignoring the legal regulation of itself, and said, that it's impossible to describe the communist state in detachment to the essential attributes of the socialistic formation, where the crucial importance has expropriation of the community. "...the dual prerogative state is monolithic "creature", splitting in special circumstances to two segments, using the different rights of governing. In each of these segments can occur both : the elements of the party structures and the elements of structures of the state administration." /Jadwiga Staniszkis, 1989. "Ontology of the Socialism". Warsaw, p.82/

(2) Jerzy Stembrowicz, 1985. The Research of the Government in Polish People's Republic 1952 - 1980.

(3) Jerzy Stembrowicz, 1985. "The Research ..."

(4) Jerzy Ciemniowski, 1993. "The Division of Power in the Small Constitution", in : The Small Constitution in time of Constitutional Transitions". Warsaw., page 19.

(5) Jerzy Ciemniowski, 1993. "The Division ..."

(6) This fact is confirmed in pronouncement of Bronisław Geremek, the President of Civic Parliamentary Club. "He didn't noticed /T.Mazowiecki - note K.M.U./ anything unusual also in it, that when forming the government he didn't consulted it with his own parliamentary club. In the beginning, the Club tolerated it, but completing of the Cabinet prolonged. /Jacek Łakowski, 1991. "1989. Bronisław Geremek answers, Jacek Łakowski asks". Warsaw./

(7) Andrzej Kulig, 1994. The Basis Problems of Composing of the Government". Warsaw. Państwo i Prawo nr 1

(8) The separate question is, in polish realities, particularly like in the case of H. Suchocka's cabinet, the Cabinet of the multiparty coalition, where there are rarely the party leaders, has the Board of the Ministers real ability to play an important political part? The admittance that the Board hasn't this ability,

there is necessity to construct the new centre of political disposal, but not in opposition to all general constitutional conditions of the political system...". Hubert Izdebski, 1993. "The Functioning and the Machinery of the Board of Ministers and the Prime Minister". Warsaw. p.15.

9 "The practice made a distance between the President and the existing political scheme. It's possible to be impressed, that the performance of the presidency is grounded only on fact the source of presidency is the direct election, not the political base. There are many premises indicating that president Wa³e sa performs his duties in political solitude. Of course, the fact when the president is not identified with precisely stated political option, he has the great chance to be "the President of all the Poles", but it cause that the constitutional and political position of the state is diminuated. The consequence of it is forfeiture of the possibility of efficient performance of his duties...". Ryszard Mojak, 1994. "Institution of the President of Poland in time of Constitutional Transitions 1989-1992" , p.311.

10 W.Sokolewicz rightly remarks, that political compromise has negative influence on the substance of the Small Constitution. The price for this compromise, exaggeratedly named in the journalism as the big success was the lack of consequences in some legal constructions and many legal deficiency in the text. "Wojciech Sokolewicz, 1993. "Divided but Equal?", Przegl¹d Sejmowy 1.

11 Jerzy Stembrowicz in his work titled "The Government in the Parliamentary System says, that the rationalisation of the parliamentarism materialises only with the existence of stabile structure of the party system. Such experiments failed in IV Republic of France, where the parliament was excessively divided. J. Stembrowicz attaches the great importance to such circumstance and maintained his opinion, that" The stability of the Cabinet in the Federal Republic of Germany is owed to the stability of the party system, not to the constructive vote of censure, nevertheless many of german authors assert, that the durability of German Governments and chancellor democracy are subsequent to the question of the constructive vote of censure." Jerzy

12 Ryszard Mojak, 1994. " The Institution of the President of Poland in time of Constitutional Transitions". Warsaw. Wydawnictwo Sejmowe.

13 Marek D**u**browski, 1993. "The Methods of Creating the State Budget". Warsaw. Friedrich Ebert Foundation.

14 The Board of Ministers is still rather a conference of representatives of the Ministries than the political centre of the Government. There is important necessity of the system to initiate within the Board the political debate, conscious, not occasional choice of the priorities and to determine strategical questions, but also the two-way method of transmission in the "political net" :The Board of Ministers, the President, the Parliament, the political parties, the central and territorial administration, the groups of interests...". Hubert Izdebski, 1993. "The Functioning and....". Warsaw. p.15

15 Marek D**u**browski, 1993. "The Methods of Creating the State Budget". Warsaw. Friedrich Ebert Foundation.

16 "...The general valuation of the form of government, subsequent to written constitutional conception is based on fact, that the parliament is the main organ in the system of the division of the authority, because it has direct people's mandate to perform the duties, personify the constitutional and legislative power, and also decide about the composition of the other powers / apart from the judicature/, which have, however, the defined opportunities of controlling or interference in its activity. The Head of the State isn't, however, the main organ in the structure of the power, but has defined and real opportunities of constitutional activity. All presented above, allow to state, that the form of government in Czech Republic is the parliamentary form of government." Karel Klima,1996. "The Parliament in the system of division of the power in Czech Republic". Warsaw. Przegl**o**d Sejmowy 1.

17 W.Sokolewicz,1996.Between the Parliamentary Cabinet and the Presidential -Parliamentary system.Warsaw."Przegl**o**d Sejmowy."

18 In the parliamentary system is possible to separate two distinct models of legislative competencies of the parliament and the government. The first of them typical for British and French (III Republic of France) democracy assumes, that all the sources of law should derive from a statute and should act to its application. In this case legislative competencies of the government can't have autonomous character. This competencies are secondary to the statutes they are resulted from. The second model permits for autonomous legislative

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