

THE FEATURES OF THE PRESIDENT'S INSTITUTE IN FRANCE

ОСОБЛИВОСТІ ІНСТИТУТУ ПРЕЗИДЕНТА У ФРАНЦІЇ

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The President of France plays a decisive role in the political system of the country. The President of France is elected by the majority system of the absolute majority. It is vested with significant powers in the executive, legislative, judicial, foreign policy, national security and defense spheres. The constitutional powers of the President of France in the sphere of executive power include: formation of the government; dismissal of the government as a whole or individual members of it; appointment of heads of local executive bodies; management of executive bodies; recognition with state awards, awarding of honorary and higher military ranks. The constitutional powers of the President of France in the sphere of legislative power include: convening extraordinary sessions of the parliament; early termination of the powers of the parliament and appointment of extraordinary elections; signing and promulgation of laws adopted by the parliament; application of the veto on laws adopted by the parliament; publication of own regulatory legal acts. The powers of the President of France in the field of judicial power include the right to pardon, mitigate and cancel criminal punishments determined by the court; the right to appoint to judicial or higher judicial positions. In the field of foreign policy activity, the head of state represents the state in foreign relations, determines the direction of the state's foreign policy. He holds personal meetings with heads of foreign states and governments, participates in negotiations on issues important to the nation; accredits and accepts diplomatic representatives of foreign states, appoints and recalls ambassadors and other diplomatic representatives. In the spheres of national security and defense of the state, the President of France is the supreme commander of the armed forces of the state. He is granted the right to appoint and dismiss from positions above the command of the armed forces, assign higher military ranks, preside over the highest bodies of national security and defense, introduce martial law in the country or in some of its localities, announce general or partial mobilization, etc.

Key words: president, president's institute, institute of presidency, the President of France, semi-presidential republic.

Президент Франції відіграє визначальну роль у політичній системі державі. Президент Франції обирається за мажоритарною системою абсолютної більшості. Він наділяється значними повноваженнями у виконавчій, законодавчій, судовій, зовнішньополітичній, національній безпеки та оборони сферах. До конституційних повноважень Президента Франції у сфері виконавчої влади належить: формування уряду; відправлення уряду в цілому або окремих його членів у відставку; призначення глав місцевих органів виконавчої влади; керівництво органами виконавчої влади; відзначення державними нагородами, присвоєння почесних і вищих військових звань. До конституційних повноважень Президента Франції у сфері законодавчої влади належить: скликання позачергових сесій парламенту; дострокове припинення повноважень парламенту і призначення позачергових виборів; підписання та оприлюднення прийнятих парламентом законів; застосування вето щодо прийнятих парламентом законів; видання власних нормативно-правових актів. До повноважень Президента Франції у сфері судової влади належить право на помилування, пом'якшення і скасування кримінальних покарань, визначених судом; право призначати на судові чи вищі судові посади. У сфері зовнішньополітичної діяльності глава держави представляє державу в зовнішніх зносинах, визначає напрями зовнішньої політики держави. Він проводить особисті зустрічі з главами іноземних держав і урядів, бере участь у переговорах з приводу важливих для нації питань; акредитує і приймає дипломатичних представників іноземних держав, призначає і відкликає послів та інших дипломатичних представників. У сферах національної безпеки та оборони держави Президент Франції є верховним головнокомандувачем збройних сил держави. Він наділяється правом призначати на посади та звільняти з посад вище командування збройних сил, присвоювати вищі військові звання, головувати у вищих органах національної безпеки і оборони, вводити в країні або в окремих її місцевостях военний стан, оголошувати загальну або часткову мобілізацію тощо.

Ключові слова: президент, інститут президента, інститут президентства, Президент Франції, змішана республіка.

Introduction. The institute of the President of France is one of the most important institutions of the French political system. The President of France is the head of state and government, and he has extensive powers, including the right to appoint ministers, sign laws, represent the country on the international stage, etc. The relevance of the topic of the article is due to the fact that the institution of the president is a key part of the French political system. The President of France has considerable influence over French politics, and his role in French political life is significant.

Recent literature review. Among the numerous studies and publications that highlight the issue of the peculiarities of the president's institute in France, the works of such researchers as: S. Bostan, M. Dmytchenko, I. Kostytska, P. Mironenko, V. Sukhonos, etc. deserve special attention.

The purpose of the article is to analyze the peculiarities of the functioning of the president's institute in France.

The main part of the article. A typical example of a mixed republic is France under the Constitution

of 1958 (Constitution of the Fifth Republic). The Constitution of the Fourth Republic, adopted in 1946, introduced a parliamentary form of government in France. The presence in the parliament of a significant number of representatives from many political parties and the absence of a permanent parliamentary majority almost constantly destabilized the government under the control of the parliament. The permanent government crisis was accompanied by significant complications within the country and in France's colonial possessions.

In May 1958, France found itself in a situation of acute political crisis, caused mainly by protracted colonial wars in Algeria and Indochina and economic difficulties. On June 1, 1958, at the request of the mutineers in the French troops in Algeria, the parliament elected S. de Gaulle, the former popular leader of the Resistance Movement, as the head of the government and gave him wide powers, including in the field of legislative power.

On the initiative of S. de Gaulle, a new Constitution of France (Constitution of the Fifth Republic) was developed and approved in a referendum on September 28, 1958, which significantly strengthened the power of the president. He became S. de Gaulle, who after some time initiated a referendum on the election of the president through general and direct elections. The 1958 Constitution was based on the idea of a combination of strong presidential power and parliamentary control over government activities, which is central to the concept of a mixed form of republican government.

Endowed with broad powers, S. de Gaulle brought the state out of a state of acute economic, social and political crisis. According to the Constitution of the Fifth Republic, the government is formed by the president without the participation of the parliament and bears political responsibility to him. The actual leadership of the government is not carried out by the prime minister, but by the president. In addition, the president has the right to dissolve the lower house of the parliament, the right to veto laws passed by the parliament, which is weak – it only provides for a new discussion of the law at the request of the president, but does not require the parliament to overcome it by a qualified majority of votes. The Constitution provides for the countersigning of acts of the president from a number of his powers by the prime minister and, if necessary, by the responsible minister. However, such a countersignature does not act as a real means of government influence on the president due to its dependence on the latter.

Thus, the French Constitution of 1958 established the dominance of the president in the system of organization and functioning of state power, in essence – the authoritarian presidential rule, which was overcome in 1969 as a result of mass youth demonstrations against the regime of personal power of S. de Gaulle.

He resigned. However, those countries that borrowed the presidential-parliamentary form of government from it failed to do so.

France is a mixed republic. The main features of a mixed republic are: the election of the president, as a rule, in general elections and the granting of broad powers legally and in fact; formation of the government jointly by the president and the parliament if one of them predominates; dual political responsibility of the government – before the president and the parliament; dualism of executive power – distribution of powers regarding its implementation between the president and the government; the president exercises general leadership over the government headed by the prime minister; independence of the president from the government (absence of the institution of countersignature or its formal nature); the right of the president to dissolve the parliament for certain reasons; the right of the president to legislative initiative [1, p. 457].

The President of France is elected by general and direct elections, according to the majoritarian system of the absolute majority. If the presidential candidate does not receive the required number of votes, a second round of elections is held after 14 days, in which a relative number of votes must be received. The candidate who received more votes than his opponent is considered elected (Part 1, Article 7 of Constitution of the Fifth Republic of 1958) [3].

Systematization of the powers of the President of France, elected through general and direct elections, should be carried out in accordance with the main spheres of state activity – executive, legislative, judicial, foreign policy, national security and defense.

The constitutional powers of the President of France in the sphere of executive power include: formation of the government; dismissal of the government as a whole or individual members of it; appointment of heads of local executive bodies; management of executive bodies; recognition with state awards, awarding of honorary and higher military ranks.

In the sphere of executive power, the head of state has the right to participate in the formation of the government. In France, the government is formed by the president without the participation of the parliament. That is, the head of state when appointing the prime minister is free and can act at his own discretion. However, in practice, the choice of the president must be trusted by the parliament. In this case, the head of state must appoint to the post of prime minister only the person who will enjoy the support of the majority of deputies, since the parliament will not support him in the first vote. If the president and the parliamentary majority are from different parties, then the reserve of presidential freedom is small. In such cases, the head of state is forced to appoint to this post his political opponents, who enjoy the support of the parliamentary majority. Other members of the government are

appointed by the president on the proposal of the prime minister (Article 8 of Constitution of the Fifth Republic of 1958) [3].

The President of France dismisses the government as a whole or individual members of it (Article 8 of Constitution of the Fifth Republic of 1958) [3].

Under the mixed form of republican government, there is a double political responsibility – the government to the parliament and to the head of state. The political responsibility of the government before the parliament is implemented in two main forms: a vote of no confidence and a refusal of confidence. In France, the government is responsible only to the lower house.

The government's political responsibility to the president is largely the result of the president's subjective assessment of the government and its members, given that the government itself does not have significant means of influencing the head of state. The government's political responsibility to the head of state comes in the form of the resignation of the government as a whole or the dismissal of an individual minister.

The powers of the President of France in the sphere of executive power include the appointment of heads of local executive bodies. Under the mixed form of government, the Romano-Germanic or Continental-European model of local public power organization is in effect, which is characterized by a combination of local self-government with local management carried out by local bodies of state executive power. In administrative-territorial units, a representative body of local self-government and a local body of the executive power of the state, headed by a representative of the state in France appointed by the center, who exercises administrative supervision over the activities of local self-government bodies, operate at the same time.

The constitutional powers of the President of France in the sphere of executive power include the right to participate and preside over government meetings. According to Constitution of the Fifth Republic of 1958, the president presides over the Council of Ministers (Article 9) [3]. In this state, there are certain peculiarities regarding the status and name of the government. A distinction is made between the Council of Ministers and the Council of the Cabinet. The government that sits under the chairmanship of the head of state is called the Council of Ministers, the most important decisions are made at such meetings. For example, draft laws are discussed in the Council of Ministers before being submitted to the parliament, high-ranking officials of the state administration (state councilors, prefects, etc.) are appointed, acts on the introduction of martial law and state of emergency are adopted, etc. The Council of the Cabinet is understood to mean meetings held under the chairmanship of the Prime Minister, at which issues of a current nature are considered.

The President of France has the right to award state awards, confer honorary and higher military ranks.

The constitutional powers of the President of France in the sphere of legislative power include: convening extraordinary sessions of the parliament; early termination of the powers of the parliament and appointment of extraordinary elections; signing and promulgation of laws adopted by the parliament; application of the veto on laws adopted by the parliament; publication of own regulatory legal acts.

In the field of legislative power, the President of France has the right to call the parliament to extraordinary sessions. This allows the president to ensure that parliament works effectively and that it can respond to the urgent needs of the country. Thus, in 2022, French President Emmanuel Macron convened the parliament for an extraordinary session in August to consider the budget bill. In 2023, head of state Emmanuel Macron called parliament into an extraordinary session in April to consider a bill to increase pensions.

The right to dissolve the parliament also belongs to the constitutional powers of the president in the sphere of legislative power. This right expresses the arbitration function of the head of state. In France, the prerequisite for the dissolution of the parliament is the consultation of the president with the head of the government and the heads of the chambers of the parliament (Article 12 of Constitution of the Fifth Republic of 1958) [3].

The dissolution of the parliament by the President of France is limited to a number of conditions. In particular, in France, the parliament cannot be dissolved within 12 months after the start of the sessions of the newly elected parliament. It is also not allowed to dissolve the parliament during a state of emergency or martial law. Thus, Article 16 of Constitution of the Fifth Republic of 1958 states that the National Assembly cannot be dissolved during the exercise of emergency powers [3].

In the sphere of legislative power, the President of France has the right to sign and promulgate laws adopted by the Parliament (promulgation). According to the Constitution of the Fifth Republic of 1958, the president is given a certain period during which he must either sign the law or, if provided for in the constitution, veto it. This term is 15 days. According to the Constitution of the Fifth Republic of 1958, the President of the Republic promulgates laws within 15 days after the transmission of the finally adopted law to the government (Article 10) [3]. Promulgation of the law by the president is a formality that allows the law to be put into effect. After submitting to the government the text of the law that was adopted by the parliament (Article 10) or the people (Article 11), the president promulgates it by means of a decree within two weeks. As F. Ardan points out, in practice the head of state does not stop at this limitation and formal intervention in the process of drafting the law. He can

take the initiative to pass laws or ask the government to make certain amendments to the bill or even withdraw it from consideration. It also happens that before the start of parliamentary debates, he announced the measures that are at the disposal of the chambers (the cancellation of the debt obligations of some African states towards France by President F. Mitterrand in 1989). So, according to this author, we can talk about "the President is a legislator" [2, p. 69].

Other legislative powers of the President of France include the right to veto laws passed by Parliament (Article 10 of Constitution of the Fifth Republic of 1958) [3]. Veto means the refusal of the head of state to sign and promulgate the law.

The President of France does not have the right of legislative initiative. Only the head of government and members of parliament have this right (Article 39 of Constitution of the Fifth Republic of 1958) [3].

The legislative powers of the President of France include the right to issue normative-legal acts of a sub-legal administrative nature. The President of France also does not issue acts that have the force of law.

In the sphere of legislative power, the President of France has the right to send a message to the Parliament. This right of the head of state acts as the main means of communication between the president and the parliament. Thus, the Constitution of the Fifth Republic of 1958 states: "The President of the Republic deals with both houses of the Parliament by means of messages that are read in the houses and are not subject to any discussion. In the period between sessions, the Parliament specially meets on this occasion" (Article 18) [3]. In terms of content, this authority is a reproduction of Article 37 of the Constitution of the Fourth Republic of 1946 ("The President of the Republic communicates with Parliament by means of messages sent to the National Assembly") [4]. However, as noted by M. Prelo, in the IV Republic, messages were countersigned by the head of government and the minister (and even the state minister) [7, p. 598], while today this action of the head of state is a unilateral act of the president. Presidential messages are not up for debate. Since the head of state is "beyond criticism" due to his political irresponsibility. Messages can be very diverse in content. Among them, we can single out S. de Gaulle's message regarding the reduction of the term of the presidential mandate from seven to five years in 1973; the message of F. Mitterrand in 1986 on the occasion of the 100th anniversary of the birth of R. Schuman, the founder of European integration. Therefore, presidential messages in France do not become the subject of debate in parliament.

The powers of the President of France in the field of judicial power include the right to pardon, mitigate and cancel criminal punishments determined by the court. In addition, the President of France in the field of judicial power has the right to appoint to

judicial or higher judicial positions or to participate in the procedure of such appointments. The relevant appointments in France are carried out on the proposal of a special body called the "Higher Council of Magistracy".

In the field of foreign policy activity, the head of state is given significant powers. The president represents the state in foreign relations, determines the direction of the state's foreign policy. He holds personal meetings with heads of foreign states and governments, participates in negotiations on issues important to the nation. Other powers of the President of France in the field of foreign policy include accreditation and reception of diplomatic representatives of foreign countries, appointment and recall of ambassadors and other diplomatic representatives.

Significant powers of the president in the sphere of foreign policy activities are related to the conclusion and ratification of international treaties, which he does with or without the sanction of the parliament. The President of France negotiates and ratifies international treaties. He is informed about negotiations regarding the conclusion of any international agreement that is not subject to ratification (Article 52 of Constitution of the Fifth Republic of 1958) [3]. These powers make the president responsible for foreign policy. It is in this capacity that he sits in European governing structures, where a place is reserved for the head of state [6, p. 295]. French researchers note that the participation of the head of state in foreign policy is related to specific examples of the president's intervention in the sphere of foreign policy activity of the state. Thus, the memorandum of September 24, 1958, which represents the foundations of France's Atlantic policy, remained unknown even to the government for a long time. Likewise, the issue of sending French troops to Gabon in February 1964 was not discussed in the government. Quite often, the head of state alone makes decisions on foreign policy. In June 1974, President J. d'Estaing met with German Chancellor H. Schmidt without the participation of the Prime Minister and the Minister of Foreign Affairs [5, p. 180].

In the spheres of national security and defense of the state, the President of France is the supreme commander of the armed forces of the state. He is granted the right to appoint and dismiss from positions above the command of the armed forces, assign higher military ranks, preside over the highest bodies of national security and defense, introduce martial law in the country or in some of its localities, announce general or partial mobilization, etc. The introduction of a state of emergency can result not only in the suspension of certain constitutional provisions, but also in the expansion of the powers of the executive power, the limitation of the powers of representative institutions, and the temporary supremacy of the decrees of the head of state over the current legislation.

Conclusion. Thus, the President of France is given wide powers. The constitutional powers of the President of France in the sphere of executive power include: formation of the government; dismissal of the government as a whole or individual members of it; appointment of heads of local executive bodies; management of executive bodies; recognition with state awards, awarding of honorary and higher military ranks. The constitutional powers of the President of France in the sphere of legislative power include: convening extraordinary sessions of the parliament; early termination of the powers of the parliament and appointment of extraordinary elections; signing and promulgation of laws adopted by the parliament; application of the veto on laws

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