

**THE FEATURES OF THE SYSTEM OF CHECKS AND BALANCES IN BRAZIL****ОСОБЛИВОСТІ СИСТЕМИ СТРИМУВАНЬ І ПРОТИВАГ В БРАЗИЛІЇ****Voichuk A.Yu.,  
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The article analyzes the system of checks and balances in Brazil as a key principle of democratic governance that ensures a balance between the legislative, executive and judicial branches. The peculiarities of the system of checks and balances in Brazil are as follows: the activities of the President of Brazil and the judiciary are carried out on the basis of laws adopted by the National Congress; the head of state has the right to veto laws adopted by the Parliament; the President of Brazil has the right to appoint judges of the Federal Supreme Court, higher judges with the consent of the upper house of Parliament; the President appoints and dismisses ministers at his/her discretion; the President of Brazil is vested with the right of legislative initiative; the National Congress has the right to remove the President of the Republic of Brazil. The President of Brazil is elected for four years, senators – for eight years, members of the Chamber of Deputies – for four years. The article analyzes the factors that negatively affect the balance of the system of checks and balances in Brazil: political polarization, corruption; excessive interference of the judiciary in political processes; low level of public trust in government authorities; bureaucratization, etc. The results of the study are important not only for understanding the functioning of the system of checks and balances in Brazil, but also for a comparative analysis of this system in other countries. The article offers recommendations for improving the system of checks and balances in Brazil: optimize legislative and executive processes to avoid stagnation; improve anti-corruption mechanisms; the judiciary should be independent; promote transparency and involvement of civil society in decision-making processes.

**Key words:** system of checks and balances, Brazil, presidential republic, president, executive branch, National Congress, judiciary, political stability.

У статті досліджується система стримувань і противаг у Бразилії як ключовий принцип демократичного управління, який забезпечує баланс між гілками влади – законодавчою, виконавчою та судовою. Особливостями системи стримувань і противаг Бразилії є: діяльність Президента Бразилії і судової гілки влади здійснюється на основі законів, які приймає Національний конгрес; глава держави має право вето на закони, прийняті парламентом; Президент Бразилії має право призначати суддів Федерального верховного суду, вищих суддів за згодою верхньої палати парламенту; президент призначає і звільняє з посади міністрів на власний розсуд; Президент Бразилії наділяється правом законодавчої ініціативи; Національний конгрес має право усунути Президента Республіки з поста в порядку імпічменту в разі вчинення ним кримінального правопорушення, зловживання владою; різними є строки повноважень вищих органів державної влади Бразилії: Президент Бразилії обирається на чотири роки, сенатори – на вісім років, члени Палати депутатів – на чотири роки. У статті аналізуються чинники, які негативно впливають на збалансованість системи стримувань і противаг у Бразилії: політична поляризація, корупція; надмірне втручання судової гілки у політичні процеси; низький рівень довіри громадян до органів державної влади; бюрократизація тощо. Результати дослідження мають значення не лише для розуміння функціонування системи стримувань і противаг у Бразилії, але й для порівняльного аналізу цієї системи в інших державах. У статті пропонуються рекомендації щодо вдосконалення системи стримувань і противаг у Бразилії: оптимізувати законодавчі та виконавчі процеси для уникнення стагнації; вдосконалити антикорупційні механізми; судова гілка влади має бути незалежною; сприяти прозорості та залученню громадянського суспільства до процесів ухвалення рішень.

**Ключові слова:** система стримувань і противаг, Бразилія, президентська республіка, президент, виконавча влада, Національний Конгрес, судова влада, політична стабільність.

**Introduction.** The system of checks and balances is a fundamental element of democracy, ensuring a balance between the branches of government, preventing the concentration of broad powers in one branch. In Brazil, the system of checks and balances is particularly important as the country has gone through a difficult transition from an authoritarian regime to a democratic one. The Constitution of Brazil of 1988 has become the basis for the formation of a stable democratic model that guarantees the separation of powers between the legislative, executive and judicial branches. In this context, the system of checks and balances acts not only as a legal mechanism, but also as a tool to prevent political crises and ensure government accountability.

**Recent literature review.** Among the numerous studies and publications addressing the issue of checks and balances in Brazil, the works of such researchers as O. Valevskyi, N. Haidaienko, Kh. Zabavska, V. Rebkalo, I. Salo, L. Sylenko, and V. Surnin deserve particular attention.

**The purpose** of the article is to analyze the system of checks and balances in Brazil.

**The main part of the article.** The system of checks and balances is an integrated set of powers of the branches of state power in the system of separation of powers, which allows balancing and limiting the branches of power among themselves. This system is most fully realized under a strict separation of powers in a presidential republic.

The features of a presidential republic are: a balanced system of checks and balances; a strict separation of powers; the election of the president by general elections; the combination of the powers of the head of state and the head of government in the person of the president and, as a rule, the absence of the position of prime minister; the formation of the government by the president with limited participation of parliament; the absence of political responsibility of the government before parliament; the absence of the president's right to dissolve parliament; the absence of the president's right of legislative initiative; the absence of the institution of countersignature – the confirmation of the president's acts by the signatures of ministers [2, p. 410].

In Brazil, the institution of the presidency clearly dominates over all other institutions, and parliaments do not have the same control over the executive branch as the parliament of a classical presidential republic (e. g., the US Congress). Judging by the powers he has, both officially and unofficially, we can say that his power is not just presidential, but super-presidential.

In academic discourse, the term «super-presidential» republic is used to denote a special type of republican form of government, which is characterized by the legal and actual concentration of all levers of state power in the hands of the president, who in this case is mostly not only the head of state, but also the head of government and the leader of the ruling party [3, p. 43].

An article two of the Constitution of Brazil of 1988 states the separation of powers, namely that the legislative, executive and judicial branches are independent of each other [4].

The activities of the President of Brazil and the judiciary are carried out on the basis of laws adopted by the National Congress. The National Congress is a bicameral parliament. The upper house is called the Federal Senate, and the lower house is called the Chamber of Deputies. The President of Brazil has the right to veto laws passed by the Parliament. The veto can be general or partial. The head of state may reject the law as a whole or its individual articles (Article 84(v) of the Constitution of Brazil of 1988) [4]. The President's veto can be overridden by an absolute majority of deputies and senators (clause 4 of Article 66 of the Constitution of Brazil of 1988) [4]. The President of Brazil has the right to appoint judges of the Federal Supreme Court and higher judges with the consent of the upper house of parliament. The head of state also appoints the judges of the Court of Accounts of the Union (clauses XIV-XV of Article 84 of the Constitution of Brazil of 1988) [4]. The President of Brazil is the head of the executive branch. He appoints and dismisses ministers at his own discretion.

The President of Brazil has the right of legislative initiative. The President has the exclusive right to issue laws on specific matters, including: establishing and changing the size of the armed forces; creating positions,

powers, and jobs in public administration bodies; increasing salaries for civil servants; administrative and judicial organization, tax and budgetary issues, public services and administrative personnel; civil servants and territories, their legal regime, replacement of positions, stability, and retirement; organization of the civil service and the office of the public defender of the Union, as well as general rules for the organization of the civil service and the office of the public defender of the states, the federal district, and the territories; creation and termination of ministries and public administration bodies; recruitment of military personnel, their promotion, stability, pay, dismissal, and transfer to the reserve (Article 61 of the Constitution of Brazil of 1988) [4]. The next article of the Constitution of Brazil of 1988 states that the head of state may issue laws in certain cases. When adopting them, he must notify the National Congress. The President of Brazil is prohibited from adopting laws on the following issues: nationality, citizenship, political rights, political parties, electoral rights; criminal law, criminal procedure, civil procedure; organization of the judiciary, civil service; multi-year plans, budget, estimate, credit (the purpose of which is the seizure or theft of assets, national savings or any other financial assets), etc. [4]. The parliament must consider the presidential law within 45 days. If the National Congress does not consider the law of the head of state within 45 days, a state of emergency is introduced in both chambers. Within 60 days, each chamber of the National Congress considers the law, then a joint commission of representatives of both chambers of the legislative body is formed to consider this issue. At the plenary session of each chamber of parliament, a vote is held on the adoption or non-adoption of the presidential law. It is prohibited to vote again for the same presidential law if it is rejected [4].

The National Congress may delegate the issuance of certain laws to the President of Brazil. That is, the Constitution of Brazil of 1988 mentions delegated legislation (Article 68) [4]. This indicates the broad powers of the head of state in the legislative sphere.

The Parliament also holds the right to remove the President of the Republic through impeachment in cases of criminal offenses or abuse of power. An article 85 of the Constitution of Brazil of 1988 states that the acts of the head of state that are qualified as abuse of power and an infringement of the constitution include: the existence of the union; the free exercise of legislative and judicial power; the exercise of political, individual and social rights; the internal security of the country; integrity in administrative management; the budget law; the execution of laws and court decisions [4]. The impeachment procedure is initiated and the indictment is formulated in the Chamber of Deputies; and the final decision is made by the Federal Senate, which becomes a judicial panel. A two-thirds vote of the lower house of deputies is required to recognize the indictment. Until the indictment is issued,

the President of the Republic is not subject to arrest. In Brazil, the head of state has been removed twice. In 1993, F. Collor was removed from the post of President of Brazil, and in March 2016, D. Rousseff was removed.

The terms of office of the highest state authorities in Brazil vary. The President of Brazil is elected together with the Vice President under a majoritarian system of absolute majority. If no candidate is elected in the first round of elections under a majoritarian electoral system of absolute majority, then a second round of elections is held 20 days later, in which only the two candidates who received the largest number of votes in the first round participate. The candidate who received a relative majority of votes is considered elected (Article 77 of the Constitution of Brazil of 1988) [4]. The President of Brazil is elected for a term of four years. Members of the lower house of parliament are elected for four years, using a proportional electoral system, and senators (members of the Federal Senate) are elected under a mixed system (each state and federal district elects three senators) for eight years. One third of senators are elected after four years, two thirds after the next four-year term. The representation of each state and federal district is renewed every four years, alternately by one-third and two-thirds (arts. 44-46 of the Constitution of Brazil of 1988) [4]. Thus, the President of Brazil is elected for four years, senators for eight years, and members of the Chamber of Deputies for four years.

The imbalance in Brazil's system of checks and balances is undermined by political polarization and excessive confrontation between the branches of government. Political polarization in Brazil, particularly in recent decades, has led to the system of checks and balances being used to block the initiatives of one branch of government by the other, rather than for constructive dialogue. This is evident, for example, in the frequent political confrontations between the president and the National Congress. The Brazilian judiciary has recently tended to strengthen its independence, as evidenced by the removal of Brazilian presidents from office by the parliaments and courts. At the same time, the Brazilian judiciary, especially the Supreme Federal Court, often becomes an active participant in political processes. Although this helps to avoid abuses by the executive or legislative branches, judicial activity has been criticized for accusations of political bias. In some cases, court decisions are seen as going beyond purely legal issues, which calls into question the principle of separation of powers [7].

Corruption has been an obstacle to the effective functioning of the system of checks and balances in Brazil. For example, scandals at the highest levels of government, such as Operation Car Wash, have exposed weaknesses in the system that allow political actors to manipulate accountability mechanisms to avoid punishment.

Although civil society in Brazil plays an important role in political life, the checks and balances sometimes operate without due consideration of public interests. This reduces the level of trust of citizens in state institutions and undermines the legitimacy of the entire system.

Brazil's system of checks and balances often causes bureaucratic delays in the adoption and implementation of decisions. In a country with serious socio-economic problems such as inequality and poverty, these delays can have disastrous consequences for citizens. Instead of promoting stability, excessive regulation and blocking of legislative initiatives often create a situation of stagnation.

To improve the effectiveness of the checks and balances system in Brazil, it is necessary to:

- optimize legislative and executive processes to avoid stagnation;
- improve anti-corruption mechanisms;
- ensure the independence of the judiciary;
- promote transparency and the involvement of civil society in decision-making processes.

The unbalanced system of checks and balances in Brazil risks remaining a tool of political manipulation rather than a means of ensuring stability and development.

**Conclusion.** Thus, the system of checks and balances in Brazil plays a fundamental role in ensuring the stability and functioning of a democratic state. An analysis of the constitutional framework, institutional mechanisms and political practice of the country demonstrates that the separation of powers between the legislative, executive and judicial branches contributes to the balancing of powers, the protection of citizens' rights and the prevention of concentration of power. At the same time, the system of checks and balances in Brazil faces numerous challenges, such as political polarization, corruption, low involvement of civil society, economic crises, etc.

The features of the system of checks and balances in Brazil are: the activities of the President of Brazil and the judicial branch of power are carried out on the basis of laws adopted by the National Congress; the head of state has the right to veto laws adopted by parliament; the President of Brazil has the right to appoint judges of the Federal Supreme Court, higher judges with the consent of the upper house of parliament; the president appoints and dismisses ministers at his own discretion; The President of Brazil has the right of legislative initiative; in certain cases, the head of state can adopt laws; the National Congress has the right to remove the President of the Republic from office by impeachment in the event of his/her commission of a criminal offense or abuse of power; the terms of office of the highest bodies of state power in Brazil are different: the President of Brazil is elected for four years, senators for eight years, and members of the Chamber of Deputies for four years.

One of the main conclusions is that the effectiveness of the system of checks and balances depends not only on the formal enshrining of the principles in the Constitution, but also on the political culture and the level of involvement of civil society.

Despite significant achievements, Brazil continues to adapt the system of checks and balances to modern conditions, implementing institutional reforms aimed at increasing transparency, accountability of government and the fight against corruption.

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