

**THE ISSUE OF GENESIS OF THE INSTITUTION OF THE PRESIDENT OF THE
REPUBLIC OF LITHUANIA IN THE CONSTITUTIONAL PROCESS OF 1990-1992****Prof. Dr. Juozas Žilys**

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Summary. The issue of genesis of the institution of the President of the Republic of Lithuania in the constitutional process of 1990-1992 was one of the main actualities in the period of the restoration of independence of the Republic of Lithuania and subsequently during the construction of the institutional system of the state of Lithuania.

The exceptional phenomenon of this process was the emergence of the political and legal polemic on the leader of the state as early as in 1988-1990 when the Soviet Constitution was still valid. These speculations were encouraged by the spread of ideas about the prerequisites of restoring the independent democratic Republic of Lithuania during the period of national Revival as well as by the political processes in Eastern and Central Europe.

The nature of the issue of the restoration of the constitutional institution of the leader gained an essentially new political legal content when on March 11, 1990 the independent democratic Republic of Lithuania was restored and the Provisional Basic Law (the temporary Constitution of the Republic of Lithuania) was adopted. In 1990-1992 the content of the constitutional process was preconditioned by a new political legal reality whose main accent was the issue of the future constitutional structure of the Republic of Lithuania, the relationship between state institutions, their competence, etc.

The process of the restoration of the institution of the President of the Republic of Lithuania during the period when the Provisional Basic Law was in force was complicated as the discussions concerning this issue went on under acute political confrontation. While developing the content of the constitutional status of the President of the Republic, one should have to take some aspects of this activity into account. First of all, the place of the President of the Republic in the constitutional system of state institutions was projected in many constitutional drafts that were prepared and published in 1990-1992. Their provisions expressed various points of view concerning the definition of the future head of state, his constitutional status, competence, relations with the legislative and executive power, etc.

In the process of the restoration of the institution of the President of the Republic of Lithuania, one has particularly to point out the activities of the Lithuanian "Sąjūdis" and other political organisations while striving to immediately bring back the office of the head of state into the Lithuanian constitutional system and to determine his powers.

Although these suggestions and actions complicated the constitutional process, however, it is obvious that the aspiration of political powers to immediately restore the office of the head of state within the framework of the Provisional Basic Law stimulated drafting the Constitution more intensively and accelerated this process.

Keywords: the President of the Republic, the Constitution, the constitutional process.

**1. THE ISSUE OF THE PRESIDENT OF THE
REPUBLIC DURING THE PERIOD OF
NATIONAL REVIVAL (1988-1990)**

1.1. The necessity of the constitutional reform which became urgent in the political process of 1988-

1990 stimulated the discussion per se not only on the constitutionalism of Lithuania in general but also on traditional state institutions, the prerequisites of the restoration of the institution of the President of Lithuania among them. All this was preconditioned by several circumstances.

First. With the quick spread of scientific and political deliberations in society, a more attentive look at the past was manifest, i.e. the inter-war constitutional traditions of the Republic of Lithuania. Constitutional heritage was that vital support on the basis of which the polemic on the future of Lithuania was unfolding. Even then there was a division of views of those who favoured the takeover of the main legal ideas from the 1938 Constitution of Lithuania and those who preferred the political legal positions expressed in the 1922 Constitution of the Republic of Lithuania. The former thought that the President of the Republic of Lithuania should have to be elected in the general elections and would supervise the executive power. In other words, a great number of people were appealed by the idea which was expressed in the 1938 Constitution of Lithuania. That part of the participants of the discussion which were impressed by the 1922 Constitution of the Republic of Lithuania were convinced that, while restoring the institute of the President of the Republic of Lithuania, his role should be minimised and the Seimas of the Republic of Lithuania should be entrenched as the core of the constitutional system. There were suggestions to elect the President of the Republic of Lithuania in the Seimas or a special electoral board. Thus, a considerable part of the society would be satisfied by such a President who would represent the state and perform certain coordinating functions in the legislative, executive and judicial branches of the government.

The **second** reason which stimulated the discussion on the restoration of the institution of the president was the fact that the idea about the establishment of the institution of the president of the USSR was becoming more and more actual. It was already obvious that the institution of the president of the USSR was to strengthen the political legal grounds of the functions of the then government, to centralize certain functions in the hands of one person and thus to save the disintegrating structure of the imperial state. The constitutionalization of the institution of the president of the USSR was to serve the attempts to legally curb obvious striving towards independence of the so-called „union republics“ which, especially in the Baltic states, had already grown into an open struggle for independence. Together with the establishment of the committee of the Constitutional supervision of the USSR and the legal consolidation of the order of the secession from the USSR, the institution of the president of the USSR was to become one of the most significant political legal prerequisites of the retention of the USSR.

The **third** factor which encouraged the contemplations on the restoration of the institution of the President of the Republic was that some Eastern and Central European states had already restored traditional institutions of the head of state (Poland) and some states were going to implement it (Hungary). Probably the most influential example was set by Latvia which in the autumn of 1989 announced a draft of the law on the amendments of the Constitution of Latvian SSR which stipulated the President of the Republic.

The polemic on the restoration of the institution of the President of the Republic was also influenced by the **fourth** factor which should be linked with political processes defining the moods of society of that time. The growing authority of the Sajudis of Lithuania, the approaching elections to the Supreme Council of the Lithuanian SSR, the crisis of the existing one-party system and some other circumstances were those factors which encouraged the governing body to search for political recourse for the consolidation of society and one of those factors was the incorporation of the institute of the head of state into the existing constitutional system.

Thus, the deliberations on the head of state were stimulated both by the objective phenomena of the political process and the subjective political factors.

1.2. In the session of the Supreme Council of the Lithuanian SSR which took place on November 3-4, 1989 deputy V. Statulevičius suggested that the Legislative Commission of the Supreme Council or a newly set up special commission should be assigned to conduct an opinion survey of the Lithuanian people on the expedience of the election of the President of the Republic. The arguments for the deputy's motion were based on the facts that: 1) the institution of the President of the Republic has old traditions in Lithuania; 2) it was imperative to strengthen the powers of the executive branch; 3) the President of the Republic would be elected by all the citizens, so his position would be extremely significant expressing Lithuania's interests both in the Soviet Union and abroad; 4) the constitutional status of the head of the state would be one more step towards the independence of the state of Lithuania; 5) the President of the Republic would be the institution „above the politics“, „above the streams“ which would function among numerous political parties and facilitate the consolidation of public interests [2 p. 114-116]. The Presidium of the Supreme Council was assigned to „prepare adequate suggestions“ [3 p. 118].

Regarding the analysis of this actuality, The Presidium of the Supreme Council considered this issue in the meeting. Chairman of the Presidium V. Astrauskas announced the Presidium's disapproval of these suggestions in his speech: „The presidential ruling may seem attractive at first sight as it emphasizes the statehood but the arguments of its proponents are not grave yet. Doubts arise with the objective evaluation of the political realities of present days and near future. First of all, is the status of the presidential ruling compatible with the present level of sovereignty of Lithuania? The programme of the restoration of the statehood of the Republic is just about to be constructed. Let us not forget other realities. With the present level of democracy and vital authoritarian habits, the accumulation of power in the hands of one person would be rather problematic and even reckless. It should be noted that the adopted amendments of the Constitution newly treat the status of the Chairman of the Supreme Council and his authority has been considerably expanded. In our opinion, it corresponds to the present stage of the development of democracy“ [4 p. 21].

Some deputies of the Supreme Council deliberating on the restoration of the institution of the President of the Republic were of a different opinion [5 p. 27].

The then Supreme Council did not adopt any particular decisions on the restoration of the institution of the President of the Republic. This suggestion only reflected the controversial political reality of that time, it was not grounded on the objective analysis and conclusions of the political process and the political speculations and the expressed ideas were merely the form of expression of the attainment of short-term political attempts. At the end of 1989, the constitutional process manifestly proclaimed a political transition to an essentially new parliamentarism in which the constitutional content and form of the institution of the head of state still had to be thoroughly scrutinised.

1.3. The September 29, 1989 Law „On the amendment and supplement of the Constitution of the Lithuanian SSR (Basic Law)“ changed the content of the relations between the Supreme Council and the Presidium as well as stipulated an exceptional status of the Chairman of the Supreme Council in the then constitutional system. Thus, the status of the „highest official of the Republic of Lithuania representing the Republic of Lithuania in international relations“ was constitutionalised. While evaluating the development of the content of this constitutional position, the February 7, 1990 discussion which took place at the very end of the term of office of the Supreme Council of the Lithuanian SSR should be taken into consideration.

The deputies of the Supreme Council were handed in the draft of the decision of the Supreme Council „On the Announcement of the Referendum“ whose essence was to announce a referendum in which the people of Lithuania would choose the way of electing the Chairman of the Supreme Council.

In the draft of the decision it was proposed to solve the question of electing the Chairman of the Supreme Council by way of referendum under Article 5 of the Constitution while Article 105 of the Constitution was proposed to be amended in the following way: „The Chairman of the Supreme Council of the Lithuanian SSR shall be elected from the deputies of the Supreme Council of the Lithuanian SSR for the term of office of five years by the electorate of the Republic by universal, equal, direct and secret suffrage for not more than two terms of office. The candidates to the position of the Chairman of the Supreme Council of the Lithuanian SSR are proposed by the bodies of parties, public organizations and public movements“.

There was a suggestion to hold a referendum on February 24, 1990 alongside the elections to the deputies of the Supreme Council of the Lithuanian SSR.

The draft of the decision also contained a proposal to hold the elections to the position of the Chairman of the Supreme Council on March 24, 1990 alongside the elections of National deputies to local councils, which was in conformity with the adoption of the amendment of Part 2 of Article 105 of the Constitution of the Lithuanian SSR.

While presenting the draft of the decision, deputy of the Supreme Council V. Domarkas mentioned that the idea of a direct election to the position of the Chairman of the Supreme Council was very popular in society, it was supported by scientists, politicians and other Lithuanian people. To his mind, this type of election would be one more step „towards democracy“ [6, p. 13].

Yet, there were heated debates on whether to include this question into the agenda of the session. National deputies of the USSR K. Antanavičius, K. Motieka, E. Bičkauskas, Z. Vaišvila, Z. Šličyte and K. Uoka categorically opposed the deliberations on this question. National deputy of the USSR R. Gudaitis said: “The provisional consultation council of political forces is addressing the Supreme Council proposing not to consider this question. This is the common position of the Sąjūdis political forces and movements. Only after the elections to the Parliament of the Republic, when the ratio of political forces settles into shape, would it be possible to decide upon the form of the independent Republic: either a presidential republic with powerful authority of the president (based on the example of the fifth republic of France) or the one in which the president would be merely the guardian and guarantor of the Constitution. This is the essence, therefore, that the universal suffrage shall grant very powerful authority to the Chairman of the Supreme Council. However, I think this is a future issue and is to be considered in the future, after the democratical elections to the Supreme Council of the LSSR.“ [7, p. 12].

Even though this motion was not excluded from the agenda of the sitting, the Presidium of the Supreme Council decided to cancel the consideration of this issue in the session of the Supreme Council. While informing of the last sitting, Secretary of the Presidium L. Sabutis mentioned that the members of the Presidium were of the opinion that the positive solution of this question would provide legislative embarrassment and enhance political tension. In this case, it is more important not how but who will be elected as the Chairman of the Supreme Council and whether he is a well-known qualified person keeping abreast with Parliament and all the Lithuanian people [8, p. 140]. The deliberation on the issue was cancelled after Chairman of the Presidium of the Supreme Council A. Brazauskas set forth his opinion on the lack of perspective of this problem [9, p. 140–142].

Generalising the then discussions, it could be contended that the proposals formulated in the autumn of 1989 on the establishment of the institution of the President of the Republic as well as the prerequisites set forth at the beginning of 1990 for the resolute change and strengthening of the constitutional status of the Chairman of the Supreme Council in the context of constitutional development were controversial in many respects. If the inconsistency of the restoration of the institution of the President of the Republic in the then constitutional system was obvious from the point of view of political and legal meanings, so were the attempts to enhance the influence of the Chairman of the Supreme Council

on the political system. Apart from all other circumstances, the draft submitted for consideration was legally faulty as the sequence of legal phenomena and decisions of the implementation of this document was not revealed. Finally, even if the aforementioned decision had been adopted, there were not any possibilities to work out the referendum. One more aspect was the fact that the newly elected Supreme Council could not be restricted by the decisions or will of the former Supreme Council of the Lithuanian SSR. Thus, the motion to solve the issue of the essential change of the status of the Chairman of the Supreme Council and to direct the constitutional process towards the restoration of the institution of the president was inevitably related not only to the necessity of essential correction of the regulation of constitutional relations but also to concrete political attempts which were prospectless in the context of political legal regulation.

2. STATUS OF THE PRESIDENT OF THE REPUBLIC OF LITHUANIA IN SOME DRAFTS OF CONSTITUTIONS

It should be noted that certain aspects of the restoration of the institution of the President of the Republic as well as its modern constitutional status are being examined by numerous Lithuanian law scientists [10, p. 322].

2.1. A draft of the Constitution of the Republic of Lithuania worked out and later announced by a group of Lithuanian lawyers and members of the Lithuanian philosophical societies in October 1990 could be considered to be the first attempt to formulate the legal status of the President of the Republic in the constitutional system [11].

A principled feature of this draft was that the institution of the head of state was being created according to the presidential ruling model, therefore, many provisions were manifestly associated with the presidential state power and content entrenched in the 1938 Constitution of Lithuania.

According to this draft, the executive power in the state of Lithuania must belong to the President who „shall form the Government by himself and at his discretion". It should be taken into account that both the President and the Government must obey the laws of Lithuania. The latter norm was specified in one more provision of the Draft. It was stressed that the President ensures how the laws are executed and obeyed in the whole territory of Lithuania. The president is referred to as the highest official of the state who is head of the armed forces, who represents Lithuania without any specific authorization as well as „determines the authorization for other members of the Government".

The President was offered to have powerful authorization in appointing officials: the President with the approval and agreement of the House of Elders (Parliament was to consist of two houses: the House of Elders and the House of Representatives) could appoint the members of the Government as well as the Prime Minis-

ter, ambassadors and other heads of foreign diplomatic service, the judges of the Supreme Court, the Court of Appeal and County courts and other high officials of the executive (Draft, Article 50). The Seimas (Parliament) was entitled to pass a law "authorizing" the president to appoint heads of courts and other state institutions as well as officials of a lower rank (Draft, Article 51). The President could appoint any other official when the Seimas was in recess but these appointments had to be approved of by the House of Elders when the recess was over (Draft, Article 52).

The relations between the President and the Seimas were defined in other provisions of the Draft. At least once a year, the President had to inform the Seimas about the state affairs and, at his discretion, to offer the Seimas the measures which were essential for the solution of the matters (Draft, Article 53). In cases of emergency, the President had to summon the Seimas or any House of the Seimas, and if this House could not decide the length of recess, "the President acts at his discretion".

According to the Draft, the President shall be elected on the basis of universal, equal, secret and direct suffrage of the citizens of Lithuania for a term of 4 years. In the first stage of the elections the President shall be elected if the absolute majority of the electorate votes for him. If two or more candidates stand at the elections to the presidential office and none of them get the absolute majority of votes, in two weeks' time repeated elections are held with two candidates who had the greatest number of votes. In this case, the candidate who had more votes of the electorate would be elected. If the candidates get the equal number of votes in the repeated elections, in two weeks' time the President is elected in a sitting of both Houses of the Seimas. Both candidates who got the greatest number of votes can participate in such elections. The President is elected if not less than three quarters of the members of the Seimas vote for a particular candidate and the number of voting is not limited.

Even though this draft made by the Lawyers Society and the Philosophers Society did not have a significant influence on the draft of the Constitution of the Republic of Lithuania, it illustrates the first attempts to create the constitutional basis of the restored State on grounds of the doctrines of the separation of powers and human rights and freedoms recognized by Western democracies.

2.2. Another stage in the creation of the constitutional system of Lithuania (in this case, in the context of the institution of the President of the Republic) was the November 7, 1990 resolution of the Presidium of the Supreme Council on the design of the Constitution of the Republic of Lithuania. By this resolution, a group to work on the draft of the Constitution of the Republic of Lithuania was confirmed and it was determined that the group had to design the concept of the Constitution by December 31, 1990 [12]. It was the first official organizational structure which had a specific objective of commencing to write the Constitution. It was in this par-

ticular group that further problems of theoretical and practical modelling of the constitutional development were accumulating [13, p. 8-12].

This group designed the outline of the concept of the Constitution which the Presidium approved of on May 1, 1991 [14]. Subsequently it was published in the press for public consideration [15].

To our mind, the Outline was not only a significant step towards the Constitution of the Republic of Lithuania but also towards the creation of the main state constitutional institutions and the scheme of their relationship. In this case, the Outline presented the concept of the power of the Republic of Lithuania at least in general terms.

The President of the Republic is characterized as the highest state official representing the Republic of Lithuania in the sphere of international relations. A person not younger than 35 years of age (alternative - 40 years), a citizen of Lithuania by origin and having lived in Lithuania for not less than 10 last years could be elected as the President of the Republic. The term of office of the President is four years. The same person cannot be the President of the Republic for more than two terms of office.

Reflecting the then widely spread attitude to the "depoliticized" institution of head of the state, it was suggested to determine that the person elected as the President could not take part in the activities of any political party. The President could not be a member of the Seimas, hold any other office and receive any other salary than that of a President.

The group whose view is laid down in the Outline was of the opinion that the President of the Republic should be elected by the Seimas by secret ballot. Only the candidate who gets more than half of the votes of the members of the Seimas can be elected as the President. This type of presidential elections had the priority but another variant that the President was elected by the citizens of Lithuania by universal, fair and direct suffrage by secret ballot was not discarded either. The elections of the President are valid if more than 50% of the electorate takes part and the candidate who gets more than half of votes of the participating electors is elected.

The powers of the President of the Republic laid out in the Outline of the Constitution are closely associated with constitutional prerogatives of the Seimas and the Government. For instance, the President of the Republic appoints the Prime Minister but he must get the preliminary approval of the Seimas. The President of the Republic appoints and dismisses the highest state officials also with the preliminary approval of the Seimas. The President of the Republic appoints the highest military officers but he must get the preliminary approval of the Cabinet of Ministers, and he can appoint diplomatic representatives only on the nomination of the Cabinet of Ministers. Only with the approval of the Cabinet of Ministers the President of the Republic can sign international treaties. During the sessions of the Seimas the President essentially has no constitutional possibilities to participate in the formation of the Government or in

the alteration of its composition as in cases of resignation only the Seimas with the presence of the Prime Minister can make decisions. The President of the Republic can accept the resignation of the Cabinet of Ministers as well as other members of the Government only in between the sessions of the Seimas or if the Seimas cannot be summoned to a session.

Regarding the fact that the Seimas can annul the secondary legislation of the Cabinet of Ministers, the President of the Republic is entitled to offer the Seimas suggestions to "evaluate" that legislation. This authorization seemingly presupposed the entitlement of the President of the Republic to observe the activities of the Government in the sphere of secondary legislation and in case of necessity to appeal to the Seimas. Though the President of the Republic is entitled to refer back an act of the Seimas within ten days for repeated deliberation or voting, the restraint of this entitlement can also be foreseen in the future Constitution.

The variety of political and legal ideas of the construction of the power of the state undoubtedly was reflected in the discussions of the Outline group and in the final draft of the text of the Outline. Thus, the main feature of the Outline of formulating the authorization of the powers and their interaction is the attempt to combine the traditions of presidential and parliamentary democracies as well as the political powers of the state. It is evident that evaluating the system proposed in the Outline at present it is difficult to say how effective it would have been in the practical political life. Alternatively, the fact that the Outline had the aim to prevent the effect of the power of one branch of the government made it obvious that the future of the political system of the state of Lithuania was to be based on parliamentary values.

Professor of political science of East Michigan University Leonas Sabaliūnas wrote: „It is obvious from those statements that the authors of the Constitution are kind of attracted by the presidential type of state but they are not resolved to choose it. The above mentioned principles of the separation of powers and the system of checks and balances (so, the basis of the presidential system) are negated or derogated by the exaggerated role of the Seimas" [16]. In turn, we can approve and note that there were manifest prerequisites for such evaluation.

The former deputy of the Supreme Council - Reconstituent Seimas, signatory prof. B. Genzelis evaluates the Outline in a different way. He states: "In December 1991, the work group under the supervision of V. Landsbergis presented the concept of the provisions of the future Constitution of the Republic of Lithuania to the Supreme Council. The Supreme Council did not approve of the provisions as it visualized Lithuania as an authoritarian state which essentially contradicted the first article of the Constitution adopted in the February 1991 referendum" [17].

3. THE ISSUE OF THE PRESIDENT OF THE REPUBLIC IN THE POLITICAL PROCESS OF 1990-1992

3.1. A comparatively quiet consideration of the Outline by the general public was perturbed by the suggestions of different political parties and separate political activists for the restoration of the institution of the President [18]. The direction of the political process to immediately restore the status of head of state was shown by other numerous phenomena [19].

The political factor which marked the beginning of a new stage in the restoration of the institution of the President of the Republic was the statement made on October 22, 1991 by the Council of the Seimas of the Lithuanian movement "Sajūdis" [20]. The council, stressing that the Republic of Lithuania was a universally recognized state and a member of the United Nations Organization, was of the opinion that "the deliberations on the constitutional development were renewed not accidentally". The Council of the Seimas of Sajūdis approved of "positive and constructive suggestions made by lawyers and Parliamentarians" but they thought that the internal political development foreseen by them would be more appropriate under different circumstances.

The Council contended that Lithuania's situation, and especially its internal affairs, obliged to seek the quickest possible solutions. The conclusion followed that the most optimal way was the restoration of the institution of the President of the Republic of Lithuania.

This objective was grounded on the following arguments: the system of ruling would be formed, the effectiveness of the state would increase, the work of Parliament and Government would become more efficient, the ratio between the powers would be more stable; economy and culture as well as social balance could be more efficiently and constructively created, human rights could be restored and entrenched; personal responsibility for the solution of important state affairs would be validated; state representation would be regulated.

The Council of the Seimas of Sajūdis of Lithuania suggested summarily restoring the institution of the President of the Republic of Lithuania.

The Council of the Charter of Citizens of Lithuania responded to the statement of the Council of the Seimas of Sajūdis. It wrote in its appeal on October 24, 1991 that all the system of ruling the state was not entirely restored, it lacked certain necessary links: the President and a certain Constitutional Court. The Council of the Charter of Citizens favoured the view that the institution of the President should be restored in order to properly represent Lithuania in relations with other countries at the highest level; the executive could function more efficiently under complicated circumstances; the legislature and the executive could be coordinated more smoothly; the Lithuanian constitutional tradition would be taken into consideration. The Council of the Charter of Citizens was convinced that the president had to be

democratically elected by all the citizens of the Republic of Lithuania; it pressed Parliament to make necessary constitutional decisions and invited the citizens to encourage the initiative of summary presidential elections [21]. Such acts were supported by other political parties and organizations [22].

On November 30 in the House of the Confederation of Free Trade Unions a session of the Seimas of Sajūdis was convened to deliberate on the drafts of the institution of the President [23]. There were discussions on the powers of the President and who should elect him: the nation or Parliament. The drafts of the adequate laws published in the press were approved of [24]. Sajūdis also decided to organize an initiative group for the referendum on the "establishment" of the institution of the President. The functions of the initiative group were given to the Council of the Seimas [25]. It was decided that the organization of the referendum could be suspended if the Supreme Council adopted adequate laws and the decision on the summary presidential elections of the Republic of Lithuania.

On December 16, 1991, the Resolution "On the Restoration of the Institution of the President of the Republic of Lithuania" was adopted in the third congress of Sajūdis of Lithuania. The Resolution ran: "Congress III of Sajūdis of Lithuania is convinced that the institution of the President of the Republic of Lithuania is to be restored without any delay". Upon the approval of the adequate initiatives of the Seimas of Sajūdis of Lithuania and the Council of the Seimas, the congress decided to oblige the Seimas and the Council of the Seimas to continue the work so that the goal should be attained as soon as possible. The congress also encouraged the deputies of the Supreme Council supported by Sajūdis to approve of the establishment of the institution of the President in every way possible. It was stressed in the Resolution that Sajūdis of Lithuania would support the candidature of Vytautas Landsbergis and expressed its conviction that with the endeavour of Sajūdis of Lithuania, its deputies and the President it would be possible to implement the cherished vision of Lithuania [26].

On February 10, 1992 the Presidium of the Supreme Council passed a resolution "On the initiative group to call a referendum" and formed the commission of deputies whose task was to evaluate the validity of signatures [27]. On February 19, 1992, relying upon the conclusions of the commission, it passed the resolution "On the suggestion to the Supreme Council to announce a referendum on the restoration of the institution of the President of the Republic" [28]. The Presidium contended that the documents concerning the referendum presented no doubts "with respect to the essence of the law and the expression of the will of the people", passed them to the Supreme Council and suggested calling a referendum on the issue mentioned above.

Prolonged discussions on sounding out the attitudes resulted in the resolution "On the referendum on the restoration of the institution of the President of the Republic of Lithuania" passed by the Supreme Council

on March 12, 1992 [29]. It was held: to call a referendum on draft laws of the Republic of Lithuania "On the President of the Republic of Lithuania" and "On the institution of the President of the Republic of Lithuania and on the amendments and supplements of the Provisional Basic Law of the Republic of Lithuania" on May 23, 1992; to include the question to be voted for by secret ballot at the referendum: "Do you approve of the laws of the Republic of Lithuania 'On the President of the Republic' and 'On the institution of the President of the Republic of Lithuania and on the amendments and supplements of the Provisional Basic Law of the Republic of Lithuania?'"

This resolution concluded the discussion on the referendum on the institution of the President. The Supreme Council chose the referendum as a way and possibility to make certain of the citizens' attitude not only to the tendencies of development of constitutionalism but also to a particular form of ruling the state.

3.2. On March 27, 1992, the Council of the Seimas of Sajūdis published the draft laws "On the President of the Republic of Lithuania" and "On the amendment and supplement of the Provisional Basic Law of the Republic of Lithuania regarding the restoration of the institution of the President of the Republic of Lithuania". The Council of the Seimas of Sajūdis made a statement on the draft laws. In it, it was contended that the restoration of the institution of the President must not contradict the Constitution. It was stated that already published draft laws were being elaborated and the remarks of the deputies of the Supreme Council, political parties and citizens as well as the existing draft constitutions were taken into account during the discussions. It was noted that both draft laws should be valid till the adoption of the Constitution and the repeal of the Provisional Basic Law. The resolution stressed that alternative ways of the restoration of the President were not being discarded. In its statement, the Council of the Seimas of Sajūdis suggested that the Supreme Council should pass draft laws and schedule the day of the referendum and (slightly later) would call the presidential elections [30].

After the election of a new president the Government had to resign. Then the President had to invite the Prime Minister and ask for the approval by the Seimas. With the approval of the Prime Minister's candidature by the Seimas, the President had to assign him to form the Government and confirm its composition. The President could also accept the resignation of the Government or its member, with the Prime Minister's approval appoint and dismiss the assistant of the Prime Minister or other ministers, and reorganize the Government. Giving even more power to the President's prerogatives with respect to the Government, he could dismiss the Government without the Seimas' approval, and, with the removal of the Prime Minister from office, other ministers had to be dismissed.

Expressing the wish to strengthen the President's powers in the executive sphere, the authors of the draft laws suggested entitling the president to suspend laws contradicting resolutions and decisions of the Govern-

ment. Such a resolution or decision had to become invalid on the fourteenth day after the suspension if the Government did not coordinate it with laws or did not appeal against the suspension to the Supreme Court or the Constitutional Court. The President's preliminary approval had to be obtained concerning all the treaties being prepared by the Government and ministries. The President elected by referendum by the nation could not refuse to sign treaties and other acts on non-alignment of the Republic of Lithuania to alliances and unions of states.

The legislation passed by the Seimas as well as the resolutions stipulating their coming into force had to be submitted to the President to be signed and promulgated. The President had to sign and promulgate a law not later than within ten days after it had been submitted or he can refer it back to the Seimas with relevant reasons for reconsideration pointing out the reasons for his disagreement to sign and promulgate the law. If the Seimas adopted the law by two-thirds of the members' votes without amending it after repeated consideration, the President would have to sign and promulgate it.

The President could otherwise influence the legislative process. He was able to tender drafts (the right of legislative initiation) and the priorities of the agenda, which had to be considered by the Seimas. Besides, the president was tendered to be given the right to demand to consider certain issues by way of priority. The President was able to call an extraordinary session or a sitting of the Seimas on his account and tender the questions for whose consideration the session had been called. The President could also introduce amendments to the agenda of the extraordinary session or sitting.

The President's authority to appoint and dismiss "high" officials of the state should be mentioned. They could be appointed by the President after his consultations with the Chairman of the Seimas. The State Controller was appointed by the Seimas but it was able to act so only on the President's nomination. With respect to comparative constitutional law, an original provision had been formulated regarding the President's right to grant pardon. Although the right of mercy granted by head of the state had universally been treated as his prerogative right, the initiators of the law were correcting it. For instance, the President was considered to be able to grant mercy to ministers and other "high" officials convicted of misconduct only with the approval of the Seimas. Thus, the Seimas was proposed to be granted an unusual function.

The draft laws stipulated the cases when the President could dismiss the Seimas before its term of office expires. One of such cases was when the Government put forward a proposal to dismiss the Seimas after the latter expresses its non-confidence of the Government. Such elections had to be held no later than within two months. The President could also dismiss the Seimas and call extraordinary elections if the Seimas was not able to "perform legislative functions" for a protracted period of time.

The President also summoned the newly-elected Seimas to the first sitting no later than within twelve days. This case had an additional rule as well: If the President failed to convene the first day of the sitting of the Seimas, the Seimas assembled on the twelfth day after the election.

If members of the Seimas could not be elected due to war or other obstacles, the President could prolong the powers of the members but not more than two times and for no longer than six months each time.

The draft laws stipulated the President's numerous prerogative rights for the judiciary. He appointed the Chairperson of the Supreme Court, judges of the Supreme Court and other courts, accepted the oath from the judges of the Supreme Court.

The President was the Chief Commander of the Armed Forces of the State but the Government was accountable to the Seimas and responsible for the arrangement and leadership of the Armed Forces. The Security Council of the State was supposed to be established at the President's office for the consideration of the matters of State security and defence.

According to the concept of the legal status of the President formulated in the draft laws, the President was not responsible for "the acts of his power". The President could be prosecuted according to impeachment proceedings for gross violation of the Constitution, breach of the oath of office or conviction of an offence.

The contents of the draft laws published on December 5 and March 31, 1991 were being further elaborated and before the referendum the final variants were published in the newspaper "Lietuvos Aidas" (The Echo of Lithuania) [31]. It should be noted what essential amendments were made in those draft laws as they reflected the change in the attitude to the status of the President.

While specifying the draft laws, a tendency of seeking the possibilities of the balance between the powers of the President and the Seimas became manifest. Otherwise, the legal status of the leader of the state typical of a presidential republic resembled of the so-called "mixed" form of ruling the state which encompassed the features of a parliamentary and a presidential republic.

It was stressed at the end of the draft constitutional law "On the President of the Republic of Lithuania" that the said law was to be promulgated within three days after the announcement of the referendum commission about the adoption of the law, and the law was to come into force on the day of its promulgation. It was stipulated that the constitutional powers of the President set forth by this law could be changed only by referendum. It was stressed that the first presidential elections of the Republic of Lithuania could be called no later than within four months after the law came into force.

3.3. The draft laws which were presented to be voted for at the referendum on May 23, 1992, were not adopted. 57.64% of the electorate participated at the referendum, and the draft laws were approved of by 39.96% of the electorate. The post-referendum discus-

sion at the Supreme Council illustrated the role of the referendum in the political life of the society [32, p. 240–257]. While evaluating the referendum itself and its results in the constitutional context of Lithuania, it should be stressed that the will of the Lithuanian electorate was a significant factor in not only choosing the form of ruling the state of Lithuania with the powers of its state institutions but also in seeking and finding constructive forms of compromise. The reflections of such compromise were expressed in the protocol of the group for the coordination of constitutional problems of the Supreme Council of the Republic of Lithuania, which was approved of by the Supreme Council on August 4, 1992 [33].

4. THE ALTERNATIVES OF THE RESTORATION OF THE PRESIDENT OF THE REPUBLIC

4.1. Seeking to avoid a referendum, the Supreme Council nurtured various other projects. Their objectives were to at least partially soften the problems which arose due to demands to immediately restore the institution of the President. In January 1992 the draft law "On the authority of the Chairperson of the Supreme Council of the Republic of Lithuania and the temporary substitution of his/her position" was distributed in the Supreme Council. In its preamble it was written that the law was drafted with regard to "the necessity to strengthen the executive branch during the period of state reforms and economic difficulties, and to a required and more precise definition of the international representation of the Republic of Lithuania, and to the validity of this law until a new Constitution of the Republic of Lithuania is adopted". The authors of this document which was not officially deliberated upon were manifestly orientated towards traditional constitutional prerogatives of the President - head of the state - when they were formulating the authority of the Chairperson of the Supreme Council.

In the document, it is suggested to assign the following additional authority of the Chairperson of the Supreme Council: 1) to appoint the leader of the Government - the Prime Minister - and to tender to approve the entire Council of Ministers; 2) not to sign the documents adopted by the Supreme Council and refer them back with remarks for two additional weeks of reconsideration in the commissions and a plenary session of the Supreme Council. This authority regarding one document could be employed only one time; 3) to specify the draft laws under the consideration of the Supreme Council, as well as to pass edicts and other legal acts according to the Provisional Basic Law which was valid at that time.

While defining the legal status of the Chairperson of Supreme Council, it was suggested to set the rule that the Chairperson could be revoked by not less than two-thirds of votes of all the deputies of the Supreme Council, and till the presidential and general elections in all international affairs "the Chairperson of the Supreme

Council shall be titled as the President of the Republic of Lithuania". Taking this provision into account, it was suggested to consolidate one more prerogative of the Chairperson: to appoint one of his assistants (alternative - one of the deputies of the Supreme Council) as vice-president who "would represent him in case of his absence, and in the event that the President dies or cannot remain in office due to illness he would have all the authority of the President".

4.2. Essentially, Chairman of the Nationalist Party deputy A. Sėjūnas proposed to specify the authority of the Chairman of the Supreme Council. He submitted a draft law on changing and supplementing the Provisional Basic Law [34]. Later this draft law was called "On the authority of the Chairperson of the Supreme Council".

The introductory part of the draft law contains the motives for which the Supreme Council should adopt this law: first, attention was drawn to "the essential difficulties of the period of economic and social reforms which arose from insufficient coordination of authority and relationship between state institutions". The fact that "military units of the former Soviet Union, illegally deployed in Lithuania, pose threat to security of the Lithuanian state and people" was suggested to be taken into consideration. It was also stressed that the authority defined in the Provisional Basic Law does not correspond to the status of the highest state official.

The fractions and commissions of the Supreme Council debated the draft law but it was not adopted.

4.3. Presenting a variety of opinions on the Chairperson's authority, the draft law designed by the fraction of Progress of the Nation "On the draft law of the authority of the Chairperson of the Supreme Council of the Republic of Lithuania" [35] should be mentioned. It must be analyzed more thoroughly as this document was controversially discussed and evaluated. For instance, the social-democrat deputies of the Supreme Council referred to this draft law in their statement "On emergency measures to overcome the political crisis and to ensure further functioning of the Supreme Council and the Government until new general elections" [36].

Article 87 of the Provisional Basic Law was suggested to be set forth anew, i.e. that article which entrenched the authority of the Chairperson of the Supreme Council. The Chairperson was supposed to have the following prerogatives: 1) to guide on the questions which are to be discussed by the Supreme Council; 2) to sign and promulgate laws of the Republic of Lithuania no later than within ten days after they were adopted or, by motivated nomination, to refer them back to the Supreme Council for reconsideration. Law amendments and supplements suggested by him could be pointed out in the nomination of the Chairperson of the Supreme Council; 3) to sign resolutions and other legal acts adopted by the Supreme Council and Presidium; 4) to submit the questions, acts, draft laws by way of priority (by way of haste) or to set the priority questions of the agenda; 5) to submit reports on the status of the country and other important domestic and foreign affairs to the

Supreme Council; 6) to submit to the Supreme Council the candidatures to the position of the first and other assistants of the Chairperson of the Supreme Council and the Secretary of the Supreme Council; 7) to submit to the Supreme Council the candidatures to the position of the Prime Minister, the Chairperson of the Supreme Council, the Prosecutor General of the Republic of Lithuania and other heads of state institutions accountable to the Supreme Council if it is provided by law; 8) on the Prime Minister's nomination, to appoint and dismiss members of the Government and to accept their (except the Prime Minister's) resignation. According to the law, the Ministers of Internal Affairs and Defence are appointed and dismissed with the approval of the Supreme Council; 9) if threat is posed to security of the state and people of Lithuania, to adopt urgent decisions on defence; such decisions must be submitted for approval in the nearest sitting of the Supreme Council; 10) to negotiate and sign international treaties of the Republic of Lithuania, to submit them to the Supreme Council for ratification; 11) receive letters of credence and recall of diplomatic representatives of foreign states; 12) in case of necessity to call an extraordinary session or sitting of the Supreme Council; 13) to suspend the validity of the Government's resolutions and directives contradicting law, if the Supreme Council does not decide otherwise during ten days of a session, the suspended legal acts must be declared invalid; 14) on the nomination of the Government, to cancel decisions of the councils of regions and cities if they contradict law; 15) to adopt urgent decisions within the competence of the Presidium of the Supreme Council and submit them for confirmation in the next sitting of the Presidium; 16) on the nomination of the Prime Minister, to appoint and dismiss mayors of cities and governors of regions; 17) to confer awards of the Republic of Lithuania and honorary names; 18) to grant mercy to persons convicted by courts of Lithuania.

Undoubtedly, the contents of the draft laws which seek to expand the authority of the Chairperson of the Supreme Council were uncoordinated, eclectic and controversial. The analysis of these documents constitutes the prerequisites to contend that a new vision of the leader of Parliament brought the events to a situation which could be defined as "President in Parliament". It should be noted that the political system which was being created resembled the doctrine of the 1922 Constitution of the Republic of Lithuania. It has been mentioned above that these draft laws were not considered more thoroughly, and the constitutional process was gaining political acceleration towards the May 23, 1992 referendum, and subsequently to the October 25, 1992 referendum on the adoption of the Constitution of the Republic of Lithuania.

CONCLUSIONS

1. While analyzing the controversial issues of genesis of the restoration of the institution of the President of the Republic of Lithuania, it is imperative to note that

this actuality was begun to be analysed as early as in 1988-1990, i.e. when the Constitution of the Lithuanian SSR was valid and the system of state institutions was based on the so-called principle of „democratic centralism“ and the autocracy of one party.

2. The system of state institutions and their constitutional interaction, entrenched in the Provisional Basic Law of the Republic of Lithuania, were eclectic, inconsistent and controversial. It was the main constitutional problem which impartially and inevitably predetermined the discussion and actions in restoring the institution of the President of Lithuania. The constitutional status of the head of the state was defined in numerous constitutional drafts which were made and proclaimed by political parties. In some drafts a vision of the status of a “strong” President of the Republic was expressed while in others constructed parliamentary democratic values were manifest.

3. The main trend on which the official position of the Supreme Council of the Republic of Lithuania was based was to restore the status of the President in the Constitution of the Republic of Lithuania which was to be adopted by referendum. The majority of the deputies of the Supreme Council were convinced that namely this way constituted the prerequisites of solving the question of the system of state institutions. This system would be the fundamental basis of an open, just and harmonious society and the rule of law.

4. The objective of immediate restoration of the institution of the President within the framework of the Provisional Basic Law complicated the constitutional process, predetermined the parliamentary crisis in the spring of 1992 and enhanced political tension. By contrast, the demand to hold a referendum on the restoration of the President of the Republic and its status accelerated the development of constitutional phenomena and seemed to be invaluable experience in politics and law of Lithuania. The then ideas of a “strong” President and his authority repeatedly occurred in the political process after the adoption of the Constitution of the Republic of Lithuania on October 25, 1992. With this view, the constitutional “lessons” of 1990-1992 are useful in evaluating the present development of constitutional ideas.

NOTES AND REFERENCES

1. The institution of the President was tackled in the press. Algirdas Lileikis wrote: „The President elected by the citizens will feel the strength and independence in that case if our Council is overwhelmed by the wave of emotions. In its turn, the Council will have sufficient power to affect the president if he becomes too submissive to his party, environment or begins to indulge the demanding nation.“ (See: Lileikis A. Lithuania Needs a President // *Komjainimo tiesa*, October 17, 1988. No. 199).

In his response to the ideas presented in the aforementioned publication, Kęstutis Žičkus expressed his point of view: „What realistic measures would the hypothetical president, i.e. the head of state and government (the separation of these positions would allow the president to

avoid responsibility for economy) have for the implementation of policies? The army is occupational, the public and secret police is subject to the „centre“. The party – it is difficult to find something more vague at present – in future will remain dependent on Moscow unless it splits. The moods of the crowd are unsettled, and some new deficit may radically change them. Finally, if the president pays a visit to Moscow, we will remain without a head, like in 1940. Therefore, an imperative condition of the implementation of any policy is the consent of citizens on all more significant issues. Only Parliament is empowered to do this, no matter what outstanding personality will personify it. Or maybe the hypothetical president could be an arbiter above all the political parties? But this is the function of the Constitutional Committee (Court)“ (See: Žičkus K. Fear of Freedom // *Atgimimas*, November 3-10, 1989. No. 40).

2. More on this: The fourteenth session of the Supreme Council (the Eleventh call) of the Lithuanian SSR. November 3-4, 1989. Stenographs. – Vilnius: The Publishing House of the Presidium of the Supreme Council of the Lithuanian SSR, 1989.
3. Chairman of the Supreme Council L. Šepetys who presided over the sitting of the Supreme Council submitted the aforementioned proposal of the deputy for consideration to the Presidium of the Supreme Council which had to respond in the subsequent session. Incidentally, on November 2, 1989 a group of deputies handed in a proposal and a draft law on the order of the presidential election of the Republic and corresponding amendments of the Constitution to the Presidium of the Supreme Council (See: The fourteenth session of the Supreme Council (the Eleventh call) of the Lithuanian SSR. November 3-4, 1989. Stenographs. – Vilnius: The Publishing House of the Presidium of the Supreme Council of the Lithuanian SSR, 1989.
4. The fourteenth session of the Supreme Council (the Eleventh call) of the Lithuanian SSR. November 23-24, 1989, December 4-7, 1989. Stenographs. – Vilnius: The Publishing House of the Presidium of the Supreme Council of the Lithuanian SSR, 1990.
5. For instance, deputy A. Brazaitis was of the opinion that until „a political pond sets in“, Lithuania badly needs to have the president elected by „the whole nation“ or the Chairman of the Supreme Council (See: The fifteenth session of the Supreme Council (the Eleventh call) of the Lithuanian SSR. November 23-24, 1989, December 4-7, 1989. Stenographs. – Vilnius: The Publishing House of the Presidium of the Supreme Council of the Lithuanian SSR, 1990. Deputy J. Paleckis reasoned similarly: „... Lithuania undoubtedly does not need such a President which was until 1940. Especially between 1926 and 1940. The leader of the nation, a strong hand is not necessary, though the idea of a direct election evolved not accidentally. Such a mandate for the first person in the Republic, in Lithuania, would be particularly necessary during this significant transition period. I think that the person suitable for this position could behave in a more confident way if he felt direct trust of the people during this complicated period.“ (The fifteenth session of the Supreme Council (the Eleventh call) of the Lithuanian SSR. November 23-24, 1989, December 4-7, 1989. Stenographs. – Vilnius: The Publishing House of the Presidium of the Supreme Council of the Lithuanian SSR, 1990.
6. The seventeenth session of the Supreme Council (the Eleventh call) of the Lithuanian SSR. February 7-9, 1990, February 12-14, 1990. Stenographs. – Vilnius: The Pub-

- lishing House of the Presidium of the Supreme Council of the Lithuanian SSR, 1990.
7. The seventeenth session of the Supreme Council (the Eleventh call) of the Lithuanian SSR. February 7-9, 1990, February 12-14, 1990. Stenographs. – Vilnius: The Publishing House of the Presidium of the Supreme Council of the Lithuanian SSR, 1990.
 8. Ibidem.
 9. Algirdas Brazauskas was of the opinion that the Presidium's decision on the proposal to include this question into the agenda of the Supreme Council was hasty as at present the urgent issue was to consistently „seek sovereignty“, independence. It was his conviction that when the Lithuanian people were being offered the ways of electing the Chairman of the Supreme Council, a more universal definition of his constitutional status had to be submitted – what should his authorization be, what should the nature of the relations with Parliament be? The Chairman of the Presidium of the Supreme Council was worried that „the opinions of such a man, a person with authorization of the nation, on the one hand, and Parliament with the same authorization, on the other, might not coincide and that disagreement would hinder our onward movement“. Certain political circumstances were defined. They conditioned the avoidance of the confrontation of political powers by not considering the suggested issue. Ibidem.
 10. More on this: Mesonis G. The form of Ruling the State in Constitutional Law: The Republic of Lithuania in the Context of Middle and Eastern Europe: Monograph. – Vilnius: Publishing Centre of Law University of Lithuania, 2003; Vinkleris P. The Status and Authority of the President of the Republic of Lithuania – Vilnius: Centre of Legal Information, 2002; Jarašiūnas E. Relationship of State Institutions and the Constitutional Court. – Vilnius: Centre of Legal information, 2003; Kūris E. Jurisprudence of Political Issues and *Obiter Dicta* of the Constitutional Court: The Institution of the President of the Republic of Lithuania according to the January 10, 1998 decision of the Constitutional Court // *Politologija* (Political Science). 1998. No. 1 (11); Stačiokas S. The Status of the President and the Constitution // *News of the Union of the Nation*. 1997. No. 27 (45); Žilys J. Some Legal Historical Aspects of Modelling the State Power of Lithuania // *Problems of Law*. 2001. No. 2; Birmontienė T., Jarašiūnas E., Kūris E., Maksimaitis M., Mesonis G., Normantas A., Pumputis A., Vaitiekienė E., Vidrinskaitė S., Žilys J. Lithuanian Constitutional Law: Textbook. -Vilnius: Publishing Centre of the Law University of Lithuania, 2002; Taube C. Constitutionalism in Estonia, Latvia and Lithuania. A Study in Comparative Constitutional Law. – Uppsala: Fortfattare och Justus Forlag, 2001.
 11. Vilčinskas S. Principles of the Draft Constitution of Lithuania. – Vilnius: Viltis, 1991. The preface runs: „The idea of free Lithuania has always been alive in the memory and hearts of the people. The realization of this idea is impossible without the restoration of the independent State as well as without legislation which sets the forms of rule and organization of the State, human rights and freedoms and their protection, other significant State institutions. Modern times produced the idea that the main law of a country is called the Constitution. Therefore, after March 4, 1990, when the Society of Lawyers of Lithuania was restored, its commission of constitutional law decided to gradually design a draft of the Constitution of independent Lithuania. Later the Society of Philosophers contributed to this work“.
 12. Resolution of the Presidium of the Supreme Council of the Republic of Lithuania "On the draft Constitution of the Republic of Lithuania". November 7, 1990 // Collection of Documents of the Supreme Council of the Republic of Lithuania and the Presidium of the Supreme Council of the Republic of Lithuania. 1991. No. 2.
 13. More on this: Žilys J. Outline of the Concept of the Constitution - a Step towards the Constitution of the Republic of Lithuania // *Justitia*. 2001. No 3.; Žilys J. Outline of the Concept of the Constitution - a Step towards the Constitution of the Republic of Lithuania // *Justitia*. 2002. No. 4-5.
 14. Resolution of the Presidium of the Supreme Council of the Republic of Lithuania "On the outline of the concept of the Constitution of the Republic of Lithuania". May 1, 1991 // Collection of Documents of the Supreme Council of the Republic of Lithuania and the Presidium of the Supreme Council of the Republic of Lithuania. 1991. No 3. The Presidium decided to inform the Supreme Council about the completed work and to announce the outline of the Constitution in the press for public consideration by August 1, 1991. It was resolved in the Resolution that the Presidium would generalize the suggestions and remarks submitted during the consideration of the outline of the concept of the Constitution and inform the Supreme Council about them as well as would advise it on the organization of preparatory work of the Constitution of the Republic of Lithuania.
 15. Outline of the Concept of the Constitution of the Republic of Lithuania // *Lietuvos Aidas* (The Echo of Lithuania). May 10, 1991.
 16. Sabaliūnas L. Discussion on the Outline of the Constitution of Lithuania // *Atgimimas* (The Revival). August 8-15, 1991.
 17. Genzelis B. Origin and Peripeteia of the Preparation of the Constitution of the Republic of Lithuania // *Lietuvos Aidas* (The Echo of Lithuania). October 22, 2002.
 18. Among the first who commenced to actualize the issue of the restoration of the institution of the President of the Republic was the Independence Party whose then chairman was Virgilijus Čepaitis. He wrote: "Similarly to Soviet times, there is no personal responsibility of an officer, even when he grossly violates the law. Therefore, it is this Parliament who must make all the necessary amendments in the Provisional Basic Law and other laws so that our democracy would not be helpless, our state would strengthen and the citizens would feel secure and cosy. And it must be done as soon as possible as now, when more efficient restorative work has begun, it is urgent that the law would not be helpless before the reality of life" (See: *Gimtasis kraštas* (The Motherland). September 5-11, 1991). Member of the Independent Party Gintaras Songaila was of a different opinion: "As early as in September the Independence Party announced its opinion that it was high time to consider the issue vital for the whole Lithuania - the restoration of the President's office. In 1940, when Lithuania was being occupied, the President was compelled to leave Lithuania temporarily but at present, when the annex has been annulled and the Soviet occupation army has to leave, the President of Lithuania, following the citizens' will, may return" (See: March 11th, 1991, December 18-24).
 19. In October, in one of the sittings of the Government, concerning the buildings which would be given to future diplomatic offices of foreign states, when the Artists' Palace in Daukantas Square was mentioned the Prime Minister remarked that the building was supposed to be suitable for the President's office... That phrase was not left unheard as

- it came into the focus of attention of journalists and politicians. It was nearly official information that a discussion on the institution of the President would ensue, which, in fact, was not more thoroughly considered after March 11th. Journalist Valdas Kaminskas precisely pointed out: "...Although there are discussions in the press as to which type of the President's office - German or American - would be more acceptable to Lithuania the development of political events leaves no doubt about the status of the future President. The centres of political and executive power will be moved from Independence and Lukiškių Squares to the one in Daukantas square" (See: Kaminskas V. Who will be a strong president // *Vilniaus Laikraštis* (The Newspaper of Vilnius). October, 1991. No. 35.).
20. Statement of the Council of the Seimas of Sąjūdis of Lithuania „On the restoration of the institution of the President of the Republic of Lithuania". October 22, 1991 // *Lietuvos Aidas* (The Echo of Lithuania). October 19, 1991.
 21. *Lietuvos Aidas* (The Echo of Lithuania). October 31, 1991.
 22. For instance, in the statement of the Nationalist Party of Lithuania, apart from suggestions to immediately resolve the problem of the institution of the President, other political issues were dealt with. The Nationalist Party proposed: to immediately withdraw authority from deputies-former KGB agents; call by-elections to vacant seats in the Supreme Council and lower Councils; to demand from the Supreme Council to establish the institution of the President being elected in the Supreme Council and authorized until the president is elected according to the new Constitution of the Republic of Lithuania; to forbid former members of the CPSS who received salary for party work and KGB agents to remain in leading positions in state institutions of all levels (See: *Lietuvos Aidas* (The Echo of Lithuania). November 16, 1991).
 23. Weekly Bulletin of the Sąjūdis Information Agency. December 2-9, 1991. No. 1. The session was opened by chairman of the Council of the Seimas of Sąjūdis Juozas Tumelis. He noted that the idea about the President evolved in search of the way out: "It should be a disciplinary institution". The next presenter Chairman of the Supreme Council V. Landsbergis reasoned about the necessity of Sąjūdis for Lithuania in a new stage of the struggle for independence - a stage in public and moral struggle. He concluded: "If the institution of the President was established and if Sąjūdis supported my candidature, I would take it with gratitude and as a great obligation". It should be noted, however, that there were different opinions on the President. For instance, deputies of the Supreme Council A. Taurantas and R. Paulauskas thought that it was too early to elect a President. In A. Kubilius' opinion, "...a commanding gesture of a conductor was badly needed".
 24. Draft laws: "On the restoration of the institution of the President of the Republic of Lithuania" and "On the law of amendments and supplements of the Provisional Basic Law of the Republic of Lithuania" // *Lietuvos Aidas* (The Echo of Lithuania). December 5, 1991. Incidentally, draft laws with similar contents were submitted and registered in the Juridical Department of the Supreme Council by deputies of the Supreme Council J. Karvelis, P. Tupikas and S. Malkevičius on December 18, 1991 - registration numbers were 263 and 264. While comparing the registered draft laws with those which were proclaimed by the Seimas of Sąjūdis, certain corrections should be taken into consideration. For example, there were suggestions to discard the prerogative of the President "to set the priorities of the agenda of the Supreme Council." In the laws proclaimed by the Seimas of the Sąjūdis it was stipulated that the President appoints high officials of the state without any additional conditions and in the draft laws submitted by the deputies this authorization of the President is limited. The President may appoint the officials mentioned above only with the preliminary approval of the Supreme Council. The President's right to call regular and extraordinary elections to the Supreme Council was discarded. In the draft laws published in the press it was stipulated that "all the acts of the President must have the signature of the Prime Minister or a corresponding minister to be authorizing. The responsibility for the act falls on the minister who has signed it". In the draft laws submitted by the deputies this inscription was missing.
 25. On December 9, 1991, chairman of the Council of the municipality of the city of Vilnius Arūnas Grumadas approved the Registration act of the Initiative group (of twelve persons) for announcing a referendum. The Initiative group consisted of: Andrius Kubilius, Izidrius Šimelionis, Alfonsas Vaišnoras, Jurgis Dvarionas, Tautvydas Lideikis, Vytautas Zabiela, Vytautas Turčinavičius, Edvidas Praleika, Juozas Janonis, Romualdas Giečevskis, Vladas Motiejūnas, Nijolė Angelė Baužytė. In its Registration act, the Initiative group defined its objectives in the following way: „so that the initiative of the Lithuanian people for the referendum 'On the restoration of the institution of the President of the Republic of Lithuania, the order of his authorization and elections' would be expressed". Incidentally, another initiative group to collect citizens' signatures for holding a referendum on the restoration of the institution of the President, as provided in the law, was registered by chairman of the Council of the municipality of the city of Kaunas Vygintas Grinis on November 25, 1991. This initiative group consisted of: Stanislovas Buškevičius, Dainius Kreivys, Domininkas Vytautas Šustauskas, Rūtelė Macijauskienė, Eligijus Bartulis, Giedrius Ziakauskas, Z. Stanevičius, Elvis Tratilas, Dauras Dargis, Egidijus Vaitkevičius, Dainius Varnas, Kęstutis Kvederaskas.
 26. *Lietuvos Aidas* (The Echo of Lithuania). December 19, 1991.
 27. Resolution of the Presidium of the Supreme Council of the Republic of Lithuania "On the initiative group to call a referendum ". February 10, 1992 // *News of the Supreme Council and the Government of the Republic of Lithuania*. 1992. No. 7-167.
 28. Resolution of the Presidium of the Supreme Council of the Republic of Lithuania "On the proposal to the Supreme Council to call a referendum 'On the restoration of the institution of the President of the Republic of Lithuania'". February 19, 1992 // *News of the Supreme Council and the Government of the Republic of Lithuania*. 1992. No. 7-169.
 29. Resolution of the Supreme Council of the Republic of Lithuania "On the referendum on the restoration of the institution of the President of the Republic of Lithuania". March 12, 1992 // *News of the Supreme Council and the Government of the Republic of Lithuania*. 1992. No. 10-239.
 30. Statement of the Council of the Seimas of Sąjūdis, Draft constitutional law of the Republic of Lithuania "On the President of the Republic of Lithuania" and draft law "On the amendment and supplement of the Provisional Basic Law of the Republic of Lithuania regarding the restoration

- of the institution of the President of the Republic of Lithuania". March 27, 1992 // Lietuvos Aidas (The Echo of Lithuania). March 31, 1992.
31. Draft constitutional law of the Republic of Lithuania "On the President of the Republic of Lithuania" and draft law "On the amendment and supplement of the Provisional Basic Law of the Republic of Lithuania restoring the institution of the President of the Republic of Lithuania". March 27, 1992 // Lietuvos Aidas (The Echo of Lithuania). May 7, 1992.
 32. Fifth session (the First call) of the Supreme Council of the Republic of Lithuania. Stenographs. No 57. – Vilnius: Publishing House of the Seimas of the Republic of Lithuania, 1995.
 33. Resolution of the Supreme Council of the Republic of Lithuania "On the approval of the protocol of the Supreme Council for the Coordination group of constitutional problems". August 4, 1992 // News of the Supreme Council and the Government of the Republic of Lithuania. 1992. No. 24-708.
 34. According to the then order, the draft law was registered in the Record of the Juridical Department of the Supreme Council on March 18, 1992. No. 325.
 35. The draft law was registered in the Record of the Juridical Department of the Supreme Council on March 27, 1992. No. 344.
 36. Lietuvos Rytas (The Lithuanian Morning). June 12, 1992.

LIETUVOS RESPUBLIKOS PREZIDENTO INSTITUTO GENEZĖS KLAUSIMAS KONSTITUCINIAME PROCESĖ 1988–1992 METAIS

Prof. dr. Juozas Žilys
Mykolo Romerio universitetas

S a n t r a u k a

Respublikos Prezidento konstitucinio instituto klausimas konstituciniame procese 1988–1992 m. buvo viena pagrindi-

nių aktualijų atkuriant Lietuvos Respublikos nepriklausomybę, o vėliau – kuriant Lietuvos valstybės institucinę sistemą.

Šio proceso išskirtinis reiškinys buvo tai, kad politinė, teisinė polemika dėl valstybės vadovo kilo jau 1988–1990 m., kai Lietuvoje dar galiojo tarybinė konstitucija. Šiuos svarstymus skatino atgimimo laikotarpiu vis labiau plintančios idėjos dėl prielaidų atkurti nepriklausomą demokratinę Lietuvos Respubliką, politiniai procesai Rytų ir Vidurio Europoje.

Valstybės vadovo konstitucinio instituto atkūrimo klausimo pobūdis iš esmės įgijo naują politinį teisinį turinį tada, kai 1990 m. kovo 11 d. buvo atkurta nepriklausoma demokratinė Lietuvos Respublika ir priimtas Lietuvos Respublikos Laikinasis Pagrindinis Įstatymas (Lietuvos Respublikos laikinoji Konstitucija). 1990–1992 m. konstitucinio proceso turinį lėmė nauja politinė teisinė tikrovė, kurioje pagrindinis akcentas buvo klausimas dėl Lietuvos Respublikos būsimosios konstitucinės sąrangos, valstybės institucijų tarpusavio santykių, kompetencijos ir kt.

Lietuvos Respublikos Prezidento institucijos atkūrimo procesas Lietuvos Respublikos Laikinojo Pagrindinio Įstatymo galiojimo laikotarpiu buvo sudėtingas, nes diskusija šiuo klausimu vyko aštriomis politinės konfrontacijos sąlygomis. Brindant Respublikos Prezidento konstitucinio statuso turinį reikėtų atsižvelgti į keletą šios veiklos aspektų. Pirmiausia Respublikos Prezidento vieta konstitucinėje valstybės institucijų sistemoje buvo programuojama daugelyje konstitucijų projektų, kurie buvo parengti ir paskelbti 1990–1992 m. laikotarpiu. Jų nuostatose atsispindėjo įvairūs požiūriai dėl būsimosios valstybės vadovo apibrėžimo, konstitucinio statuso, kompetencijos, santykių su įstatymų leidimo ir vykdomąja valdžia bei kt.

Kelyje į Respublikos Prezidento instituto atkūrimą atskirai pažymėtini Lietuvos Sajūdžio ir kitų politinių organizacijų veiksmai siekiant nedelsiant grąžinti į Lietuvos konstitucinę sistemą valstybės vadovo pareigybę ir nustatyti jo įgaliojimus.

Nors šie pasiūlymai bei veiksmai komplikavo konstitucinį procesą, tačiau akivaizdu, kad politinių jėgų siekis nedelsiant atkurti valstybės vadovo pareigybę laikantis Laikinojo Pagrindinio Įstatymo, skatino intensyviau rengti Konstituciją, spartino šį procesą.

Pagrindinės sąvokos: Respublikos Prezidentas, Konstitucija, konstitucinis procesas.