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**WORLDWIDE EXPERIENCE APPLYING
PRESIDENTIAL VETO POWER**

Usually, the right of veto is considered primarily as a prerogative of the head of state. At the same time, in countries with bicameral parliaments, the upper house of parliament has a peculiar veto on decisions of the lower house. Considering that recently the idea of creating the second chamber of the Supreme Council of Ukraine has intensified in Ukraine (this idea found its practical implementation in the draft Law No. 4290 of March 31, 2009 “On Amendments to the Constitution of Ukraine” introduced by the President of Ukraine to the Supreme Council of Ukraine) Not only the procedure for regulating the presidential veto is important, but also the procedure for the interaction of the upper and lower houses of parliament in the legislative process. (Constitution)

The study of the provisions of the constitutions of foreign countries suggests that in most European countries the use of the veto is a discretionary power of the head of state. Thus, the signing of a law or the use of the right of veto in relation to an adopted law is the exclusive right of the head of state in Albania, Belgium, Belarus, Bulgaria, Great Britain, Hungary, Greece, Cyprus, Latvia, Lithuania, Macedonia (with some exceptions), Moldova, Norway, Poland, Portugal, Russia, Romania, Serbia, Slovakia, Ukraine, Finland, France, Czech Republic, Montenegro, Estonia. In states with a presidential form of government (USA, Latin American countries) the use of the right of veto to the law is also the discretionary powers of the head of state.

At the same time, in a number of European countries the head of state either has no veto right, or this right is in some way limited. Austria, Bosnia and Herzegovina, Iceland (for example, the President may reject the law, but it still comes into force, if rejected, the law is submitted for approval by the national referendum), Spain, Luxembourg, Malta (the President is obliged to sign and officially promulgate the law without delay after its receipt), the Netherlands (after the countersignation of the law by the government, he signs and officially announces the Fed Oral President), Slovenia (laws are signed and promulgated by the President within 8 days of their adoption), Croatia (Croatian President is obliged to sign and promulgate the law within 8 days of its adoption), Sweden (laws promulgated by the government or parliament), Japan.

Key words: Veto, power, President, jurisdiction, Parliament, court, Supreme court, promulgate.

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Әлемдік тәжірибеде президенттік вето құқығының қолданылуы

Әдетте, вето құқығы ең алдымен мемлекет басшысының артықшылығы ретінде қарастырылады. Сонымен қатар, екі палата парламенттері бар елдерде парламенттің жоғарғы палатасы төменгі палаталардың шешімдеріне ерекше вето қойды. Жақында Украинаның Жоғарғы Кеңесінің екінші палатасын құру идеясы Украинада күшейе түсті (бұл идея Украинаның Жоғарғы Кеңесіне Украина Президентінің 2009 жылғы 31 наурыздағы № 4290 «Украинаның Конституциясына өзгерістер енгізу туралы» заң жобасында практикалық іске асырылғанын

анықтады) Президенттің вето дарын реттеудің тәртібі ғана емес, сондай-ақ парламенттің жоғарғы және төменгі палаталарының заң шығару процесінде өзара іс-қимыл тәртібі де маңызды.

Шет елдердің конституцияларының ережелерін зерделеу көптеген Еуропа елдерінде вето құқығын пайдалану мемлекет басшысының дискрециялық өкілеттігі болып табылады. Белоруссия, Болгария, Ұлыбритания, Венгрия, Греция, Кипр, Латвия, Литва, Македония (кейбір қоспағанда), Молдова, Норвегия, Польшада мемлекет басшысының айрықша құқығы бар, яғни заңға қол қою немесе вето құқығын қолдану, Португалия, Ресей, Румыния, Сербия, Словакия, Украина, Финляндия, Франция, Чехия, Черногория, Эстония. Президенттік басқару формасы бар мемлекеттерде (АҚШ, Латын Америкасы елдері) заңға вето құқығын пайдалану мемлекет басшысының дискрециялық өкілеттігі болып табылады.

Сонымен қатар, бірқатар еуропалық елдерде мемлекет басшысы немесе вето құқығы жоқ, немесе бұл қандай да бір шектеулі. Австрия, Босния және Герцеговина, Исландия (мысалы, президент заңнан бас тартуы мүмкін, бірақ ол қабылданбаған жағдайда, заң республикалық референдумда), Испания, Люксембург, Мальта (Президент заңға қол қойылғаннан кейін оны кешіктірмей қол қоюға және ресми жариялауға міндетті), Нидерланды (үкіметтің заңға қол қойғаннан кейін ол қол қойған және ресми түрде Федералды Швеция (заң немесе үкімет жариялаған заңдар), Жапония (Хорватия Президенті заңға қол қойылғаннан кейін сегіз күн ішінде қол қоюға және жариялауға міндетті), Словения (Словакия заңдары қабылданды және оларды қабылдағаннан кейін 8 күн ішінде).

Түйін сөздер: вето, билік, Президент, юрисдикция, Парламент, сот, Жоғарғы сот, жариялылық.

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Мировой опыт применения президентского право вето

Обычно право вето рассматривается преимущественно как прерогатива прежде всего главы государства. В то же время в странах с двухпалатным парламентом верхняя палата парламента наделена своеобразным правом вето на решения нижней палаты. Учитывая то, что в последнее время в Украине активизировалась идея создания второй палаты Верховного Совета Украины (практическое воплощение эта идея нашла в проекте Закона № 4290 от 31.03.2009 «О внесении изменений в Конституцию Украины», внесенном Президентом Украины на рассмотрение Верховного Совета Украины), важными являются не только процедура регулирования президентского вето, но и процедура взаимодействия верхней и нижней палат парламента в законодательном процессе.

Исследование положений конституций зарубежных стран позволяет говорить о том, что в большинстве стран Европы применение права вето является дискреционным полномочием главы государства. Так, подписание закона или применение права вето в отношении принятия закона является исключительным правом главы государства в Албании, Бельгии, Беларуси, Болгарии, Великобритании, Венгрии, Греции, Кипре, Латвии, Литвы, Македонии (за некоторыми исключениями), Молдове, Норвегии, Польши, Португалии, России, Румынии, Сербии, Словакии, Украине, Финляндии, Франции, Чехии, Черногории, Эстонии. В государствах с президентской формой правления (США, страны Латинской Америки) применение права вето на закон – дискреционные полномочия главы государства.

В то же время, в ряде европейских стран глава государства или вообще лишен права вето, или это право определенным образом ограничено. К числу исследованных стран, в которых законы не могут быть ветоированы главой государства вообще, относятся Австрия, Босния и Герцеговина, Исландия (Президент может отклонить закон, однако он все равно вступает в силу, в случае отклонения закон выносится на утверждение общенационального референдума), Испания, Люксембург, Мальта (Президент обязан подписать и официально обнародовать закон безотлагательно после его получения), Нидерланды (после контрассигнации закона правительством он подписывается и официально обнародуется Федеральным Президентом), Словения (законы подписываются и обнародуются Президентом в течение 8 дней со дня их принятия), Хорватия (Президент Хорватии обязан подписать и обнародовать закон в течение 8 дней со дня его принятия), Швеция (законы промульгируются правительством или парламентом), Япония.

Ключевые слова: вето, власть, президент, юрисдикция, парламент, суд, Верховный суд, обнародование.

Introduction

The list of countries whose constitutions were analyzed includes 39 countries, most of which are European countries: Austria, Albania, Belgium, Belarus, Bulgaria, Bosnia and Herzegovina, Great Britain, Hungary, Greece, Estonia, Ireland, Iceland, Spain, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Macedonia, Malta, Moldova, the Netherlands, Norway, Poland, Portugal, Russia, Romania, Serbia, Slovakia, Slovenia, USA, Ukraine, Finland, France, Croatia, Czech Republic, Montenegro, Sweden, Japan.

In a number of European states, a certain “intermediate” model has been chosen – the head of state can use the veto right either only by certain decisions, or only by following certain procedures. At the same time, an important role in such procedures is assigned to the government. For example, in Ireland, the head of state is obliged to sign and officially promulgate the law submitted by the Prime Minister and approved by Parliament no earlier than the fifth and no later than the seventh day from the day of its receipt, except in two cases expressly provided for by the Constitution of Ireland. By the State Council, the head of state decided to appeal to the Supreme Court of Ireland to decide on the constitutionality of the law or if a certain number of members of both houses of parliament appeal with a common petition. (The law about not signed by the President). According to the Italian Constitution, the signing of the law by the President requires the obligatory counter reference of the Italian Prime Minister. According to the Macedonian Constitution, the President of Macedonia has no veto power over laws passed by at least two thirds of the parliament. In Slovakia, the President is obliged to apply the veto to the law if the government requires it (article 87 of the Slovak Constitution). In the Czech Republic (as, by the way, in Ukraine), the President has no veto power over the laws on amending the Constitution.

Main part

The term of application of the veto and the consequences of non-return of the law for reconsideration during a certain period of time. The Constitution of foreign states determine in different ways the terms of application of the right of veto and the legal consequences of their omission. For example, in Austria, Belgium, Bosnia, Great Britain, the Netherlands, Germany, Norway, Macedonia, Slovakia, Sweden, Japan, the corresponding dates and consequences of their omission at the

constitutional level are not defined at all. The constitutions of Bulgaria, Greece, Estonia, Ireland, Iceland, Spain, Italy, Cyprus, Latvia, Luxembourg, Moldova, Poland, Portugal, Russia, Romania, Slovenia, Hungary, France, Croatia, the Czech Republic, Montenegro do not provide for the legal consequences of violating these terms.

In Lithuania and Serbia, if the law was not signed by the head of state for a period defined by the Constitution or returned for re-consideration by the parliament, it is signed by the speaker of parliament. In Albania, Belarus and the United States, non-signing of the law by the President and non-returning it for re-examination by the parliament will force the law to come into force (the law is considered signed). In Finland, the non-signing of the law by the President during the established period is equivalent to the application of a veto on the law (which entails the repeated consideration of the law by the parliament and, if it is re-approved, published without the signature of the head of state).

In Ireland and Latvia, not only is the deadline for the head of state to apply a veto regarding laws adopted by parliament, but the period during which the President does not have the right to sign such laws is defined – they are respectively 7 and 5 days in Ireland, 21 in Latvia and 7 days. At the same time, the Irish Constitution obliges the President to sign certain categories of urgent laws (on the imposition of a state of emergency, etc.) on the day of their adoption.

The Constitution of Montenegro provides that the President may return the law to the parliament for a second review within 7 days after its approval (within 3 days if the law is adopted by the parliament under an abbreviated procedure). In Slovenia and Croatia, the head of state is obliged to sign within 8 days from the date of its adoption. According to the Lithuanian Constitution, the President of Lithuania may return the law for reconsideration by the Parliament within 10 days from the date of its receipt. In the US, the corresponding period is also 10 days (excluding Sundays). A law not signed by the President of the United States at this time is considered to have been signed (except for the case when the day on which the bill is to be returned to the Chamber’s consideration falls on a break between meetings of Congress). In Belarus, Estonia, Iceland, Moldova, Russia, the heads of state can apply the right of veto to the law within 14 days after its receipt. In Bulgaria, Cyprus, Spain, Serbia, Hungary, France, the Czech Republic, the term for the use of the veto right by the head of state regarding the adopted law is 15 days from the

date of its adoption. In Albania, Portugal, Romania, the President has the right to return the law to the parliament for a second review within 20 days from the day it is received. The constitution of Poland limits the term of application of the presidential veto in relation to laws to 21 days. According to the Greek Constitution, the President of Greece may use the right of veto for 1 month from the date of adoption of the law. A similar term for the President to exercise the right of veto in relation to the laws is provided for by the Italian Constitution. In Luxembourg, the term of signing by the Grand Duke of the law is 3 months from the date of its adoption (in Luxembourg, the monarch since March 2009 has lost his veto over laws). In Finland, the period during which the head of state can apply the veto to the law is also 3 months from the day the law is received (Kovrizhenko, 2009: 60).

Assessment of the constitutionality of the law adopted by Parliament before its signing

In most of the countries studied, constitutions do not define a special procedure for assessing the conformity of a law to the Constitution. In those countries where the head of state has no veto power over laws, the issue of their constitutionality is decided upon after their promulgation in a general manner (that is, at the request of an authorized subject to the appropriate court). In those countries where the head of state can return the law for reconsideration by the parliament, he can indicate among the reasons for his decision the inconsistency of the constitution law adopted by the parliament – at least such a possibility is not explicitly prohibited by any of the constitutions of the respective countries. (Nolan, 1995)

At the same time, in a number of European states, constitutions provide for the possibility of the head of state appealing to the court to resolve the issue of constitutionality submitted for signature by the head of state. These countries include, in particular,

- Estonia (in case of overcoming the veto, the head of state can turn to the Estonian Supreme Court with a submission on declaring it unconstitutional),

- Ireland (after receiving a law passed by Parliament and following consultations with the Council of State, the President of Ireland may pass the law to the Supreme Court to decide on its constitutionality),

- Cyprus (after receiving the law for signature and no later than 15 days from the date of its adoption, the President and the Vice-President of Cyprus separately or jointly may apply to the Supreme Constitutional Court with a view on the unconstitutionality of the adopted law),

- Poland (within 21 days after receipt of the law, the President of Poland has the right to appeal to the Constitutional Tribunal to decide on its compliance with the Constitution, this right cannot be used by the President if the law was re-adopted after the President applied the veto to him),

- Portugal (according to article 278 of the Constitution, the President of Portugal, no later than 8 days from the date of receipt for signing the law adopted by the Parliament, has the right to appeal to the Constitutional Court with a view of its unconstitutionality),

- Romania (according to article 144 of the Romanian Constitution, the President may apply to the Romanian Constitutional Court for a decision on the compliance of the Romanian Constitution with the signature of the law to the Romanian Constitutional Court before the expiration of the deadline for signing the law or applying the right of veto),

- Hungary (within 15 days from the date of receipt of the law passed by the Parliament, the President may appeal to the Constitutional Court to decide on its constitutionality),

- Finland (within 3 months from the date of receipt of the law, the President of Finland may apply to the Supreme Court or the Supreme Administrative Court for a conclusion on the law),

- France (the President may appeal to the Constitutional Council with a view on the constitutionality of a law passed by Parliament, but not a promulgated law; a corresponding submission is made when it is countersigned by the Prime Minister and the responsible Minister).

As a rule, in those countries where constitutions provide for the possibility of introducing laws submitted for signature by the head of state to the constitutional court or the highest court in the system of courts of general jurisdiction, at the same time:

1) consideration of relevant cases under the accelerated procedure (Portugal – 25 days, France – from 8 days to 1 month);

2) suspension of the signing of the law for the period during which the case is considered by the court (all countries);

3) binding decisions on cases of the constitutionality of the law for participants in the legislative process (all of the above countries, with the exception of Romania and Portugal, where the decision of the Constitutional Court on the unconstitutionality of the law may not be taken into account by Parliament, but in this case it must pass the law by a qualified majority of its members);

4) the obligation to refuse to promulgate a law whose provisions are declared unconstitutional (Ireland, Cyprus), or the return of an unconstitutional law to be re-examined by parliament (Poland, Portugal, Romania, Hungary), or promulgated the law without provisions unconstitutional (Poland);

5) the obligatory promulgation of the law, the provisions of which are recognized as constitutional (Romania, Hungary).

Absolute and suspensive veto

Only in some of the foreign countries studied, the head of state's veto is absolute and cannot be overcome. Such countries include Belgium, Liechtenstein, the United Kingdom, Cyprus (with respect to certain categories of laws – on matters of foreign affairs, defense, security, police), Norway (if the law has not been reviewed by the monarch, it is considered rejected). In the overwhelming majority of the world's states, the suspension is of a veto nature: the law is re-examined by parliament and, if re-approved, is subject to promulgation.

A kind of absolute veto is also a “pocket veto” envisaged by the US Constitution: a bill approved by Congress in the last ten days before the end of a session does not take effect if the time allotted for its signing falls on the period when the sessions of Congress are not taking place. In this case, the President may not sign or return the bill to the Congress. For the first time this right was exercised by the fourth President of the United States, J. Madison, and for the last time by George Bush. Under the presidency of Barack Obama, pocket veto was not used even once. To assess the role of the “pocket veto” in legislative practice, it is worth noting that the American presidents used the veto right 2,560 times, of which the right hand “pocket veto” 1066 times (that is, the suspended veto was used 1,494 times). Most often, the “pocket veto” right was enjoyed by Franklin D. Roosevelt (263 times), Grover Cleveland (238 “pocket vetoes”, 110 of them under the first presidency, 128 times during the second presidency), Dwight Eisenhower (108 times). (link)

The veto override procedure and the consequences of overcoming the veto

In most of the countries studied (in which the head of state can return the law for re-consideration by parliament), the same number of votes is required to pass a law – usually by a simple majority of members of the parliament or corresponding chambers present – Estonia, Italy, Cyprus, Latvia, Moldova, Romania (except for laws, they were declared unconstitutional before signing – such laws are considered to be re-approved if two of them vote

for their support e thirds of the composition of each chamber of parliament), Slovakia, Finland, France, Montenegro.

In Poland, the President's veto on the law is surpassed by three fifths of the members of the Seimas (the lower house of the Polish parliament) present at a meeting of the Seimas, provided that no less than half of the members of the Seimas are present at this meeting.

In a number of states, the veto is considered to be overcome if the law is re-adopted by an absolute majority of votes from the parliament – Albania, Bulgaria, Greece, Lithuania (except constitutional laws, 60% of the votes from the parliament are approved), Macedonia, Portugal (except organic and some other laws, defined directly in the Constitution, the veto on which is overcome by two thirds of the members of parliament present at the meeting, provided that such a number of votes exceeds an absolute majority of votes from Av Parliament), Serbia, Czech Republic.

In presidential republics, for example, in the United States and Latin American countries, the head of state's veto is overcome by a qualified majority (2/3 of the votes) of the parliament (any of its chambers). In Europe, the veto is overcome by a qualified majority of the composition of the respective chambers of parliament in Belarus and the Russian Federation. At the same time, the President's veto in Belarus is considered to be overcome subject to the observance of constitutional provisions not only regarding the adoption of a relevant decision by the chambers of parliament by a certain number of votes, but also subject to the procedures for considering the President's proposals (in particular, the terms of consideration) established by the Constitution.

A special, different from other countries, procedure for overcoming the king's veto on the law is provided for in the Norwegian Constitution. So, if the monarch decided to return the law for reconsideration by the parliament (although he may not return or sign the law at all), the king's veto is considered to be overcome, provided the law is re-approved at two sessions of the Storting, which should take place after the next elections in each of the Chambers, provided that between these sessions two other sessions of Parliament are held. The re-adopted law enters into force both under the condition of obtaining the consent of the monarch, and without obtaining such consent – in the latter case, it is published after the end of the session of parliament.

Usually, in the event that the parliament overrides the veto, the head of state (or another

subject – Finland) is obliged to promulgate the law within a certain period of time. In some countries, it is provided that if the head of state fails to sign the law, the veto on which has been overcome, the law enters into force “automatically” after the expiration of the time allotted for its promulgation (Belarus). In Norway, if the law, on which the veto was overridden, is signed by the king, such a law enters into force after the conclusion of the relevant session of parliament. The term of promulgation of the law, the veto and which was overcome, as a rule, is shorter than the period allowed by the constitution for the first time to use the veto.

For example, in Belarus it is 5 days from the date of receipt of the law re-approved by both chambers, in Bulgaria – 7 days, in Greece – 10 days, in Lithuania – 3 days, in Poland – 7 days, in Portugal – 8 days, in Russia – 7 days, in Romania – 10 days, in Hungary – 5 days. In Cyprus, the term of promulgation of the law, the veto on which is overcome, is the period during which the President or the Vice President of Cyprus can apply the veto to the law for the first time (15 days).

In Estonia, Italy, Latvia, Macedonia, Moldova, Slovakia, France, the term of promulgation of the law, the veto on which was overcome, the constitution is not defined at all.

At the same time, the constitutions of individual states do not provide for the mandatory promulgation of the law by the President in the event of overcoming his veto. For example, in Estonia, the President in this case has two alternatives: 1) to sign and officially promulgate the law; 2) to appeal to the Supreme Court of Estonia with the submission of its unconstitutionality.

If the Supreme Court of Estonia recognizes the law as compliant with the Constitution, the head of state is obliged to sign and officially promulgate it. Article 138 of the Cyprus Constitution provides that if Parliament repeats the law on the state budget returned for re-examination by the President or the Vice-President of Cyprus on the basis of discriminatory provisions, the President or the Vice-President after receiving the law repeatedly adopted by the Parliament jointly or separately from a friend may apply to the Supreme Constitutional Court for a conclusion on the existence or absence of discriminatory provisions in the re-adopted law. On the basis of such an appeal, the Supreme Constitutional Court may adopt one of the following decisions: 1) repeal the law; 2) to pass a law; 3) return the law for re-consideration by the House of Representatives.

General and selective veto, decisions that

are made by Parliament based on the results of consideration of proposals (comments, explanations) of the head of state

In most of the countries studied, the head of state’s veto is of a general nature, that is, it concerns the law in general. In other words, the head of state either agrees with the law as a whole (which leads to its promulgation) or disagrees with the law as a whole.

However, in some of the countries studied, the head of state may apply the right of veto to certain provisions of the law adopted by parliament and promulgate the law without taking into account “vetoed” provisions, which are re-examined by parliament. For some time these countries belonged to the United States, where such a veto is now allowed in 43 states (except Indiana, Maryland, Nevada, New Hampshire, North Carolina, Rhode Island and Vermont), (link) and at the federal level could be applied to laws on the state budget from 1996 to 1998. The selective veto at the federal level was introduced by the 1996 Selective Veto Act. However, on February 12, 1998, the District Court for the District of Columbia ruled that it was noted that the selective “veto” of laws contradicted the US Constitution. Later, the same legal position was confirmed by the Decision of the US Supreme Court of June 25, 1998 in the case of *Clinton v. New York*.

In Belarus, the President may submit objections to parliament both according to the law as a whole, and on its individual provisions. In the latter case, prior to the decision by the chambers of parliament on the objections of the President, the law may be signed by the head of state and published with the exception of the provisions in respect of which the President expressed objections. The Polish Constitution provides that after the law is submitted for signature to the President, he can apply the right of veto to the law as a whole, or, without returning it for reconsideration by parliament, apply to the Constitutional Tribunal to assess the compliance of the entire law or its individual provisions with the requirements of the Constitution. If the Constitutional Court made a decision on non-compliance of the Constitution with only certain provisions of the law and did not decide that such provisions are inextricably linked to the law as a whole, the President of Poland, after reporting the corresponding position to the Marshal of the Sejm, signs the law without provisions that are deemed unconstitutional, or returns the law for reconsideration by the Diet to eliminate inconsistencies of its individual provisions in the Constitution (part four of Article 122 of the Constitution). Such a veto can

be considered selective, since in this case the subject of the repeated consideration by the Parliament is the provisions recognized by the Constitutional Tribunal as contrary to the Constitution. The possibility of the President applying a selective veto is also provided for in Argentina and Mexico. (Danilov)

In the constitutions of most of the studied states there is no clear answer to the question of whether the law on which the head of state exercised the veto right can be adopted taking into account some of the remarks of the head of state, and what are the consequences of not taking into account some of the comments made or taking into account all his comments (that is, considered to be a law passed by the Parliament taking into account all or part of the remarks of the head of state by a new law, according to which the head of state can re-use the veto). In this case, only a few countries can be classified as exceptions. Thus, in Latvia, Article 71 of the Constitution provides that if the parliament does not make changes to the law adopted by it, the head of state does not have the right to re-submit an application for revision. Thus, it follows from this that the Parliament, during the re-examination of the law, may change its original wording, but in this case the head of state may reapply the veto over such a law. A similar opportunity is also provided for by the Lithuanian Constitution: based on the results of the repeated consideration of the law, the parliament may: 1) adopt the law as amended, as amended by the President; 2) to adopt the law in the previous wording. However, in both cases, the President does not have the right of veto by law and is obliged to sign it and officially disclose it within 3 days from the date of its adoption by the Seimas. The Constitutions of Albania and Romania also stipulate that the President may use the right of veto with respect to the same law only once (although in Romania, before signing the newly adopted law, he may appeal to the Constitutional Court with a view on the conformity of the adopted law to the Constitution). In Finland, the Constitution provides for the possibility of adopting a law only in the original wording – if the original wording of the law by Eduskunta is not supported, the law is considered to be repealed. A similar rule is also enshrined in the Czech Constitution – if the parliament does not overcome the veto with the necessary number of votes, the law is considered to be repealed.

State management, as a purposeful activity, provides for ensuring the system logic of cardinal, guaranteed progressive political, economic, social transformations, is carried out in countries in accordance with the specifics of each – the head of

state, the parliament and the government. Even with a highly developed legal system, the institutions of power of these countries could not (especially under current conditions) effectively cooperate without an authoritative arbiter – the President, who, although not in direct subordination with these institutions, is designed to really ensure the consistency of their activities state system of possible crisis situations, prepare society for choosing the most profitable way of further development in the interests of ensuring national consensus, azhdansko the world, a long progress. It is thanks to this that the institution of the presidency with its influence is able to create the conditions for the interaction of all branches of government and the unification of their actions in the name of the progressive future of the country.

The law, after being passed by the parliament, is sent to the president for signature. The head of state can either sign it or use a veto at a time specified by law. As a rule, the refusal of the head of state to sign the law is issued with the appropriate message, which justifies the grounds for the use of the veto and sets out objections or proposals of the head of state under the law. The message, together with the law, is returned to parliament, which can adopt a law taking into account the remarks and proposals of the president by amending the law; send such a law for re-signing by the head of state; adopt the law in the previous wording and, thus, overcome the suspensive veto. (Thomas, 2001)

A suspensive veto is usually overcome by a simple (Greece, Italy, Romania) by a majority vote of members of parliament or by a qualified majority of members of parliament (Ukraine, Russia, the USA). The suspensive veto of the head of state is weighty powers for his active participation in the legislative process, but it has a democratic character, unlike an absolute veto, since it leaves the legislature the opportunity to disagree with the position of the head of state and overcome the veto, and the head of state allows to prevent the adoption of imperfect laws. In most countries, it is also provided for, or the duty of the president to sign the law if the suspensive veto is overcome in the prescribed manner, or the signature of the president in this case is not required at all. That is, in this way, the powers of parliament as a legislative body are protected from abuse by the president.

There are various approaches to the scope of the powers of the head of state to promulgate or refuse to sign the law. In some cases, he may refuse to promulgate the whole law. Such powers are called common veto. This option is rather inconvenient, since the president sometimes has to either approve

a bill, despite some articles with which he does not agree, or it is important to protest in general a fairly acceptable bill through several provisions with which he does not agree. In this case, the veto is a tough tool. As a rule, the veto applies to the law in general, as in Ukraine, Russia, the United States. But in some countries (France, Argentina, Mexico), the president has the right to veto certain articles and provisions of the law. Such powers are called selective veto. The selective veto provides a more flexible presidential response mechanism and, in addition, strengthens the role of the president in the legislative process, although it is used quite rarely.

In the USA, proposals were repeatedly made to grant the President the right of selective veto, in particular during the presidency of R. Reagan. (Mishin, 1999: 196)

Although the selective veto is a more flexible tool than the general one, in this case there would be a significant strengthening of the already strong executive at the expense of the legislature. In this case, the main purpose of the right of veto, as an element of checks and balances of the branches of government, would be justified.

The presidential veto is characterized by certain features in presidential, parliamentary republics and republics with a mixed form of government. In states with a presidential form of government, the presidential veto power is strong enough powers that enable the president to actively defend the interests of the executive branch in legislative activity; in parliamentary republics, the nature of the right of veto is different – these are, as a rule, rather weak powers, which are used quite rarely. This is primarily due to the fact that states with a presidential form of government are characterized by a veto, for overcoming of which a complicated procedure has been established; in parliamentary republics, this procedure is usually quite simple. The use of the veto by the presidents of mixed republics depends on the allotted place of the president among the government bodies. The president, as a rule, is guided by his status as head of state and the guarantor of compliance with the Constitution. Despite the fact that there are certain regularities in the functioning of the President's veto in republics with various forms of government, however, international constitutional practice knows cases of a departure from the traditional normative regulation of the right of veto in states with a certain form of government. (Nolan, 2000)

When choosing this or that type of veto to be fixed in the constitution, it is important to take into account that these powers of the head of state

do not violate the overall balance of power and it is distributed and balanced between the head of state and parliament so that none of them can go beyond their legal powers without meeting effective deterrence and opposition from the other.

Germany. In contrast to the United States, the President of Germany does not have veto power. The constitution grants him only the right to formulate laws by means of counter sign. This is not a purely technical action, since the head of state can check this law for compliance with its Constitution. However, due to the fact that the Federal Constitutional Court directly monitors possible violations of the Constitution, the President usually does not need to exercise this right. And yet, without having the right of veto and the ability to reject the law that has already entered into force, the President of the Federal Republic of Germany is able to prevent its action by refusing to issue it. The head of state can decide to take such a step only with serious doubts and gross errors contained in the law.

Abuses on the part of the President are impossible here, since his refusal to issue a law is subject to verification by the Federal Constitutional Court. Therefore, the authors of the German course of state law call the registration of the law by the President of the Federal Republic of Germany a peculiar state-notarial act, the main purpose of which is to certify the authenticity of the text by the head of state. (Topornin, 1994: 226)

France. In France, the promulgation of the law by decree of the President. The head of state has the right to demand, within 15 days, re-discussion of both the law as a whole and its individual articles. This requirement may be based on technical reasons or on the manifestation of political disagreement on the substance of the issue (the latter has not yet occurred). In practice, the procedure of re-discussing the law in the V Republic, in contrast to the IV Republic, is applied in isolated cases, as the government tries to solve controversial problems at the stage of consideration of the law, and not at the stage of promulgation. President F. Mitterrand (1981-1995) only used this right twice (the "World Exposition Act" of 1989 and the "Law of New Caledonia"). (Kerimov, 1998: 138-139) The Constitution provides for the impossibility of the President's refusal to sign the promulgation decree after a new discussion of the law or after a 15-day period.

Belarus. A more perfect structure for the realization of the right of veto is provided for by the Constitution of the Republic of Belarus, since the head of state is endowed with a line item and

“pocket” veto. The President has the right to return for re-voting not only the entire bill with its objections, but also its individual provisions. In this case, the law is signed by the head of state with the proviso of disagreement with its individual articles and enters into force, with the exception of those provisions for which there are objections.

Conclusion

The implementation of the “pocket veto” differs significantly from the United States. The President of Belarus in such cases and after the expiration of the two-week period makes a decision on the merits: either signs the law or returns it with his objections to the House of Representatives, after which he is considered, starting not with the first reading, but according to a special procedure for considering the objections of the President. (Reut, 1999: 46) This practice is very positive, as it allows to achieve procedural economy of legislative activity. Moreover, the Belarusian legislation, unlike the Russian one, obliges the head of state to sign the law passed by the parliament after overcoming the presidential veto. All this contributes to a closer cooperation of the authorities in the legislative process, excludes their confrontation. As a result, the President returns less than 5% of the laws, which indicates the parties’ desire to resolve the differences that arise on the basis of reasonable compromises by reaching a mutually acceptable solution. (analytical material, 1996: 40)

In Norway, the suspensive veto, which belongs formally to the king, can be overcome with the help of such a complicated procedure, which makes it a kind of almost absolute. (Baglaia, 2004: 229)

That is, the absolute nature of the veto is determined not only by the rule of law itself, namely by the procedure and possibilities of overcoming it by parliament, and allows characterizing the veto tool in a particular state not as an unconditional non-democratic ban, but as an important tool from the

head of state by which it has a positive influence on the legislative process and stimulates the effective work of the parliament.

There is an opinion that the so-called “pocket veto” of the president is actually a kind of absolute veto, which is used in American practice. Its essence lies in the fact that the bill was approved by the Congress in the last ten days before the end of the session, does not enter into force if the President refused to sign it and is not subject to mandatory return to Congress. The widespread use of such a veto to laws that are passed by Congress provoked the intervention of the Supreme Court, which recognized the “pocket veto” as anti-constitutional practice. This position can be understood because the parliament is essentially unable to overcome the presidential veto, which can lead to the president abusing his powers in the legislative process and thereby provoking an imbalance of power, which is unacceptable in a democratic state.

Close enough in their practical results to the absolute veto of the President of India to reject state legislature bills. In accordance with Art. 200 of the Constitution, they can be reserved for its consideration by the governor of the relevant state. As noted in the literature, in this case there is practically no means to overcome the President’s veto. This prerogative of the head of state is considered by Indian experts on constitutional law as “one of the means of exercising central control in a federation that is a unitary state.”

The Governor-General of Canada has a similar right under the provincial bills (but he can also reject an act of the province, not formally reserved by the governor for his approval). (Chirkin, 1996: 617) More common is a relative or suspensive veto. It is characteristic of him that the refusal of the head of state to sign the law is not absolute. In this case, the law is sent by the head of state for reconsideration during which the parliament may disagree with the position of the head of state and re-adopt the law.

References

- Gosudarstvennoe pravo Germanii / Sokr. per. s nem. semitom. izd.; Otv. red. B.N.Topornin: V 2 t. M.: In-t gos-va i prava RAN, 1994. T.1. (N.Ahtenberg, P.Badura, E.V.Bekenferde i dr.: Per. Ju.P.Ur’jasa i dr.). – 310 s.
- Daniliv V. Pravo veto: istorija, mizhnarodnij dosvid ta „ukraïns’ka specifika”. <http://www.parlament.org.ua>
- Informacionno-analiticheskij material o dejatel’nosti Palaty predstavitelej Nacional’nogo sobranija Respubliki Belarus’ (1996–2000). Mn., 2000. – 51 s.
- Kerimov A.D. Parlamentskoe pravo Francii. M.: Norma, 1998. – 176 s.
- Kovrizhenko D.S. Institut veto: zarubizhnij dosvid, nacional’ne zakonodavstvo i praktika, propozicii (Laboratorija zakonodavchih iniciativ), 2009, 60 s.

Konstitucionnoe pravo zarubezhnyh stran / Pod obshh. red. chl. -korr. RAN, prof. M. V. Baglaja, d. ju. n., prof. Ju. I. Lejbo i d. ju. n., prof. L. M. Jentina. – M.: Norma, 2004. – 832 s.

Mishin A.A. Konstitucionnoe (gosudarstvennoe) pravo zarubezhnyh stran. – M.: Belye al'vy, 1999. – 400 s.

Proekt Zakonu „Pro vnesennja zmin do Konstitucii Ukraïni” № 4290 vid 31.03.2009 r.; http://gska2.rada.gov.ua/pls/zweb_n/webproc4

Reut V.I. Problemy v Konstitucii Respubliki Belarus' i puti ih preodolenija // Vestn. Vyssh. hoz. suda Resp. Belarus'. 1999. №4. S. 41–47.

Sravnitel'noe konstitucionnoe pravo / [V. E. Chirkin, Ju. A. Judin, M. A. Nikiforova i dr.; Red kol.: V. E. Chirkin (otv. red.) i dr.]; Ros. akad. nauk, In-t gosudarstva i prava. – M. : Izd. firma «Manuskript», 1996. – 728 s.

Governors' Veto Power Regarding Appropriations Legislation; <http://www.ncsl.org/IssuesResearch/BudgetTax>

Nolan M. McCarty. Presidential Pork: Executive Veto Power and Distributive Politics // Americal Political Science Review. – 94 (1). – 2000. – pp. 118-121

Nolan M. McCarty, Poole K.T. Veto Power and Legislation: An Empirical Analysis of Executive and Legislative Bargaining from 1961 to 1986 // J. L. Econ. & Org. – 11. – 1995. – p.282

Presidential Vetoes (1789 to Present); http://clerk.house.gov/art_history/house_history/vetoes.html

Thomas K., Mirja P. Examining the EU Legislative Process: The Relative Importance of Agenda and Veto Power // European Union Politics. – 2001. – p.33