

**Serhii Skril, PhD in Law**

*Kherson Institute of Economics and Law, Ukraine*

## **THE CONSTITUTIONAL PRINCIPLES OF THE CENTRAL AND EAST EUROPE STATES POLITICAL SYSTEMS REFORMING**

The article describes constitutional foundations of transformation of political systems in the countries of Central and Eastern Europe under the conditions of the breakup of the socialist camp and integration to the European community. The author explores specific aspects of the constitutional process in the countries of the mentioned region.

The main directions of the constitutional reforms which were carried out in the countries of Central and Eastern Europe in the early 90-s of the twentieth century till the present time are expressed in follows: the constitutional norms embodied the liberal-democratic ideals and values. The course for establishing of a democratic, social and legal state was proclaimed. The mechanism of power dividing is established regulatory. There were established the parameters of the new post-socialistic system, which meets the European tradition, and is established in countries of Western Europe (market economy, diversity of ownership, support for competition, freedom of economic activity, etc.).

**Key words:** political processes, political system, constitutional reform, democratic transit, European Union, integration.

The patterns of the «socialist camp» collapse in Europe in the early 90-s of the twentieth century led to a need for systematic political, economical and social reforms in the post-communist countries. The theoretical foundation of the democratic transformations in the Eastern Europe countries became the concept of modernization, the followers of which insisted on the high priority of the socio-economical or structural factors for the democratization of the political regime. However, it should be noted that any reforms include the creation of a new regulatory framework, first of all the constitutional one. Exactly the constitutional norms define the principles of the political, economical and social systems' functioning. Therefore, the adoption of the new constitutions in the post-communist countries is an important prerequisite for efficiency of the democratic transit. At the same time, the content of the constitutions must meet certain regulatory standards and values of Western civilization. Such standards and values include: respect for human rights, recognition and effective judicial protection of the private property, public provision of a decent and a secure social existence of the individual, transparency and fairness of the election procedures, guarantees of the national rights, linguistic minorities, prohibition of discrimination and others. In addition, an important instrument of democratic transformations is the updated political institutions which have to adapt «constitutional matter» to the national and cultural features of a particular society.

The problematic of democratic transit, particularly, in the Central and Eastern Europe countries had been studied by Z. Brzezinski, S. Huntington, S. Lipset, W. Rostow, Ph. Schmitter, J. Maruschiak, A. Melville, D. Stuckal, M. Mironyuk and others.

The constitutional reforms in the Central-East European political space were analyzed in the scientific works of V. Averyanov, J. Barabash, I. Kresina, A. Mironenko, M. Orzih, V. Tsvetkov and others.

The analysis of the constitutional law transformation tendencies in the states of Central and Eastern Europe suggests making a conclusion about the dominance of the two reform models which are the reconstruction and the dismantling. Reconstruction involves the dismissal of the constitutional norms from the fictitiousness, filling them with real content that reflects the actual social relations, and effective mechanisms. Dismantling, in its turn, provides a maximum rejection from the constitutional doctrines of the communist past and the formation of the new political institutions. This is a process of a quick constitution change and long adaptation to the updated «game rules» in the political sphere. In the reconstruction model the adaptation is directed not to adaptation of the new institutional system to the constitutional norms, but rather to the legislative strengthening of the existing political practices. In both cases as the result of the

transformation is the development of a new constitutional law which meets the needs of a democratic society, but more effective is the path of dismantling<sup>1</sup>.

Political reforms in Poland are related to the adoption by the National Assembly of the Poland Republic of the new constitution 02.04.1997, which was approved on the nationwide referendum on the 25.05.1997. The basic Law of the Republic on its structure and content is built on the European constitutional traditions. Exactly in the Constitution there were laid the principles of the functioning of the new political institutions and also the regulatory prerequisites for administrative reform, which aimed to transform Poland into a modern competitive state able to take political and economic challenges of the European Union and become its integral part.

Administrative reform in Poland had two sources of inspiration: the European experience and practice and its own traditions. The principles laid in the administrative reform were based on the traditions of European civilization. These principles also laid in the foundation of the European Union countries-participants' development strategy. Among them there are: 1. *Building of a civil society* – the introduction of the new levels of government which have to bring every citizen to the management process, stimulate further development of the community, while making them accountable for their action. 2. *Subsidiarity* – the fundamental principle of the European Union functioning. With the help of deconcentration the central government passes a number of functions which can be effectively performed at a lower level, closer to the citizen, local governments or delegates them to the territorial communities, leaving, at the same time, their part in the area of its competence. 3. *Efficiency* – the Poland's place in the European Union is largely determined by the effectiveness of usage of its citizens' skills and by the ability of local and regional communities to use successfully their facilities for their own development. 4. *Transparency, openness and accountability* – means the elimination of unnecessary administrative and bureaucratic structures, the radical reform of the system of public finance, the delegation of new ones, broader powers to the democratically elected local authorities. 5. *Flexibility* – the ability to quick respond to changes in external and internal factors, increasing of the flexibility level and establishing of effective feedback with the public authorities. In fact, the deep structural reform of public administration is consisted of two interrelated reforms which were carried out simultaneously; the territorial system reforms and local government reforms (decentralization). In addition, a bit later there was conducted some kind of reforms in the central government. As it can be seen, the effectiveness of the given reforms in Poland can be explained quite prosaic: it has been done not on the empty place. In most spheres it was a kind of completion of evolutionary changes those had began rather long ago<sup>2</sup>.

Polish reforms show that in modern Europe it is impossible to make a democratic political system without the decentralization of the state power.

The Hungarian political system's transformation has signs of reconstruction since before 2012, i.e. before the entry into the force of the new Constitution (the youngest in Europe) there acted the Constitution of the Hungarian Republic of 1949 (amended on 1989 and on 1997) which was socialistic by its principles, points and content. The «start conditions» of the democratic transit of Hungary distinguish it from other states of the Visegrad Group, as the processes of economic liberalization and political democratization started earlier than in Czechoslovakia (before its collapse to Czech Republic and Slovakia) and Poland. This way, already in the 60th years of the twentieth century under the leadership of Janos Kadar the leader of the Hungarian Socialist Workers' Party in the country there were carried out market by its context economic reforms those led to the formation of powerful middle class already before the processes of the socialist camp collapse. In 1989, as a result of the negotiations of the ruling party with the opposition (so-called «Round Table») there started the political reforms within the frames of the socialistic Constitution, existing at that time. Almost without any political conflicts strategy of internal and foreign policy was agreed.

Analyzing the trends and content of the democratic transit in the Baltic States, it is necessary to define the regulatory basis for the political transformation, exactly the constitutional principles of the political systems reforming in these countries. On the space of former Soviet Union exactly the Baltic republics were the first ones, who began the way to the values of «Western world». This choice has deep historical and civilizational roots. The adoption in these countries the new, European by their content constitutions (excepting Latvia, which gradually modernized certain provisions of the Constitution of 1922)

<sup>1</sup> Китинг, М. (2003). Новый регионализм в Европе. *Логос*, 6, 18-27.

<sup>2</sup> Зашкільняк, П.О. (2008). *Історія Польщі: від найдавніших часів до наших днів*. Львів, 321.

became a prerequisite for rapid and effective rebuilding of the political systems.

For example, the Constitution in Lithuania was adopted on the referendum on the 25<sup>th</sup> of October, 1992. The shape of the Lithuanian Constitution is uncodified, as the Basic Law includes also the Constitutional Law of the State of Lithuania from the 11<sup>th</sup> of February 1991 and the Constitutional Act «On the Non-Alignment of the Republic of Lithuania to Post-Soviet Eastern Unions» from the 8<sup>th</sup> of July 1992. The preamble of the Constitution notes that the legal foundation of the Lithuanian state is based on the Lithuanian Statutes (1529, 1566, 1588), codes of feudal law of the Grand Duchy of Lithuania, which played a special role in the history of European law. Under the provisions of the Constitution of the Republic of Lithuania the fundamental principles of statehood forms on values typical for European legal traditions, namely: the national sovereignty, country independence, political pluralism and the free functioning of the political parties, wide self-government, personal integrity, self freedom, private life, property and housing. Constitutional rights and freedoms based on the principles of West democracies, as well as the provisions of the European Convention on Human Rights and Fundamental Freedoms of 1950<sup>1</sup>.

After the declaration of the independence and the accepting of the Constitution of the Republic of Lithuania the new political system was formed in the country, which components are: anti-totalitarian ideology as a guide of a statehood and society development, a multiparty (most parties had a national-liberal platform and a single political root which was the political movement «Sąjūdis») the domination of the middle class interests in shaping of the economic policy. Among the factors those influenced on the effectiveness of political reforms in Lithuania there should also be provided the lustration process and a restructuring of local government. The quick and painless for society scrapping of the old (Communist Party) political system should be seen as a «soft revolution».

The Constitution of the Estonian Republic adopted on the referendum on the 28<sup>th</sup> of June 1992. The part of the Constitution is the law about the peculiarities of its application, adopted simultaneously with the Estonian Republic's Constitution itself and the Law about the amendments to the Constitution of the Estonian Republic, adopted on the referendum in 2003. According to the terms of the noted Law, in a case if any individual provisions of the Basic Law are contrary to the peremptory norms of the European Union, the law of the Union is used. That means, before joining the EU, the Estonian republic declared the dominance of the European values and principles of European law regarding the basic principles of the national legal system. The Constitution enshrined the parliamentary republic as a form of government regulations identified the signs of law state.

After the declaration of the independence of the republic in 1990 in Latvia there were renewed the implementation of the Constitution of 1922, which almost completely duplicated the prescriptions of democratic and social by its content Weimar Constitution of Germany 1919. The constitution of Latvia 1922 regulatory formalized the principles of the parliamentary republican government, defined the social orientation of the state domestic policy and set guidelines for the political system of independent Latvian Republic.

It should be stressed that the democratic reforms in the Baltic States received the massive social-psychological support of various segments of the population. Thus a justice social agreement had been formed in a society, which became a «driving energy» of the political processes transformational. Under these conditions the constitutional norms have signs of a real, not fictitious (for example as in Ukraine and in the Russian Federation) constitution.

The Constitution of the People's Republic of Bulgaria 1971 as one of the most stable (without any changes and additions) operated over 80 years. At this time, the new political system has developed the Bulgarian Communist Party (BCP) – the People's Assembly – the State Council – Council of Ministers – the local people's councils and the executive committees formed by them – prosecutors. But even the stability of the Constitution has not become an obstacle to the way of radical political changes<sup>2</sup>. In fact it was impossible to carry out the political and the economic reforms on the basis of the content of the socialist constitution. So in Chapter 2 of the Constitution, dedicated to the socio-economic system, it was noted that the mainstay of the state in the national economic development serves the people's property. The private monopoly agreements and associations, cartels and trusts are prohibited. The Constitution of the 1971 legally guaranteed the usurpation of the political power by the Bulgarian Communist Party and by the State Council, which were put over all organs of the state.

<sup>1</sup> Конституция Литовской Республики. *Lietuvos Respublikos Seime site*. <[www3.lrs.lt /home/ Konstitucija / Konstitucija\\_RU.htm](http://www3.lrs.lt/home/Konstitucija/Konstitucija_RU.htm)>.

<sup>2</sup> Мироненко, А. (2007). Конституционная юстиция на рубеже тысячелетий. *Закон и бизнес*, 1, 19.

Analyzing the political processes in Central and Eastern Europe, B. Burdiak notes that socialist Bulgaria usually considered as passive, the only country in which there was no any crisis in relations with the USSR. The 35-year long reign of T. Zhivkov led to almost complete political indifference of citizens. USSR continuously supported Bulgaria, much stronger than other CEE countries. In 70-80 years the close economic and political ties of PRB with the Soviet Union hindered all the anti-government mood, dissatisfaction with the regime and there was no experience of combating it in the country. For decades Bulgarians humbly perceived the political reality and showed no protests or opposition to the political activity, as the citizens of other CEE countries. There was no any rebellion, insurrection, riot, political strike or student demonstrations. The conservatism of T. Zhivkov and party nomenclature of BCP prevented to the reforms in the country<sup>1</sup>.

On the parliamentary elections in 1990 the opposite to the ruling party Union of Democratic Forces (UDF) had received victory, and it initiated in 1991 convention of the United People's Council to adopt the new Constitution.

The new Constitution legally enshrined the basic principles of functioning of the political and economic systems of the Bulgarian state. In Norm of Article 1 of the Constitution, Bulgaria is defined as a parliamentary republic, the people are considered as the main source of power. The prescription of the Article 8 establishes the principle of separation of the state power into legislative, executive and judicial. Other rules of the Basic Law point the conduct of democratic procedures of elections, national and local referendums (Article 10), declared the principle of political pluralism as the basis of political life (Article 11)<sup>2</sup>. The pointed above rules indicate the approval of the general systemic conditions for political and legal reforms at the constitutional level according to the European standards and values. A significant contribution to the democratization of society became the law about the political parties, which regulated the order of their organization, activities, legal status, purpose, principles of the internal structure and procedures of participation in the elections. The Constitution of 1991 recognized the party as an element of the political system. In the early 1990s, the number of political parties has reached 200.

In addition, the constitutional provisions approved the functioning of the economic system of the state: guarantees and protection of property (Article 17), creating of the conditions for entrepreneurship, stimulating of the domestic and foreign investment (Article 19)<sup>3</sup>. These regulations fully implement and reproduce on the national legislation level the European principles of sustainable development of the liberal market economic model. Guided by these principles, the Bulgarians introduced a rational-pragmatic approach to the economic liberalization, privatization of the state property and achieving of the macroeconomic stabilization.

Socialist model of political system in Romania had been built on the basis of the Constitution of 1965 with the following numerous changes and additions. Legally, the constitution enshrined the classical usurper communist-partiocratic republic and banned the political pluralism, the activities of any effective political opposition, market economic relations in society. In such circumstances, and given the dictatorial methods of government leader of the Romanian Communist Party, the chairman of the State Council and President SRR N. Ceausescu, in the late 80's the internal situation in the country had been sharpening. The crisis ended with the overthrow of the communist regime, the arrest and execution of N. Ceausescu and his wife. In the early 90's Romania in sync with other Eastern Europe countries stood on the path of the democratic transit.

The Constitution of Romania was adopted by the Constituent Assembly on the 21<sup>st</sup> of November 1991, and approved on the referendum on the 7<sup>th</sup> of December 1991. By its structure, meaning of its provisions, the essential characteristics, the Romanian constitution is a typical form most post-socialist states the Basic Law «the constitutional modern generation». It establishes a departure from totalitarianism and etatism and the transition to the democratic development. The French doctrine of constitutional law had some influence on the content of the constitution; that reflects the general tendency of domination of Roman legal theories on the post-socialist space.

The norms of the Constitution enshrined the liberal market economic system, creating the legal preconditions of the property relations reforming, entrepreneurship towards European Union standards. Despite the fact that the Constitution of Romania of 1991 outstripped the adoption of the Copenhagen's criteria for EU membership and its norms almost entirely reflect European constitutional standards by their

<sup>1</sup> Бурдяк, В.І. (2010). *Політичні трансформаційні процеси в Болгарії у посткомуністичний період*. Київ.

<sup>2</sup> Маклакова, В.В. (ред.) (2009). *Конституции зарубежных государств: учебное пособие*. Москва.

<sup>3</sup> Маклакова, В.В. (ред.) (2009). *Конституции зарубежных государств: учебное пособие*. Москва.

content.

The main directions of the constitutional reforms which were carried out in the countries of Central and Eastern Europe in the early 90s of the twentieth century till the present time are expressed in follows:

1. The constitutional norms embodied the liberal-democratic ideals and values. The course for establishing of a democratic, social and legal state was proclaimed. The mechanism of power dividing is established regulatory.

2. There were established the parameters of the new post-socialistic system, which meets the European tradition, and is established in countries of Western Europe (market economy, diversity of ownership, support for competition, freedom of economic activity, etc.).

3. There were retired the provisions about political, ideological pluralism and multiparty. There formed a multiparty political system in all states of East Europe.

4. There were recognized the principles of respect and ensure of the human rights and human freedom. Limitation of rights and freedoms is possible only on the basis of constitutional and legal norms. The republican form of government was established and the unitary form of government was elected<sup>1</sup>.

The above constitutional principles of the functioning of the political, economic and legal systems in the Eastern Europe countries have become an important and effective engine of development of these countries within the premises of European civilization towards the European Union integration.

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<sup>1</sup> Манько, А.В. (ред.) (2004). *Конституционное право зарубежных стран*. Москва, 303.