



The Anomaly of the Weimar Republic's Semi-Presidential Constitution

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Abstract

In the research about semi-presidentialism, the Weimar Republic's constitution always has been thought to be an important historical case. However, when we compare its constitutional substance more narrowly, we can find a basic difference between the Weimar Constitution and most other semi-presidential constitutions, including that of the French Fifth Republic as well as of those of Eastern and Central European countries. This paper will compare the different types of these constitutions, especially with regard to the role of the president and its most notable institutional characteristic, their dual executive. The authors are going to distinguish between two types of semi-presidentialism and are demonstrating the reasons for it. Their basic question runs: What marks the constitutional difference between Weimar's semi-presidentialism and that of other countries the world around?

Keywords: Weimar Republic, Semi-presidentialism, Dual executive, Substance of a constitution

1. Weimar Republic and Semi-presidentialism

As, in recent times, democratization spread in East and Central Europe, semi-presidentialism has become a concept paid more and more attention to when constitutional issues were discussed. In fact, there are also many other countries with a semi-presidential constitution outside of Europe as, for instance, in Taiwan, South Korea and Mongolia in Asia or Niger and Madagascar in Africa. Almost all of them are in line with the definition of semi-presidentialism by Maurice Duverger. However, when we compare the different substance of these constitutions, can we really say that they all belong to the same type of a semi-presidential regime?

In most of the literature, including that of Maurice Duverger, who was the first and most important scholar to having presented a coherent concept of semi-presidentialism, the Weimar Republic's constitution, in force from 1919 – 1939, is treated as a semi-presidential one and, by some, considered even as the first one. But at the same time, this constitution has been declared by not few as a failed experiment. However, when we review the German literature about the Weimar Constitution, even after the concept of semi-presidentialism had been defined by Maurice Duverger in 1978, there is almost no scholar, who has classified the Weimar Republic as having had a semi-presidential regime. If semi-presidentialism is a meaningful classification, in the same way as presidential and parliamentary system, then the question arises, whether the Weimar Republic belongs to it, at all.

There are two different ways to deal with the question to what kind of constitution the Weimar Republic has belonged to. First, if the Weimar Republic is considered to have been a semi-presidential regime, then, as we will see, the term needs an extension and specification of its meaning. Second, if, on the other hand, the Weimar Republic's constitution cannot be classified as a semi-presidential one, then we would need a quite new term to define it, because it is obvious that it can be called neither a presidential nor a parliamentarian one. What, then, is the term to elucidate best what the Weimar Republic constitutional has represented?

Hence, it seems meaningful, having in mind the Weimar Constitution, to test the term semi-presidentialism once again, in order to find out, whether it can be applied to that constitution also, or whether a new term has to be discovered, in order to define, so far, just one historical case. We hope that by our correlative research the knowledge of both, that of the Weimar Republic as well as that of semi-presidentialism, will be enriched.

The most striking difference between the Weimar Republic and many other, later semi-presidential regimes is the very structure of their dual executive, the most important characteristic of a semi-presidential constitution. In the following we will, first, analyze some relevant literature about the term of semi-presidentialism; then, second, we will turn to the specific substance of the Weimar Constitution; compare it, third, with other regimes of the same kind; before coming to the conclusion, in which we will sum up our findings.

2. The Definition of Semi-Presidentialism

Academic research about semi-presidentialism has been initiated by Maurice Duverger. His definition has been widely discussed and is being quoted very often. However, academic treatises about semi-presidentialism were rather rare, before this type of a constitutional system became the favourite one in Eastern and Central Europe, after the demise of

the Soviet Union. And even now they are sparse. Moreover, its research mostly follows Duverger's trail. There exist, up to now, very little systematic studies about this form of government (Elgie, 2007:1). The research about the term can be roughly classified by turning to three scholars.

According to the definition of Duverger, a political regime can be considered to be a semi-presidential one, if it combines three elements (Duverger, 1980: 166):

The president of the republic is elected by universal suffrage;

He possesses quite considerable political powers; and

Beside him, there exist a prime minister and ministers, who possess also executive and governmental power but depend on the support of a parliament's majority.

Duverger's definition is adopted by almost all scholars. However, among them there are two, who altered the wording of Duverger's definition and the application of his concept. The one is Giovanni Sartori, who has argued that a political system would be a semi-presidential one, if it would have five characteristics (Sartori, 1997: 131).

The head of state (the president) is elected by popular vote (directly or indirectly) for a fixed term of office.

The head of state shares the executive power with a prime minister, thus founding a dual authority structure whose three defining criteria are:

The president is independent from parliament, but is not entitled to govern himself alone or directly and therefore his will must be conveyed and processed via his government.

Conversely, the prime minister and his cabinet are president-independent in that they are parliament-dependent: they are subject to either parliamentary confidence or no-confidence, and in either case need the full support of a parliamentary majority.

The dual authority structure of semi-presidentialism allows for different balances and also for shifting prevalence of power within the executive, under the strict condition that the 'autonomy potential' of each component unit of the executive does subsist.

Sartori's definition is more detailed than Duverger's, especially with regard to the power sharing between the president and the prime minister. Basically Sartori's definition can be considered as being an evolution, based on Duverger's definition. On the other hand, Robert Elgie has tried to eliminate the confusion due to the somewhat mysterious powers of the president by having proposed the following definition (Elgie, 2007: 6):

Semi-presidentialism is where a popularly elected fixed-term president exists alongside a prime minister and a cabinet, who are responsible to the legislature. (Note 2)

Elgie's definition excludes all references to the specific powers of presidents and prime ministers from his definition of a semi-presidential regime. He wants to leave the bewilderment about the kind and dimension of the presidential power to the "real world". Indeed, on the basis of his definition one needs only to read the constitution of a country in order to know whether it is or is not a semi-presidential one (Elgie, 2007: 6). However, if we are going to compare these countries more in detail, then it proves that his definition is encompassing all the countries, irrespectively if they have powerful or powerless presidents. But just that, the determination of the president's power vis-à-vis the prime minister's power, is the crunch point of a semi-presidential regime. All depends, if they are willing to cooperate and thereby to work together in the interest of their country; or if they are inclined to fight against each other and thereby harm the interest of their country. And there is, not to forget, still another point to have in mind: Can that regime still claim to be a semi-presidential one, in which the president and the prime minister share the executive power, but in which the constitution rules that they exercise them at different times? To this special case we will turn now.

3. The Substance of the Weimar Constitution

Normally a new constitution is made in times of crisis, and, thus, it is regarded as a prescription. The Weimar Constitution, being no exception from this rule, was made at a time of domestic revolt and foreign threat. According to the objective background of Germany at the end of the First World War, a parliamentary democracy was the only choice that would be accepted by the Allies (Note 3) as well as was favored by the then setting the trend German parties. Domestically, a social and democratic revolution had shaken the country. After a short period of civil war, a parliamentary democratic republic was established by the cooperation of the Social Democratic Party (SPD) and the high military command. (Note 4) Under these circumstances a powerful president was thought necessary by the great majority of the then active politicians, in order to manage the dangerous predicaments concerning the domestic and international affairs of the new republic (Mauersberg, 1991: 73-76). On the other hand it was the strong believe of the new constitution's drafter, Hugo Preuß, (Note 5) that a new constitution should be designed as a mixed form between a parliamentary system like the French Third Republic and a presidential system like that in the United States.

The Constitution of the new republic was drafted and adopted on 31 July 1919 by a vote of 262 to 75 in the city of

Weimar, Thuringia, about three hundred kilometers south of Berlin, because the German capital at that time had been a revolutionary trouble spot. (Note 6) That is the reason, why the new republic and its constitution colloquially was called the Weimar Republic and the Weimar Constitution. The Constitution was divided into two parts: into the composition and task of the newly established political institutions and into the basic power and task of the German people. Let us discuss here the structure of the government, especially the relationship between the president (Reichspräsident), the parliament (Reichstag) and the chancellor (Reichskanzler).

3.1 *The Reichspräsident*

Constitutionally the president of the Weimar Republic was not only the head of state, but also a political leader, a moderator of legislative and executive power, and a defender of the constitution. But he played these roles on different occasions at different times. He was elected directly by the people to be a representative of the whole nation, and thus played a role independent of parliament. According to art. 41 and 43, the president was chosen by a general popular vote for a term of seven years. (Note 7) But according to the philosophy of the Weimar Constitution, the president played his role as a reserved political leader in reserve, when political quarrels and crises paralyzed the parliamentary track of governing. The intention of Hugo Preuß was that the president, as the representative of the people, in such an occasion should be able to intervene, in order to prevent parliamentary absolutism and to enable government's decision making. Let us turn now to the designing principle of the president's main powers.

By the Weimar Constitution, the president was equipped with many important political powers. In this respect, one of his most disputed powers was art. 48. By it he got, under specific circumstance, dictatorial power. Hugo Preuß and others were quite explicit in desiring such emergency powers for the chief executive, in order to supplement or even supersede the ordinary legislative regulation in matters of national concern (Friedrich, 1933: 197). Art. 48 gave the president the authority to rule for a limited period without recourse to the parliament in the event of major disruption or threat to public safety and order (Heiber, 1993: 32). The text of art. 48 reads as follows:

If a Land (a member of the federal state) fails to fulfill the duties incumbent upon it according to the Constitution or the laws of the Reich, the president can force it to do so with the help of the armed forces.

The president may, if the public safety and order in the German Reich are considerably disturbed or endangered, take such measures as are necessary to restore public safety and order. If necessary he may intervene with the help of the armed forces. For this purpose he may temporarily suspend, either partially or wholly, the Fundamental Rights established in Art. 114, 115, 117, 118, 123, 124 and 153.

The president shall inform the Reichstag without delay of all measures taken under Paragraph 1 or Paragraph 2 of this Article. On demand by the Reichstag the measures shall be repealed.

In case of imminent danger the government of any Land may take preliminary measures of the nature described in Paragraph 2 for its own territory. The measures are to be revoked upon the demand of the President or the Reichstag.

Details will be regulated by a Reich law. (Note 8)

With reference to this article, the president could not only decree administrative orders without majority support of the Reichstag, but he could suspend also some of the human rights guaranteed by the constitution. He could even exercise this power with the help of the armed forces. In fact, this article can be looked at as a mirror. It reflected the stability and instability of the Weimar Republic: In the beginning of the Republic, from 1919 to 1925, art. 48 was exercised 136 times. During the stable days of the Republic, from 1925 to 1930, this article was exercised only nine times. Finally, during the last years of the Republic, from 1930 to 1932, it was exercised 109 times (Gusy, 1991: 50-51). Acting on behalf of art. 48 the assemblage days of the Reichstag decreased, while the laws not legislated by the Reichstag increased. Indeed, in a state of emergency the Reichspräsident was constitutionally enabled to act according to his own will, hampered by nothing.

However, there existed also strong restrictions in applying this article. Firstly, this article could be exercised only in the event of a major disruption or threat to public safety and order, i.e. in a state of emergency. Secondly, the president could suspend only part of the human rights for a certain period of time, but was not allowed to enact laws which would change the basic essence of the constitution, i.e. he could change neither the framework of the constitution nor the system of the state (Gusy, 1991: 70). Finally, the Reichstag could demand the president to stop the measures which he had taken. This meant that the Reichstag could keep balance and maintain equilibrium between legislative and executive power, whenever it was able and willing to do so. Later, art. 48 has been regarded as the origin of dictatorship, because Hitler succeeded in making the state of emergency permanent by a vote of the Reichstag (Sellin, 1994: 88).

The relationship between the Reichspräsident and the Reichstag is also a remarkable characteristic of semi-presidentialism. According to art. 25, the President was endowed with the power to curb the Reichstag. He could dissolve the Reichstag without being demanded to do so by the Chancellor or by other provisos. Obviously Hugo Preuß had hoped that a President endowed with such a power could avoid absolute parliamentarianism, like that which had

existed before 1914 in France (Rödter, 1999: 14; Mauersberg, 1991: 73). This is also the biggest difference between the constitutions of America and France compared with that of the Weimar Constitution (Nolte, 2006: 68). That meant that the President could also be a moderator, using his constitutional powers in order to mediate between the government and the legislative power. Preuß thought that the President should be able to dissolve the Reichstag and call for a new election, when there was a conflict or a deadlock between the executive and legislative power. (Note 9) Therefore, this power can be regarded as the president's passive, defensive, and preventive power in contrast to that of art. 48.

Furthermore, although the Reichspräsident had to appoint, due to art. 53, the Chancellor, he and his ministers needed a vote of confidence to be installed in their offices as well as a vote of no-confidence of the Reichstag to leave their offices. Thus, although the formation of government was formally independent of the Reichstag (Preuß, 1926: 387-388), in practice the government needed the confidence of the Reichstag, in order to being able to govern act. The President's power of appointing the Reichskanzler was thought to counterbalance the almost supreme power of the Reichstag. In addition to the emergency power and to his formal right to appoint the Chancellor, the President had still another important constitutional power: he could order a referendum. It was Preuß's original intention that the President be able to call for a referendum, as an implement to solve a conflict or deadlock between the cabinet and the Reichstag (Preuß, 1926: 388-389). Art. 73 and 74 regulated the law of plebiscite, including the implementing rules for an initiative and a referendum.

From the comments above, we can conclude that the Reichspräsident could play, due to the Weimar Constitution, a strong role as a political leader and even agitator in the time of political crises and, especially, in a state of emergency. In normal times, however, when the the government and the legislature cooperated more or less in harmony, then the role of the Reichspräsident was diminished more or less to a power in reserve, at the most to be a moderator. That is why Preuß has stressed so emphatically that the basic principle of the Weimar Constitution has been parliamentarianism (Preuß, 1926: 426).

Concerning Hugo Preuß, he was inspired by the experience of the Third French Republic with a paralyzing parliamentarism, which he was eager to avoid in the first German Republic. (Note 10) By no means he favored a presidential dictatorship. On the contrary, he thought that the Reichspräsident must be strong, in order to defend a functioning parliamentary government. That is why, in general, he diminished the President's constitutional powers making him a passive, defensive, and preventive political actor. Only in abnormal times he should be constitutionally made capable to master extraordinary situations.

Thus, we can say that the Weimar Constitution has constructed a quite special kind of a dual executive: In normal times the Chancellor governed, based on the majority of the Reichstag, while the President had to live in the shadow. However, in abnormal times, when the Chancellor's government was paralyzed, then the Reichspräsident was enabled to take over all powers, in order to lead the country back to normality, making the Chancellor his henchman.

3.2 The Reichstag and the Reichskanzler

According to the Weimar Constitution, the Parliament and the Chancellor were the other two important organs. Parliamentary democracy was the path chosen for the new republic by Hugo Preuß. Although the Chancellor formally was appointed by the President, the government, which was led by the Chancellor, was responsible, due to art. 54, to the Reichstag. Thus, the President was not actually free in his choice of the Chancellor, but had to take into account the party constellation in the Reichstag (Blachly and Oatman, 1928: 107). The President was in quite the same situation as the Queen in Great Britain: she appoints the Prime Minister, but as a rule in line with the majority relations in Parliament. Furthermore, the Weimar Constitution had also incorporated the law of countersignature. The ambit of countersignature included even the armed forces. That meant that the Chancellor and his ministers had, due to art. 50, to countersign any act of the president, in order to become legally binding. By it the political preponderance of the government was assured, as long as it was backed by Parliament.

The relationship of the president and the cabinet included both cooperation and a reciprocal balance and control of powers. For normal times the Weimar Constitution had established a genuine parliamentary system. The President played a decisive political role only, when there was gridlock between the cabinet and parliament or when the country was in an emergency situation. Concerning the relationship between the Reichstag and the President, there existed a balance of the same kind. The President could dissolve the Reichstag and call for a new election, in order to get over a deadlock of the government caused by the parliament. But at the same time the Reichstag could check the power of the President also. The Reichstag could use its constitutional power to impeach or even to depose the President. According to art. 43, the President could be deposed before the end of his term by a vote of the people upon the proposal of the Reichstag. A refusal by the people to depose the President had the effect of the dissolution of the Reichstag and of a new election. Thus, we can see that letting the whole people decide about the fate of the acting President as well as about the duration of the sitting Parliament (Haungs, 1968: 30; finger, 1923: 316) has been an essential part of the Weimar Constitution. Both, the Reichspräsident and the Reichstag, had the right to resort to the judgment of the people.

Carl Schmitt, one of the most important political philosophers in the time of the Weimar Republic, had claimed, that the Reichspräsident in a constitutional crisis should act as the defender of its constitution (Schmitt, 1931: 137). Although that would have been well in line with the idea of Hugo Preuß, the father of the Weimar Constitution, the then acting President, Paul von Hindenburg, did not make use of his powers in a state of emergency, but accepted, in line with Preuß's constitution, the vote of the Reichstag to declare the state of emergency permanent for four years and to give the acting Reichskanzler free hand to use extraordinary powers without the consent of the Reichstag. (Note 11) Thereby, the Reichspräsident Hindenburg gave up his responsibility for protecting the republic to the constitutional majority of the Reichstag. (Huber, 1984: 1279). Hitler's political rise began, in line with the Weimar Constitution, with the elimination of the Reichstag as well as of the Reichspräsident, making use of the extraordinary rights of the Reichspräsident, reserved for him exclusively in a state of emergency. Then Hitler succeeded in being authorized to use the President's extraordinary powers permanently for at least four years. That he succeeded to make permanent. (Note 12)

Next, we will compare similarities and dissimilarities between the Weimar Constitution and other semi-presidential systems, especially with regard to the role of the president.

4. The Special Case of the Weimar Constitution

If a horizontal dual executive is considered to be a subtype of semi-presidentialism, then a vertical dual executive is another one. The comments above give rise to assume that the structure of the Weimar Constitution has been in favor of a vertical dual executive. Although the President and the Chancellor both owned important constitutional powers, they were designed not to be used at the same time. What we have in mind, distinguishing between a vertical and an horizontal dual executive is exactly, that the executive power is exercised in both cases by the President and the Chancellor, but that in a horizontal dual executive both actors can make use of their powers at the same time, while in a vertical dual executive both actors can make use of their powers only alternatively, at different times. In short, according to the Weimar Constitution, in normal times governs the Reichskanzler, in abnormal times governs, for a limited time only, the Reichspräsident. Let us try now to find out, to which of both these different types of dual executive other semi-presidential regimes do belong to.

When we are going to analyze a constitution in respect to its concept of semi-presidentialism, then we have to look, first of all, to the paradigm of this constitutional regime, the French Fifth Republic. On paper as well as in practice, the president and the prime minister of the nowadays French Republic are both powerful political actors, in normal times as well as in times of crises. In so far the drafters of its constitution did not follow, as it is sometimes told, the model of the Weimar Republic. This difference was facilitated, as it seems, by two factors. First, the crisis in Algeria provided Charles de Gaulle with the opportunity to wield himself extraordinary presidential powers. Second, many of de Gaulle's institutional maneuvers were possible only because of his unique charismatic authority (Keeler and Schain, 1997: 90). Thus, the substance of the French Fifth Republic is characterized by a twin-headed executive, straight from the start. The essence of the new constitution is twofold. First, it establishes the conditions for a strong executive. Secondly, within the executive it provides both the president and the prime minister with a set of constitutionally defined powers. We can say that the 1958 constitution establishes a framework for executive dominance parliament (Elgie, 1997: 75). Hence, the president of the French Fifth Republic, unlike the President of the Weimar Republic, is modelled to be a political leader all the time, not for a definite time only.

Most post-communist countries in Eastern and Central Europe have followed, in designing their new constitutions, the example of France. (Note 13) In all of them, it was held necessary to adopt a semi-presidential regime with a strong president, in order to successfully master the transition period from a communist to a democratic regime and to ensure political stability. Only a powerful president, so it was assumed, would be able to unite the nation on divisive issues (Bunce, 1997: 169). In some countries, charismatic political leaders, like de Gaulle in France, came to power. These included e.g. Lech Wałęsa in Poland and Vytautas Landsbergis in Lithuania. Therefore, in most post-communist countries Presidents nowadays play a decisive role as political leaders, just as the French presidents following de Gaulle. Moreover, in some countries the character of the relationship between the president and parliament is in so far strained as they compete about the control of the government, like, for instance, in the Ukraine and in Poland (Papadoulis, 2004: 547). In all of these countries, the president is not only the head of state, but all the time also a powerful and influential actor in the political arena. This is the biggest difference between the substance of Weimar Republic's constitution and that of the French Fifth Republic's one as well as that of the constitutions of most post-communist countries.

In addition, let us check the experience of Finland, in order to observe quite another historical case of semi-presidentialism. Like the Weimar Republic, Finland adopted its constitution in 1919, during an existential crisis of the country. Originally the President of Finland was designed as a national leader, especially in international affairs. According to that constitution, the President could appoint governments, present bills to parliament, ratify measures, appoint senior officials, convene extraordinary sessions of parliament, open and close Eduskunta sessions, and headed the armed forces. Art. 33 of the constitution had stated expressly that the relations of Finland with foreign powers shall

be determined by the president (Arter, 1999: 53). But, interesting enough, in the meantime that has changed. By the new constitution, enacted in 2000, the Finish President's powers are dramatically reduced and those of the Prime Minister and government accordingly multiplied. (Note 14) Thus, while the constitutional position of the Finish President up to recently was to compare only with that of the French President nowadays, namely as a strong political leader; his status now is to compare only with that of the President of the German Federal Republic. He is at best a moderator in a genuine parliamentary regime. Nevertheless, constitutionally the Finish regime is still treated as a semi-presidential one.

There are also some countries that have adopted a semi-presidential constitution, where the president plays a role as a political judge or moderator, like in the Weimar Republic in normal times. In Austria, the constitution was adopted in 1919 also. The president was not empowered with so many powers as in the Weimar Republic in times of emergency. There the mothers and fathers of the constitution, different from those in neighbouring Germany, were afraid that the president would get the status of the former monarch. Nevertheless, distrust of democratic procedure and extra-parliamentary pressure left their mark on the constitutional reform of 1919 in Austria, also. It introduced the direct election of the president and gave him the power to appoint and dismiss the government and to dissolve parliament (Müller, 1999: 25). (Note 15) Like in the Weimar Republic, he was looked upon as the defender of the constitution and, therefore, accordingly equipped with power. However, after World War II, when Austrian politics entered calmer sea, the president plays, although still elected by a universal election, more and more in the political shadow, has become a political actor in reserve (Welan, 1992: 47). But in substance Austria's constitution is up to now very much like that of the Weimar Republic.

Summing up, it looks as if a semi-presidential constitution is designed especially in order to master crisis situations. Therefore, for the president, beside the prime minister, there are reserved some extraordinary powers to overcome predicaments in a state of emergency. Generally speaking, a semi-presidential constitution is adopted because of three reasons: First, when a new democracy has to define the head of state during the process of democratization, in order to guarantee stability. Second, when a country faces a state of emergency and tries to secure its existence. Third, when constitutional designers favor a parliamentary regime, but are afraid that it won't work. – If that is true, then the question arises: What to do with a political system like the semi-presidential one, which is constructed for bad weather conditions, in times of good weather?

Then, practicing a dual executive becomes a problem. In case, that both the leaders of the twin-headed executive work together harmoniously, one of them is superfluous. In case, that they fight each other, one of them is even more superfluous, because they damage the legal capacity to act. Thus, semi-presidentialism might become detrimental even to the acceptance and realization of democracy. But as we know, once a semi-presidential system is adopted, it is hard to change it again. (Note 16) What supports its survival is the fact that in order to abolish it, it first has to break down. But just in that case, a semi-presidential regime is favored by many. It looks as if it is very difficult to get rid of it, once it has been institutionalized. The best way to avoid its negative consequences seems to be to go on with it but not to practice it.

5. Conclusion: What Weimar's Semi-Presidentialism Has to Teach Us?

When semi-presidentialism had become a popular topic in constitutional studies, due to the transformation of East and Central European countries, there has been launched more and more research projects that look into the relationship between semi-presidentialism and the democratization process. In this context, the Weimar Republic also has become a subject of interest, once again, not the least because its constitution was considered to be a failed historical experience. However, if we want to take into account also the experience of the Weimar Republic, then we must know, first of all, the special quality of the Weimar Constitution. In this paper we have tried to do just this by defining two different types of the dual executive in semi-presidentialism.

We think that it is very important to become aware of the quite different substance of semi-presidential constitutions, adopted once, on the one hand, by the Weimar Republic and later on, on the other hand, by many other countries. Because of their different substance, as we have demonstrated, quite different consequences in implementing it have been the result. And moreover, we might get a key to find out, which type of semi-presidentialism is better equipped to promote democratic consolidation and stability in normal times.

In our view, the substance of the Weimar Republic's Constitution can be summed up as follows: First, there is a difference between the dual executive of the Weimar Republic and of other countries. Although all of these countries have the same characteristics of semi-presidentialism: Their presidents are elected by a universal vote of their respective people. They are equipped with some extraordinary powers. They cooperate with a prime minister, who leads the government and is responsible to parliament. However, they distinguish themselves by one decisive difference in applying their dual executive: The one is applied horizontally, the other is applied vertically. While in the first, horizontal subtype of dual executive the president cooperates with the prime minister all the time on a higher or lower eye level, in the second, vertical subtype the president comes to the fore as a leader only in times of crisis, in a state of

emergency, all the other time it is up to the prime minister, and to him alone, to exercise the executive.

Second, the consequence of an horizontal division of the semi-presidential dual executive is, that both the owners of the executive power will be in a permanent competition with each other, which, as a rule, is detrimental for the the nation's interest. The consequence of a vertical division of the semi-presidential dual executive is, that in normal times the prime minister alone is the leader of the government, responsible to the parliament, but that in a time of crisis the president can intervene and exercise extraordinary power. In the first case, the powers of both owners of the dual executive are inextricable mixed, in the second case they are clearly separated.

Third, there is a tendency to observe that in recent time, at least in two countries, belonging to the semi-presidential regime, the presidents have lost their extraordinary powers and have become rather moderators than political actors, while the prime ministers and their cabinets have become the only owners of the executive. That has happened in Finland and Austria. (Note 17) That can be an indicator that the vertical division of the dual executive is advancing, while the horizontal division is retreating, meaning that in two countries, which have a long experience with a dual executive, the vertical division has prevailed. In both of them the still by a general vote elected presidents have become more or less moderators between their respective governments and parliaments, instead of being political leaders by virtue of their general election.

Fourth, the cause of the break down of the Weimar Republic has not been the Weimar Constitution, but its abuse. The in its art. 48 being included authorization to wield extraordinary powers, intended to master a short-lived state of emergency, was used by Hitler and his followers to install a permanent dictatorship, giving his seizure of power the appearance of legality.

The dual executive is the main characteristic, by which a semi-presidential system differs from a presidential as well as from a parliamentary system. The main result of this research work, we consider to be, is the proof that it is meaningful to distinguish between two subtypes of the dual executive, the horizontal and the vertical one. By the application of this new paradigm, we are sure, semi-presidentialism can better be understood and more profoundly be analyzed.

References

- Arter, D. (1999). Finland. In R. Elgie. (ed.), *Semi-Presidentialism in Europe*. New York: Oxford.
- Anschütz, G. (1960). *Die Verfassung des deutschen Reichs*. Darmstadt: Wissenschaftliche Buchgesellschaft.
- Blachly, F. F. & Miriam E. O. (1928). *The Government and Administration of Germany*. Baltimore: The Johns Hopkins.
- Bookbinder, P. (1996). *Weimar Germany*. New York: Manchester University.
- Bracher, K. D. (1987). Die Auflösung der Republik. Gründe und Fragen. In G. Schulz (ed.), *Weimarer Republik*. Freiburg: Ploetz.
- Bunce, V. (1997). Presidents and the Transition in Eastern Europe. In K. von Mettenheim (ed.), *Presidential Institutions and Democratic Politics*. Baltimore: The Johns Hopkins.
- Duverger, M. (1980). A New Political System Model: Semi-Presidentialist Government. *European Journal of Political Research*, 8, 2, 165-187.
- Elgie, R. (2007). What is semi-presidentialism and where is it found? In R. Elgie & S. Moestrup (eds.), *Semi-presidentialism Outside Europe*. New York: Routledge.
- Finger, A. (1923). *Das Staatsrecht des Deutschen Reichs: Der Verfassung vom 11. August 1919*. Stuttgart: Ferdinand Enke.
- Friedrich, C. J. (1933). The Development of Executive Power in Germany. *The American Political Science Review*, 27, 2, 185-203.
- Gusy, C. (1991). *Weimar- Die Wehrlose Republik?* Tübingen: Mohr Siebeck.
- Gusy, C. (1997). *Die Weimarer Reichsverfassung*. Tübingen: Mohr Siebeck.
- Haungs, P. (1968). *Reichspräsident und parlamentarische Kabinettsregierung*. Köln: Westdeutscher.
- Heiber, H. (1993). *The Weimar Republic*. Translated by W.E. Yuill, Cambridge: Blackwell.
- Holzer, J. (2002). The Heritage of the First World War, In D. Berg-Schlosser & J. Mitchell (eds.), *Authoritarianism and Democracy in Europe, 1919-39*. New York: Palgrave.
- Huber, E. R. (1984). *Deutsche Verfassungsgeschichte. Band VII*. Stuttgart: W. Kohlhammer.
- Keeler, J. T. S. & M. A. Schain. (1997). Institutions, Political Poker, and Regime Evolution in France. In K. von Mettenheim (ed.), *Presidential Institutions and Democratic Politics*. Baltimore: The Johns Hopkins.
- Mauersberg, J. (1991). *Ideen und Konzeption Hugo Preuß' für die Verfassung der deutschen Republik 1919 und ihre*

- Durchsetzung im Verfassungswerk von Weimar*. Frankfurt am Main: Peter Lang.
- Müller, W. C. (1999). Austria. In R. Elgie. (ed.), *Semi-Presidentialism in Europe*. New York: Oxford.
- Nolte, E. (2006). *Die Weimarer Republik*. München: Herbig.
- Paloheimo, H. (2003). The Rising Power of the Prime Minister in Finland. *Scandinavian Political Studies*, 26, 3, 219-243.
- Papadoulis, K. J. (2004). Institutional Relationships in Ukraine: A Stable Polity? *Communist and Post-Communist Studies*, 37, 547-562.
- Pasquino, G. (2007). The Advantages and Disadvantages of Semi-presidentialism. In R. Elgie & S. Moestrup (eds.), *Semi-presidentialism Outside Europe*. New York: Routledge.
- Preuß, H. (1926). *Staat, Recht und Freiheit: Aus 40 Jahren deutscher Politik und Geschichte*. Tübingen: Mohr.
- Raunio, T. (2004). The Changing Finnish Democracy: Stronger Parliamentary Accountability, Coalescing Political Parties and Weaker External Constraints. *Scandinavian Political Studies*, 27, 2, 133-152.
- Robinson, F. (1996). *The Cambridge Illustrated History of Germany*, New York: Cambridge University.
- Rödder, A. (1999). Weimar und die deutsche Verfassung. In A. Rödder (ed.), *Weimar und die deutsche Verfassung*. Hamburg: Klett-Cotta.
- Sartori, G. (1997). *Comparative Constitutional Engineering*. New York: New York University.
- Schmitt, C. (1928). *Verfassungslehre*. Berlin: Duncker & Humblot.
- Schmitt, C. (1931). *Der Hüter der Verfassung*. Berlin.: Duncker & Humblot.
- Sellin, V. (1994). Die Weimarer Reichsverfassung und die Errichtung der Diktatur. In C. Gradmann & O. von Mangoldt (eds.), *Das Ende der Weimarer Republik und die Nationalsozialistische Machtergreifung*. Heidelberg: Manutius.
- Skach, C. (2005). *Borrowing Constitutional Designs*. Princeton: Princeton University.
- Stepan, A. & C. Skach. (1993). Constitutional Frameworks and Democratic Consolidation. *World Politics*, 46, 1, 1-22.
- Weber, K. (2001). *Das Büro des Reichspräsidenten 1919-1934*. Frankfurt am Main: Peter Lang.
- Welan, M. (1992). *Der Bundespräsident: Kein Kaiser in der Republik*. Wien: Czernin
- Winkler, H. A. (2005). *Weimar 1919-1933*. München: C. H. Beck.

Notes

Note 1. Cf. Pasquino, 2007; Skach, 2005.

Note 2. Cindy Skach has used the same definition in her research comparing the Weimar Republic with the French Fifth Republic. See Skach, 2005: 13.

Note 3. World War I dealt a fatal blow to the empire of the German Reich. The following revolutions in autumn 1918 put an end to both the Hohenzollern monarchy in Germany and the Habsburg monarchy in Austria. See Holzer, 2002: 10.

Note 4. On the evening of November 10, 1918, General Groener (then the military leader) telephoned Friedrich Ebert (then the leader of the SPD) and assured him that the army would support him, if he joined the struggle against Bolshevism. The army's intervention is considered to be a key reason for the fact that the new Republic was built as a parliamentary democracy and led by the SPD and not, as a Soviet Republic, led by radical leaders of Spartacus.. For details about the so-called "Ebert-Gröner Pact" see Robinson, 1996: 231.

Note 5. Preuß was appointed as the drafter of the new constitution for two reasons. First, he was at that time the left's most learned scholar of law in Germany, although he was not a member of the SPD. Second, by appointing him, Ebert sought to bridge the divide between his Social Democrats and the middle class. By it he hoped to mollify bourgeois fears of a social revolutionary dictatorship. See Weber, 2001: 35.

Note 6. Please see Winkler, 2005: 105.

Note 7. The law of presidential election regulates that any presidential candidate, who receives more than one-half of the votes, is elected. When no majority appears, a second election is held, during which the candidate receiving the greatest number of votes is elected. For details see Anschütz, 1960: 247-248.

Note 8. It was translated by Paul Bookbinder. Please see Bookbinder, 1996: 243.

Note 9. The President could also call for a referendum to solve the deadlock. These two constitutional powers were treated as the President's implements to solve a conflict or a deadlock between the executive and legislative power. See

Haungs, 1968: 28, or Preuß, 1926: 388-389.

Note 10. Please see Preuß, 1926: 387 and 417.

Note 11. There are some scholars, who believe that Hindenburg did not protect actively the democratic republic, due to the powers given to him by art. 48, but he was in favor of changing the basic order of the republic, since 1926. In 1930, he appointed Brüning as Reichskanzler without the consent of the Reichstag. That already had changed the substance of the Weimar Constitution. From then on, the essence of the Weimar Constitution was changed. And in 1933, Hindenburg had accepted the passing and implementation of the President's extraordinary powers by the Reichstag and the Reichsregierung. He even accepted the enabling law "Ermaechtigungsgesetz". The Weimar Republic and the democratic republic was in name only. These scholars are such as Gusy, 1997; Bracher, 1987; Huber, 1984.

Note 12. The Reichstag and the Reichsrat passed the enabling law (Ermaechtigungsgesetz) in 24. March 1933. According to this law, the Reichskanzler could take measures without overseeing by parliament. Hitler became a real leader and dictatorship from that time on.

Note 13. There are some countries, such as the Czech Republic, Hungary, Bulgaria and Slovakia, in which constitutions it is stated that their parliament is the supreme organ of the state. In fact, only one of them, Bulgaria, can be called a semi-presidential regime by definition. The other three countries are classified to have parliamentary regimes. See Stepan and Skach, 1993: 4.

Note 14. Please see Paloheimo, 2003, or Raunio, 2004.

Note 15. In fact, the president used these new powers only once in 1930. President Wilhelm Miklas dissolved the parliament because of the expected victory of the party, which he favoured, in a new election. However, because they lost more seats, and Miklas's prestige was heavily diminished. After that, the right to dissolve parliament was never used again. It also became an important constitutional lesson that the president does not intervene in government forming and in politics. See Müller, 1999: 25-26.

Note 16. Of course, we can not say that parliamentary or presidential system is certainly better than semi-presidential system. An applicable constitution to a new democracy is therefore always a critical problem. Semi-presidential constitution is like a reversible knife. It can also be operated well just like in Austria or in Finland after 2000. Constitution is a rule. But who and how to play this rule are also the important variables.

Note 17. The experience of Austria can see Welan, 1992: 47-49 or Müller, 1997: 22-47. About Finland after 2000 can see Raunio, 2004 or Paloheimo, 2003.