

РОЗДІЛ 2. ПОЛІТИЧНІ ІНСТИТУТИ ТА ПРОЦЕСИ

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The features of the president`s institute in Brazil

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The president`s institute is a key part of the Brazilian political system. Brazil is a presidential republic. The President of Brazil is the head of state and head of government. The purpose of the article is to analyze the peculiarities of the functioning of the presidential institute in Brazil. Research methods are institutional, systemic and structural-functional. The President of Brazil is vested with significant power. The term of office of the President of Brazil is four years. The President of Brazil is elected together with the Vice-President by an absolute majority system. In Brazil, only a citizen of that state by birth can be president. It is advisable to systematize the powers of the President of Brazil according to the main spheres of state activity—executive, legislative, judicial, foreign policy, national security and defense. The powers of the President of Brazil in the sphere of executive power include: forming and dismissing the government; recognition with state awards, awarding of honorary and military ranks. The powers of the President of Brazil in the field of legislative power include: convening extraordinary sessions of the parliament; sending messages to the National Congress; the right of legislative initiative; signing and promulgation of laws adopted by the parliament; application of the veto on laws adopted by the parliament; issuance of own regulatory legal acts (decrees). In the field of judicial power, the President of Brazil has the right to pardon, reduce and cancel criminal punishments determined by the court, the right to appoint judges or to participate in the procedure of such appointments. In the field of foreign policy, the President of Brazil represents the state in the international arena. It is granted the right to accredit diplomatic representatives, conclude treaties, conventions and international acts. In the spheres of national security and defense of the state, the President of Brazil heads the state defense. He exercises the highest command of the armed forces of the state. The head of state has the right to introduce a state of emergency (martial law), general or partial mobilization or demobilization with the consent of the parliament.

Key words: president, president`s institute, institute of presidency, the President of Brazil, presidential republic.

Introduction. The president`s institute in Brazil has a long history. The first President of Brazil was elected in 1889 after the fall of the monarchy. Since then, the president`s institute has become a key part of the Brazilian political system. The President of Brazil is the head of state and the head of government. The president has broad powers in the legislative, executive, judicial, foreign policy and spheres of national security and defense of the state. The president`s institute in Brazil is the subject of much debate. Some scholars believe that the president has broad powers and that this can lead to the concentration of power in the hands of one person. Others believe that a president with broad powers ensures the stability and efficiency of the Brazilian political system. The relevance of the topic of the article is that the institution of the president is a key part of the Brazilian political system.

Among the numerous studies and publications that highlight the issue of the peculiarities of the president`s institute in Brazil, the works of such researchers as S. Bostan, M. Dmytrenko, I. Kostytska, P. Mironenko, V. Sukhonos, etc. deserve special attention.

The purpose of the article is to analyze the peculiarities of the functioning of the president`s institute in Brazil.

The research **methods** are institutional, systemic and structural-functional. The institutional method

involves the identification and analysis of formalized phenomena and processes of the political life of society to one degree or another, and the institution of the president is used to distinguish it. A system is usually understood as a set of elements that are in relations and connections with each other, which forms a certain integrity, unity. The application of the system method is determined by the system of higher state bodies in Brazil. The system method requires a detailed analysis of the components of the system, its structure and functioning. This is achieved through the use of the structural-functional method along with the system method, which is one of the most important forms of application of the system method. The structural-functional method consists in dividing a complex object into components, studying the connections between them, and determining the place and role of all components in the functioning of the object as a whole, provided that it preserves its integrity in interaction with the external environment.

Discussion. Brazil is a presidential republic. The presidential republic is characterized by the fact that the president elected in general elections is legally and de facto the head of state and the head of executive power. The main features of a presidential republic are: strict separation of powers and a balanced system of checks and balances; election of the presi-

dent in general elections; the combination of the powers of the head of state and the head of government in the person of the president and, as a rule, the absence of the post of prime minister; formation of the government by the president with limited participation of the parliament; lack of political responsibility of the government before the parliament; absence of the president's right to dissolve parliament; lack of countersignature institution – binding of acts of the president with the signatures of ministers [2, p. 410]. If in the classic presidential republic (USA) the president does not have the right of legislative initiative, then the President of Brazil is granted the right of legislative initiative.

The term of office of the President of Brazil is four years. Brazil has introduced constitutional restrictions on the election of one and the same person to the post of president. Such restrictions are that one and the same person can be elected to the post of president only once. These amendments were made to the Brazilian Constitution in 1994 to prevent the concentration of power in the hands of one person. Until 1994, the President of Brazil could be re-elected for an unlimited term. This norm has resulted in some presidents, such as Juscelino Kubicek and Luiz Inacio Lula da Silva, serving multiple terms.

In Brazil, only a citizen of that state by birth can be president. Thus, an increased (qualified) qualification of citizenship has been introduced in Brazil, which stipulates that a candidate for the post of president must be a citizen of this country not only for a certain period of time, but also be a citizen by birth. Naturalized citizens of Brazil cannot become its president.

The election of the President of Brazil and vice-president of the Republic shall take place simultaneously, on the first Sunday of October, in the first round, and on the last Sunday of October, in the second round, as the case may be, of the year preceding the one in which the current presidential term of office ends. The election of the president of the Republic shall imply the election of the vice-president registered with him. The candidate who, being registered by a political party, obtains an absolute majority of votes, not counting blank or void votes, shall be considered elected president. If no candidate attains an absolute majority in the first voting, another election shall be held within twenty days from the announcement of the results, the competition being between the two candidates with the highest number of votes, and being considered elected the candidate with the majority of valid votes. If, before the runoff election is held, a candidate dies, withdraws or is legally impaired, the candidate with the greatest number of votes among the remaining candidates shall be called. If more than one candidate with an equal number of votes remain in second place, the senior one shall qualify (Article 77 of Constitution of the Federative Republic of Brazil of 1988) [3].

The President of Brazil is vested with significant power. It is advisable to systematize the powers of the President of Brazil according to the main spheres of state activity – executive, legislative, judicial, foreign policy, national security and defense.

The powers of the President of Brazil in the sphere of executive power include: forming and dismissing the government; recognition with state awards, awarding of honorary and military ranks.

The article 76 of Constitution of the Federative Republic of Brazil of 1988 states that executive power rests with the president. The President of the Republic appoints and dismisses ministers of state (Article 84 of Constitution of the Federative Republic of Brazil of 1988) [3].

Other constitutional powers of the president include the awarding of state awards, the awarding of honorary and higher military ranks. Thus, Article 84, Clause XXI of Constitution of the Federative Republic of Brazil states that the president awards orders and honorary titles. The President of Brazil assigns military ranks (paragraph 1 of Article 42 of Constitution of the Federative Republic of Brazil of 1988) [3].

The powers of the President of Brazil in the field of legislative power include: convening extraordinary sessions of the parliament; sending messages to the National Congress; the right of legislative initiative; signing and promulgation of laws adopted by the parliament; application of the veto on laws adopted by the parliament; issuance of own regulatory legal acts (decrees).

The National Congress shall meet each year in the Federal Capital, from February 2 to July 17 and from August 1 to December 22. The President of Brazil only has the right to convene the parliament for extraordinary sessions (Article 57 of Constitution of the Federative Republic of Brazil of 1988) [3].

The President of Brazil sends a message to the National Congress every year on February 1. The President's Message is an important document in which the President announces his plan of action for the year. In the message, the President of Brazil discusses such issues as the economy, education, health care, security and foreign policy.

The President's message is an important tool for the President's communication with the people of Brazil. The presidential address allows the president to tell people about his plans for the future and how he plans to solve the country's problems. The president's message is also an important tool for influencing parliament. The president's message allows the president to convince members of parliament to support his policy (XI, Article 84 and Article 165, Clause 5 of Constitution of the Federative Republic of Brazil of 1988) [3].

The President of Brazil has the right of legislative initiative. In addition to the president, the right of legislative initiative belongs to any member and any commission of the Chamber of Deputies, the Federal

Senate or the National Congress, the Federal Supreme Court, the Prosecutor General of the Republic and citizens. The exclusive initiative of the President of the Republic includes laws that: a) determine or modify the number of Armed Forces troops; b) relate to: creation of public offices, functions or positions in the direct bodies of the administration and in its associated entities or increases in their salaries; administrative and judicial organization, tax and budget matters, public services and administrative personnel of the Territories; civil servants of the Union and Territories, their legal statute, appointment to offices, tenure and retirement; organization of the Prosecution Office and of the Office of the Public Defender of the Union, as well as general rules for the organization of the Prosecution Office and the Office of the Public Defender of the states, the Federal District and the Territories; creation and extinction of Ministries and government bodies, with due regard for the provision; military of the Armed Forces, their legal statute, appointment to offices, promotions, tenure, remuneration, retirement, and transfer to the reserve (Article 61 of Constitution of the Federative Republic of Brazil of 1988) [3].

Other legislative powers of the President of Brazil include the right to sign and promulgate the law adopted by the Parliament (promulgation). This right is the final stage of the legislative process and contains several elements: certification of the law and the fact that it was adopted according to the established procedure; signing the law; order on the publication of the law and its implementation [2, p. 429-430]. Promulgation of the law, i.e. making it known to the public, is carried out by the head of state by publishing the text of the law in special official printed publications. Thus, the Constitution of the Federative Republic of Brazil of 1988 states that the President of the Republic has the right to authorize, promulgate and publish laws (clause IV of Article 84) [3].

The most important means of influence of the President of Brazil on the parliament is the veto of laws. The head of state can impose a partial or general veto. Thus, if the President of the Republic believes that the draft is wholly or partially unconstitutional or contrary to public interests, he imposes a full or partial veto on it within 15 working days, and within 48 hours he notifies the Chairman of the Senate of the reasons for his veto. The veto can be overridden at a joint session of the chambers within 30 days by an absolute majority of parliamentarians (paragraphs 1, 4 of article 66 of Constitution of the Federative Republic of Brazil of 1988) [3].

Other constitutional powers of the President of Brazil in the sphere of legislative power include the right to issue his own normative legal acts (decrees).

The practice of delegated legislation, provided for by the Constitution of Brazil, also leads to a strengthening of the president's position. The National Con-

gress delegates the issuance of laws to the President. Acts of the exclusive competence of the National Congress, which supplement: the organization of the judicial branch and of the Prosecution Office, the career and guarantees of their members; nationality, citizenship, individual, political and electoral rights; pluriannual plans, budget directives and budgets (Article 68 of Constitution of the Federative Republic of Brazil of 1988) [3].

In the field of judicial power, the President of Brazil has the right to pardon, reduce and cancel criminal punishments determined by the court, the right to appoint judges or to participate in the procedure of such appointments. Thus, in clauses XII, XV, XVI of Article 84 of Constitution of the Federative Republic of Brazil of 1988, it is stated that the President of Brazil has the right to grant pardons and mitigate punishments after hearing, if necessary, the bodies established by law; to appoint judges of the Accounting Tribunal of the Union in accordance with the provisions of Article 73; to appoint magistrates in the cases provided for by this Constitution, as well as the General Advocate of the Union [3].

In the field of foreign policy, the President of Brazil represents the state in the international arena. It is granted the right to accredit diplomatic representatives, conclude treaties, conventions and international acts and submit them for ratification to the National Congress (Parts VII-VIII, Article 84 of Constitution of the Federative Republic of Brazil of 1988) [3].

In the spheres of national security and defense of the state, the President of Brazil heads the state defense. He exercises the highest command of the armed forces of the state. The head of state has the right to introduce a state of emergency (martial law), general or partial mobilization or demobilization with the consent of the parliament. The President of Brazil is empowered to declare war in the event of foreign aggression by authorization of the National Congress or in the event that said aggression is committed outside legislative sessions with the approval of Congress; make peace with the authorization or approval of the National Congress (parts XIX-XX of Article 84 of Constitution of the Federative Republic of Brazil of 1988) [3].

The irresponsibility of the President of Brazil is not absolute. He may be held legally liable by impeachment if he commits a crime or other illegal actions. Impeachment (eng. impeachment, from the French *empeachment* – condemnation, accusation) is a constitutionally established procedure for holding high-ranking state officials (the president, ministers, judges of higher courts, etc.) accountable by the parliament for their violation of laws [2, p. 172]. Articles 85 and 86 of Constitution of the Federative Republic of Brazil of 1988 state that acts of the President of the Republic that encroach on the Federal Constitution and especially on: the existence of the Union; free

exercise of the powers of the legislative and judicial branch, of the Prosecution Office and the constitutional powers of the federal entities; exercise of political, individual and social rights; internal security of the country; probity in the administration; budget law; compliance with the laws and court decisions. If charges against the president of the Republic are accepted by two thirds of the Chamber of Deputies, he shall be submitted to trial before the Federal Supreme Court for common criminal offenses or before the Federal Senate for crimes of responsibility. The president shall be suspended from office: in common criminal offenses, if the Federal Supreme Court accepts the information or the complaint; in the event of crimes of responsibility, after the Senate commences the proceeding. If the trial has not been concluded after a period of one hundred and eighty days, the president shall return to office notwithstanding the regular progress of the proceeding. In the event of common offenses, the president of the Republic shall not be subject to arrest before a criminal conviction is issued. During his term of office, the president of the Republic may not be held liable for acts not related to the performance of the functions of the public office [3].

In Brazil, the initiation of the case and the indictment is carried out by the lower house of the parliament, and the upper house turns into a judicial panel for its consideration. In Brazil, the impeachment procedure was violated several times. In 1993, F. Collor was removed from the post of President of Brazil. In March 2016, D. Rousseff, who was accused of corruption, was removed from the post of President of Brazil.

Results. Thus, the President of Brazil is vested with broad powers in the legislative, executive, judicial, foreign policy, and national defense and security spheres. The powers of the President of Brazil in the sphere of executive power include: forming and dismissing the government; recognition with state awards, awarding of honorary and military ranks. The powers of the President of Brazil in the field of legislative power include: convening extraordinary sessions of the parliament; sending messages to the National Congress; the right of legislative initiative;

signing and promulgation of laws adopted by the parliament; application of the veto on laws adopted by the parliament; issuance of own regulatory legal acts (decrees). In the field of judicial power, the President of Brazil has the right to pardon, reduce and cancel criminal punishments determined by the court, the right to appoint judges or to participate in the procedure of such appointments. In the field of foreign policy, the President of Brazil represents the state in the international arena. It is granted the right to accredit diplomatic representatives, conclude treaties, conventions and international acts. In the spheres of national security and defense of the state, the President of Brazil heads the state defense. He exercises the highest command of the armed forces of the state. The head of state has the right to introduce a state of emergency (martial law), general or partial mobilization or demobilization with the consent of the parliament.

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Інститут президента є ключовою частиною бразильської політичної системи. Бразилія є президентською республікою. Президент Бразилії є главою держави і главою уряду. Метою статті є аналіз особливостей функціонування інституту президента в Бразилії. Методи дослідження є інституціональний, системний та структурно-функціональний. Президент Бразилії наділяється вагомими владними повноваженнями. Строк повноважень Президента Бразилії становить чотири роки. Президент Бразилії обирається разом з віце-президентом за мажоритарною системою абсолютної більшості. У Бразилії президентом може бути лише громадянин цієї держави за народженням. Систематизацію повноважень Президента Бразилії доцільно здійснювати відповідно до основних сфер державної діяльності – виконавчої, законодавчої, судової, зовнішньополітичної, національної безпеки та оборони. До повноважень Президента Бразилії у сфері виконавчої влади належить: формування та відправлення у відставку уряду; відзначення державними нагородами, присвоєння почесних і військових звань. До повноважень Президента Бразилії у сфері законодавчої влади належить: скликання позачергових сесій парламенту; направлення послань до Національного конгресу; право законодавчої ініціативи; підписання та оприлюднення прийнятих парламентом законів; застосування вето щодо прийнятих парламентом законів; видання власних нормативно-правових актів (указів). У сфері судової влади Президент Бразилії має право на помилування, пом'якшення і скасування кримінальних покарань, визначених судом, право призначати суддів або брати участь у процедурі таких призначень. У зовнішньополітичній сфері Президент Бразилії представляє державу на міжнародній арені. Він наділяється правом акредитувати дипломатичних представників, укладає договори, конвенції та міжнародні акти. У сферах національної безпеки та оборони держави Президент Бразилії очолює державну оборону. Він здійснює найвище командування збройних сил держави. Глава держави має право ввести надзвичайний (воєнний) стан, загальну або часткову мобілізацію чи демобілізацію за згодою з парламентом.

Ключові слова: президент, інститут президента, інститут президентства, президент Бразилії, президентська республіка.