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THE SYSTEMIC SIGNIFICANCE OF THE CONSTITUTIONAL REGULATION OF THE PRESIDENTIAL CHANCELLERY

Abstract

The Constitution of the Republic of Poland sets the framework for the Presidential Chancellery as an auxiliary body. The question arises as to whether the practice of regulating the body serving the head of state exists in other constitutions, or whether Poland's case is unique. It is assumed that such regulation is unnecessary and that the inclusion of provisions concerning the Presidential Chancellery in constitutions is extremely rare. The answer to the question requires the identification of a representative group of countries that will allow reliable conclusions to be drawn. Initially, the analysis covered all members of the European Union. During the course of the research, it was decided to extend its scope to include other selected countries, such as post-Soviet states. The comparative method was applied. The study was conducted on the basis of legal sources, selected fundamental laws, as well as Polish and foreign literature in the field of legal sciences.

Keywords: Constitution, President, Presidential Administration, Presidential Chancellery

Introduction

According to Wiesław Skrzydło ‘the Presidential Chancellery was established to provide technical and organisational support for the exercise of the powers and duties entrusted to the president’¹. Article 143 of the 1997 Constitution of the Republic of Poland regulates the Presidential Chancellery as an auxiliary body of the head of state. This article is part of a set of provisions that regulate the constitutional position of the President. This therefore raises the question of whether the practice of regulating the Presidential Chancellery exists in other constitutions, or whether Poland is an isolated case. It is assumed that such regulation is

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¹ W. Skrzydło, *Komentarz do art. 143 Konstytucji Rzeczypospolitej Polskiej*, [in:] *Konstytucja Rzeczypospolitej Polskiej. Komentarz*, Warszawa 2013, pp. 109-124.

unnecessary and that the inclusion of provisions concerning the Presidential Chancellery in constitutions is extremely rare.

To answer this question, it is necessary to identify a representative group of countries that will allow reliable conclusions to be drawn. Initially, the analysis covered all European Union member states (twenty-seven countries as of 2025). However, during the preparation of this article, it was decided to broaden the scope of the research to include selected countries (e.g. post-Soviet states). Although this group is diverse, in light of the research conducted, this feature is an advantage rather than a disadvantage. The analysis began with national regulations and employs the comparative method². The study was conducted on the basis of legal sources, selected fundamental laws, as well as Polish and foreign literature in the field of legal sciences.

The constitutional regulation of the Presidential Chancellery in Poland

There have been differing views on the constitutionalisation of the Presidential Chancellery in the Republic of Poland. Historically, the constitutional legislator chose to regulate this matter at the constitutional level. The March Constitution provided that: 'The President of the Republic shall appoint and dismiss the Prime Minister, appoint and dismiss ministers at his request, and, at the request of the Council of Ministers, fill civil and military offices reserved by law. Every official of the Republic of Poland must report to a minister who is responsible to the Sejm for their actions. Appointments of officials to the Civil Chancellery of the President of the Republic of Poland³ require the countersignature of the Prime Minister, who is likewise accountable to the Sejm'⁴. It should be noted that the Chancellery and its employees were first mentioned in the

² Por. M. Kuryłowicz, *Związki komparatystyki prawniczej z historią prawa*, „Roczniki Teologiczno-Kanoniczne”, 1982, v. 29, no 5, pp. 125-134; I. Szymczak, *Metoda nauki o porównywaniu systemów prawnych*, „Ruch Prawniczy, Ekonomiczny i Socjologiczny”, 2014, v. 76, no 3, pp. 38-49.

³ The Civil Chancellery was an auxiliary body that supported the head of state in exercising his constitutional powers and duties. The Office began operating on 14 December 1922. It comprised the following departments: General, Social and Press, Economic, Personnel, Inventory, and the Economics Section. In addition, it included the General Office, Military Office, Accounting Office, and Representative Buildings Management Office. Cf. *Kancelaria Cywilna Prezydenta RP w Warszawie*, Archiwum Akt Nowych, <https://www.szukajwarchiwach.gov.pl> (10.10.2025).

⁴ Ustawa z dnia 17 marca 1921 r. Konstytucja Rzeczypospolitej Polskiej, art. 45 (Dz.U. 1921, nr 44, poz. 267).

March Constitution. Although the Civil Chancellery was established to assist the President, its composition was influenced by the Prime Minister, reflecting the broader model of parliamentary responsibility of the government⁵. The April Constitution, by contrast, provided that: 'The President of the Republic of Poland shall exercise personal powers that constitute his prerogatives. These prerogatives include the appointment and dismissal of the Head and officials of the Civil Chancellery'⁶. The selection of the individual heading the Presidential Chancellery was the sovereign will of the President, and it was for him to assess the actions of the Head.

Moving on to the stage of work on the draughting of the current constitution, it is worth noting the divergent views expressed by members of the Constitutional Committee of the National Assembly, which was responsible for preparing its content. Paweł Sarnecki argued: 'The constitution should not regulate the position of auxiliary bodies that serve the Sejm, Senate, as well as government. Therefore, there is no justification for constitutionalising an auxiliary body serving the President'⁷. Jerzy Ciemniewski, by contrast, did not share this view, referring to the March and April Constitutions⁸. Wit Majewski noted that 'the Presidential Chancellery performs many important functions in relations between authorities and in international relations. It therefore seems necessary to enshrine this body in the constitution'⁹. Irena Lipowicz emphasised that 'this is the first case where the Chancellery becomes an authority. An authority is a single person or collegial office. It seems that the Chancellery should be referred to as an auxiliary body. The Head of the Chancellery could be the authority'¹⁰. Individual statements by members of the Constitutional Committee of the National Assembly indicate that the discussion on the current wording of Article 143 of the Constitution¹¹ provoked considerable debate.

According to Article 143 of the Constitution: 'The Presidential Chancellery shall be the auxiliary body of the President of the Republic of Poland. The President of the Republic of Poland shall issue the regulations governing the Chancellery and appoint and dismiss the Head of the Presidential Chancellery of the Republic of Poland'¹². Article 144(2)(28)

⁵ K. Kozłowski, *Komentarz do art. 143 Konstytucji*, [in:] *Konstytucja RP*, v. 2: *Komentarz do art. 87-243*, eds. M. Safjan, L. Bosek, Warszawa 2016, p. 563.

⁶ Ustawa Konstytucyjna z dnia 23 kwietnia 1935 r., art. 13 ust. 1 i 2 (Dz.U. 1935, nr 30, poz. 227).

⁷ *Biuletyn X Komisji Konstytucyjnej Zgromadzenia Narodowego*, Warszawa 1995, pp. 214-215.

⁸ *Ibidem*.

⁹ *Ibidem*.

¹⁰ *Ibidem*.

¹¹ Konstytucja Rzeczypospolitej Polskiej z dnia 2 kwietnia 1997 r...

¹² *Ibidem*.

further provides that the adoption of the Statute of the Presidents Chancellery and the appointment and dismissal of the Head of the Presidential Chancellery do not require the Prime Minister's signature to be valid¹³. The very fact that this body is enshrined in a constitutional act indicates its special position within the political system. Apart from the fragmentary provisions contained in the Constitution of the Republic of Poland, the legal basis for the activities of the Presidential Chancellery consists of internal acts that define its functioning and structure in greater detail.

Regulation of the Presidential Chancellery in the Member States of the European Union

The Federal Constitutional Law of the Republic of Austria of 1 October 1920¹⁴ not only states that the Presidential Chancellery, which reports to the Federal President, is established to assist him in the performance of his official duties, but also provides that the details of its operation may be regulated in rules issued by the President. The Federal Chancellor's countersignature is not required for the issuance of regulations of the Presidential Chancellery, the appointment of its officials, the granting of official titles to them, or for acts issued by the President in the exercise of his authority over these persons¹⁵.

In turn, Article 102 of the Constitution of the Republic of Bulgaria, adopted by the Grand National Assembly on 12 July 1991, regulates the powers and the form of acts of the President of the Republic. According to its wording, decrees by which the President determines the organisation and mode of operation of the bodies of the Presidential Chancellery and appoints staff are not subject to countersignature¹⁶. The Chancellery was merely mentioned in this fundamental law only in the context of acts of the head of state that are not subject to countersignature; no separate provision was devoted to it. The same is true of the Greek Constitution of 9 June 1975. Article 35 stipulates that acts appointing personnel serving the President of the Republic do not require countersignature¹⁷.

¹³ *Ibidem*.

¹⁴ *Federalna Ustawa Konstytucyjna Republiki Austrii z dnia 1 października 1920 r.*, [in:] *Konstytucje państw Unii Europejskiej*, ed. W. Stańkiewicz, Warszawa 2011, p. 53.

¹⁵ *Ibidem*.

¹⁶ *Konstytucja Republiki Bułgarii uchwalona przez Wielkie Zgromadzenie Bułgarii w dniu 12 lipca 1991 r.*, [in:] *Konstytucje państw...*, p. 127.

¹⁷ *Konstytucja Grecji z dnia 9 czerwca 1975 r.*, [in:] *Konstytucje państw...*, pp. 310-311.

Article 90 of the Constitution of the Republic of Lithuania of 25 October 1992 merely states that the manner of financing the President of the Republic and his residence is to be regulated by an ordinary law¹⁸. It is not specified whether this refers to the place of work or residence. The constitutional provision concerning the residence of the head of state should be connected with the status of the chancellery, which historically derives from the tradition of the monarch's palace¹⁹.

Article 9 of the Fundamental Law of Hungary of 25 April 2001 stipulates that the President of the Republic shall establish the organisational structure of this Chancellery. This act does not require countersignature²⁰. A similarity with Polish regulations can be observed, as official acts of the President of the Republic of Poland concerning the granting of the statue of the Chancellery and the appointment and dismissal of the Head of the Chancellery do not require countersignature.

The analysis indicates that only five of the twenty-seven European Union member states – Austria, Bulgaria, Greece, Poland, and Hungary – include provisions in their constitutions relating to the Presidential Chancellery. Only the Austrian and Polish constitutions characterise this body as auxiliary to the head of state. No comparable provisions were noted in the remaining constitutions.

Five Constitutions – Austria, Bulgaria, Greece, Poland, and Hungary – contain identical provisions stipulating that acts of the Head of State relating to the organisation of the Chancellery are not subject to countersignature. By contrast, the Constitution of Lithuania is the only one that provides that a lower-ranking act regulates the financing of the President of the Republic and his residence.

The analyses conducted demonstrate that, in twenty-one European Union member states, the constitutions contain no provisions concerning the Presidential Chancellery. The constitutional status of the Chancellery has been regulated in Austria and Poland in a minimal and very concise manner. By contrast, the constitutions of five countries explicitly state that acts of the head of state relating to the organisation of the Chancellery do not require countersignature.

¹⁸ *Konstytucja Republiki Litewskiej z dnia 25 października 1992 r.*, [in:] *Konstytucje państw...*, p. 432.

¹⁹ Por. V.A. Vaičaitis, *Status konstytucyjny prezydentów Litwy i Polski*, [in:] *Institucja prezydenta w polskim i litewskim prawie konstytucyjnym*, ed. D. Górecki, Łódź 2017, p. 202.

²⁰ *Ustawa zasadnicza Węgier z dnia 25 kwietnia 2011 r.*, [in:] *Konstytucje państw...*, p. 830.

Constitutional regulations concerning the Chancellery in selected countries

In the course of the research, due to the rare occurrence of constitutional regulation of the Presidential Chancellery in European Union member states, the analysis was extended to include selected non-EU countries (such as post-Soviet states). In Russia, as in Poland, expert discussions were held during the draughting of the Constitution on the nature of the Presidential Administration and the strengthening of its legal status. These deliberations ultimately led to the adoption of a provision authorising the President to establish his own Administration. This solution emerged from an intense debate on the legitimacy and admissibility of such a legal arrangement, driven largely by uncertainty regarding its status and character²¹. Article 83 of the Constitution of the Russian Federation stipulates that the President shall establish the Presidential Administration²². The provision grants the head of state the authority to establish the Administration and appoint its staff. The Constitution of the Russian Federation does not set out the detailed structure of the Chancellery, but provides the legal foundation for the existence and operation of the presidential support apparatus. The Presidential Administration comprises: advisers, the head of the Administration, and various technical and organisational support units. In practice, this provision serves as the constitutional basis for the functioning of the Presidential Administration. The Constitution contains no reference to any additional administration and confines itself to the brief formulation that the President ‘creates the Presidential Administration of Russia,’ without further clarification of its status, structure, functions, or internal regulations. This leaves significant room for interpretation and ongoing debate. Many deputies expressed dissatisfaction when the Regulations of the Presidential Administration of Russia, approved by presidential decree²³, defined the Administration as a state body responsible for ensuring the President’s activities. Supporters of the view that this structure performed only auxiliary and service functions declined to recognise it even as a state body, let alone as a public authority, and challenged the provision before the Constitutional Court.

²¹ A. Zuykov, *Peculiarities of the Nature and Status of the Russian Presidential Administration: Historical, Political and Legal Overview*, „Journal of History Culture and Art Research”, 2018, no 7(1), p. 121.

²² *Konstytucja Federacji Rosyjskiej*, Warszawa 2022.

²³ Dekret prezydencki z 2 października 1996 r. nr 1412 *O zatwierdzeniu Regulaminu Administracji Prezydenta Rosji*.

However, after the amendment of the Rules of Procedure, the motion was withdrawn, and the Constitutional Court consequently lost the opportunity to rule on the matter. The current Regulations of the Presidential Administration of Russia, approved by a subsequent presidential decree²⁴, likewise define the Administration as a state body responsible for ensuring the President's functioning and overseeing the implementation of his decisions. The definition places the Presidential Administration on an equal footing with other support structures, such as the Government Administration, which – as defined – is a state body established to ensure the functioning of the government and the Prime Minister. A more general category is used to define the status of the Presidential Administration, within which bodies vested with public authority are accorded a distinct status. The Constitution, employing various categories to classify statecreated structures, places “state bodies” and “local government authorities” on the same conceptual level and subsequently differentiates subtypes such as “state authorities” or “legislative, executive, and judicial authorities,” which supports the earlier assumptions. Consequently, the Presidential Administration constitutes an auxiliary apparatus without an autonomous component of authority. However, the analogy with the Government Administration in terms of the regulation of its status essentially ends there, as the Government's activities are defined not only by the Constitution but also by the Federal Constitutional Act and the Government's Rules of Procedure²⁵, which set out all aspects of its work, including dispute resolution, lawmaking, and other matters. The activities of the auxiliary apparatus are based on all the abovementioned legal acts as well as on the regulations of the Government Administration, which set out standards for executing government orders, extending deadlines, and deregulation. However, these rules do not apply to the President and his Administration. The term “Administration” and its explicit mention in the Constitution should not mislead scholars of constitutional or administrative law. The Presidential Administration of Russia can scarcely be regarded as a branch of government or as part of the public administration in the broader sense, since its status and functions are defined by those of the President himself. The Presidential Administration constitutes a ‘third entity,’ something distinct, especially from the point of view of its legal nature. It may be argued that the Presidential Administration represents a symbiotic formation situated at the intersection of constitutional and administrative law, functioning as

²⁴ Dekret prezydencki z 6 kwietnia 2004 r. nr 490 *O zatwierdzeniu Regulaminu Administracji Prezydenta Rosji*.

²⁵ Federalna Ustawa Konstytucyjna z 17 grudnia 1997 r. nr 2-FKZ *O Rządzie Federacji Rosyjskiej*.

an element of the presidency that is intrinsically connected to, and inseparable from, other components of this institution²⁶.

Article 84 of the Constitution of the Republic of Belarus of 15 March 1994²⁷ stipulates that the President establishes, dissolves, and reorganises the Presidential Administration, other state bodies and organisations, as well as advisory and consultative councils and other bodies attached to the President, and determines their status. In light of the Regulations of the Presidential Administration of the Republic of Belarus of 23 January 1997, it is the body responsible for supporting the President's activities in the areas of personnel policy, Belarusian state ideology, legal affairs and preparation, execution, and oversight of presidential decisions. Its practical role in the Belarusian political system is by no means insignificant: 'The Presidential Administration is the most important pool of personnel for higher state management units in the centre and regions. Its numerous departments duplicate the work of ministries and government agencies, setting a specific direction of development for them, much as the departments of the Central Committee of the Communist Party of Belarus once did in relation to the Soviet government. Furthermore, the Administration centralises the powers that ensure the President's leadership and guiding role. The constitutional model of the presidency in the Republic of Belarus, particularly in its relations with the legislative and executive authorities, reinforces this concentration of authority'²⁸. It should also be noted that the head of the Administration, as well as all individuals holding senior positions within it, are appointed by the President²⁹.

For its part, Article 44 of the Constitution of the Republic of Kazakhstan stipulates that the President shall establish an Administration³⁰. A decree of the Head of State regulates the legal status, tasks, and powers of the Presidential Administration as a central state body directly subordinate to the President. The Administration functions as the institutional support structure for the Head of State, providing analytical, legal, organisational, and documentary assistance in the exercise of constitutional powers. The scope of the Administration's activities includes: the coordination and supervision of the implementation of state policy in the areas of foreign

²⁶ A. Zuykov, *op.cit.*, pp. 120-125.

²⁷ *Belarus*, [in:] *Constitutions of the countries of the world*, eds. G.H. Flanz, P.H. Warf, Vol.2: *Bahrain – Bolivia*, New York 2003, art. 84.

²⁸ W. Rowdo, *Sprawnościelnaja politologija, cz. 3, Političieskaja sistiema Riespubliki Bielaruś*, Wilno 2009, p. 137.

²⁹ G. Kryszewski, *Konstytucyjny model prezydentury w Republice Białoruś*, „Białostockie Studia Prawnicze”, 2016, v. 20/B, p. 320.

³⁰ *Kazachstan*, [in:] *Konstytucje państw Azji Centralnej: tradycje i współczesność*, eds. T. Bodio, T. Mołdawa, Warszawa 2007.

policy, security, internal policy, legal affairs, and human resources policy, as well as the management of relations between the President and Parliament, the Government, the courts, electoral bodies, and local government. The Administration is headed by the Head of Administration, appointed by the President, who exercises significant organisational, personnel, and oversight powers. The relevant legal regulations confirm a highly centralised model of presidential governance, in which the Administration functions as an instrument for integrating and coordinating the entire system of public authority in the Republic of Kazakhstan³¹.

In turn, according to the Constitution of Armenia, the procedure for appointing the Presidential Chancellery of the Republic is determined by law. In the cases and in the manner prescribed by law, the President of the Republic makes appointments to positions within the Chancellery of the President³². In practice, however, the legal basis for the Presidential Administration is a presidential decree³³. In accordance with the decree, the Administration ensures: compliance with the Constitution, supports the normal functioning of the legislative, executive, and judicial branches of government, and guarantees the independence, territorial integrity, and security of the Republic of Armenia³⁴. Accordingly, the Constitution of Turkmenistan of 28 September 2008 stipulates that the President establishes only the office of the President of Turkmenistan³⁵.

Therefore, few countries constitutionalise the Presidential Chancellery or Presidential Administration. The introduction of such regulations is characteristic mainly of postSoviet states (Russia, Belarus, Kazakhstan, Armenia, Turkmenistan). It has become standard for constitutions to grant the President the authority to establish an Administration without regulating its internal structure in detail.

Conclusions

The analyses conducted allows us to conclude that, in twentyone cases, the constitutions of the European Union member states do not contain provisions relating to the Presidential Chancellery. Only the constitutions

³¹ Dekret Prezydenta Republiki Kazachstanu z dnia 11 marca 2008 r. (nr 552).

³² *Konstytucja Republiki Armenii*, Rzeszów 2004, art. 145.

³³ Dekret Prezydenta *O zatwierdzeniu regulaminu i struktury Aparatu Prezydenta Republiki Armenii*, nr UP-193-U z 30 sierpnia 2007 r.

³⁴ A.M. Volkov, K.M. Ghonjakulyan, *Administrative-legal status of Presidential Executive Office of the Russian Federation and Office to the President of the Republic of Armenia*, „RUDN Journal of Law”, 2012, no 1, pp. 20-28.

³⁵ *Turkmenistan*, [in:] *Konstitucii gosudarstv Azii*, ed. T.J. Chabrievoj, Moskva 2010.

of Austria and Poland refer to this body as an auxiliary institution of the head of state. However, the constitutional position of the Chancellery in these countries is regulated in a marginal and largely rudimentary manner. Five Constitutions – Austria, Bulgaria, Greece, Poland, and Hungary – contain identical provisions stating that acts of the head of state relating to the organisation of the Chancellery are not subject to countersignature. The Constitution of Lithuania, by contrast, is the only one that stipulates that a lowerranking act regulates the financing of the President of the Republic and his residence, without specifying whether this refers to the head of state's place of work or place of residence.

Few countries in the world constitutionalise the Presidential Chancellery or Presidential Administration. The introduction of such regulations is characteristic mainly of postSoviet states (Russia, Belarus, Kazakhstan, Armenia, Turkmenistan). It has become standard for constitutions to grant the President the authority to establish an administration without regulating its internal structure in detail.

In response to the question of whether the practice of regulating the Presidential Chancellery appears in other constitutions or whether Poland is an isolated case, it was determined that only a few basic laws at the constitutional level regulate the existence of such a body. The inclusion of provisions concerning the Presidential Administration in constitutions is extremely rare and has raised doubts among constitutional committees. The prevailing conclusion is that such regulation is unnecessary and that it would be sufficient to introduce relevant provisions in subordinate legislation.

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Ustrojowe znaczenie konstytucyjnego uregulowania Kancelarii Prezydenta

Streszczenie

Konstytucja Rzeczypospolitej Polskiej normuje Kancelarię Prezydenta Rzeczypospolitej Polskiej jako organ pomocniczy. Pojawia się pytanie, czy praktyka uregulowania organu obsługującego głowę państwa istnieje w innych konstytucjach, czy przypadek

Polski jest odosobniony. Przypuszcza się, że regulacja taka nie wydaje się niezbędna oraz że praktyka umieszczania w konstytucjach przepisów dotyczących Kancelarii Prezydenta jest niezwykle rzadka. Odpowiedź na tak postawione pytanie wymaga wyodrębnienia reprezentatywnej grupy państw, która umożliwi sformułowanie wiarygodnych wniosków. Początkowo analiza obejmowała wszystkie państwa członkowskie Unii Europejskiej. W trakcie badań zdecydowano o rozszerzeniu ich zakresu, objęto nimi dodatkowo także inne wybrane państwa (przykład państw postsowieckich). Zastosowano metodę komparatystyczną. Niniejsze badania przeprowadzono w oparciu o źródła prawa, wybrane ustawy zasadnicze, a także literaturę polską i zagraniczną z zakresu nauk prawnych.

Słowa kluczowe: konstytucja, prezydent, administracja prezydenta, Kancelaria Prezydenta RP