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## Constitutional Status of the Head of State and Its Regulation in National Legislation

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### Abstract

This study established that the head of the Ukrainian state is the key guarantor of the stability of social relations and internal political and international processes. He exerts influence directly by drafting various regulations, sending messages and orders for the implementation of various constitutional provisions in real management practice. The author pointed out certain problems and imperfections of the legislative regulation of activities of the current President of Ukraine. Separate legal constructions regarding the characteristics and features of the activities of the President of Ukraine and the reform of various state institutions were also investigated. The practice of the Constitutional Court of Ukraine was involved in the study, related to the consideration of issues of changing the constitutional, legislative foundations of the country's development and the status of the head of state. Therefore, the purpose of this study is a comprehensive study of the institution of the head of state of independent Ukraine and other countries to obtain comparative legal experience for the Ukrainian legislative system. The main results of the study were obtained through theoretical and methodological analysis of literary scientific sources, as well as by methods of formal legal, comparative legal, comparative political, system-structural analysis, value-normative and institutional methods, content analysis of statistical data and official documents. The study of modern practice and achievements of the President of Ukraine allowed determining the practical significance and originality of certain issues of the implementation of constitutional norms in the activities of the head of state. The subjects considered in this paper related to the regulation of the legal status of the President in the current legislation of Ukraine are promising for further in-depth study and detailing, resolving various controversial issues, including for additional analysis concerning modern legal reforms of the state

**Keywords:** head of state, President of Ukraine, constitutional status of the President, consolidation of powers, legislation of Ukraine, Fundamental Law, Verkhovna Rada

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## Introduction

The construction of a truly social, legal, and democratic state in Ukraine should be ensured by the development of various institutions of public power that influence the general national policy and the development of national legislation, such as the head of state and representative bodies of central government. The relevance of this study is predetermined by the specific constitutional status of the President of Ukraine in the system of state public power. In particular, the President is the guarantor of human and civil rights and freedoms, the Constitution (Fundamental Law) of the state, the independence of Ukraine and the integrity of its territory (including Crimea, Donetsk, Luhansk, and Sevastopol). It is the President who acts as the main driving unit that sets the general vector of activity of the entire public mechanism of central and regional authorities. Because of this, the legal consolidation of the status of the President of Ukraine should be particularly meaningful, thoughtful, balanced, and detailed.

*The purpose of this paper* was a comprehensive study of the specific features of the legal status of the head of state in Ukraine in comparative characteristics with foreign countries. These specific features of the consolidation of the constitutional status of the President in the national legislation, and the scope of their activities are investigated by analysing the content of various publications, statistical data, the regulatory framework of Ukraine in terms of ensuring the implementation of the rights and duties, powers of the head of state at the present stage of building a civil society and a new information policy.

*The object of this study* was the processes and relations describing the constitutional status of the President of Ukraine in terms of its functional efficiency.

The constitutional and, in part, political and socio-normative research carried out in this study allowed identifying and concretising the problematic patterns present in certain legislative acts and decisions of the head of state from a practical standpoint.

For a greater expansion of scientific topics, publications and monographic works of foreign researchers were employed regarding the study of the influence of the authority of the head of state on the development of legislative mechanism of functioning of the highest legislative, judicial, and executive authorities in Europe [1]; the specific features of the exercise of powers of the President of the country in the sphere of limiting the possibilities of exercising constitutional rights and freedoms of the population under the dictatorial regime in the Philippines [2]; the constitutional and legislative justification of decisions of American presidents on external and internal interference in political processes and the propensity of the modern US president to initiate various international conflicts [3]; the relationship between the US Congress and the President of the country regarding the legitimisation of military actions in Korea,

in the presence of special conciliation procedures between the legislative and executive authorities specified in Article II of the Constitution [4]; the influence of the constitutional powers of the Presidents of India and the United Republic of East Africa, – Tanzania on the process of promoting information and digital technologies at the national level in developing countries [5]; etc.

The practical issues of this study are determined by the empirical area of work and law enforcement analysis of statistical data concerning the activities of the President of Ukraine; the use of content analysis of legal documents; etc.

The scientific originality of this study is determined by the identification of a complex and systemic interrelation between the norms of the Constitution of Ukraine and the laws and the actual modern-day practice of the functioning of the institution of the President. Furthermore, the issues raised in this study received practically no coverage regarding the national peculiarities of the organisation and functioning of the constitutional institution of the President of Ukraine with the modernisation of the regulatory framework of its activities using international legal principles and guidelines, the practices of legal regulation of foreign states.

## Materials and Methods

Any constitutional or branch legal research is based on special and general methodological tools and means, including both methods of general analysis and synthesis of scientific, research-to-practice phenomena of reality and scientific legal literature, and special methods inherent exclusively in legal concepts and research. Furthermore, the development of legal topics of state-legal orientation may include accompanying elements of socio-political research to substantiate the relevance and importance of the problem under study for social development and its role in social processes. Since the President of the country is also a guarantor of the stability of public relations and processes in society, influences directly through the development of various regulations (including draft laws using the right of legislative initiative), sending messages and orders to public authorities regarding the adoption of immediate or planned decisions in socio-economic, cultural, environmental and other spheres of human activity, the state, and organisations, the use of socio-political research methods in the study is a justified necessity.

In substantiating the theoretical aspects of the study of problematic issues, methods of theoretical research and comparison of scientific and journalistic works related to the content of the materials published by the author were used, i.e., analysis (detailing, separation) of the material and synthesis, generalisation of the investigated information data; concretisation of socio-political, general legal, constitutional, etc. concepts and terms. The method of concretisation of legal phenomena

also allowed highlighting the regulatory aspects of securing the powers of the President in the current legislation of Ukraine.

The study employed the formal legal method of in-depth research of legal categories and objects for a detailed study of legal phenomena, the institution of the presidency and legislative acts of independent Ukraine containing the norms of constitutional and administrative law governing the powers and limits of competence of the head of state, the mechanism for the implementation of these powers. This method was taken as the most universal, comprehensive, based on the current system of legislative documents of Ukraine, and is aimed at the investigation of legal structures regarding the characteristics and features of the activities of the President of Ukraine and the reform of various state institutions. The norms of the Fundamental Law and other regulations were analysed using mandatory rules and tools of formal logic, considering the specific features of legal regulations, legislation, and legal understanding of problematic aspects of securing the powers of the President of Ukraine. The use of the comparative legal method allowed establishing the specific features of the status of the head of the Ukrainian state in comparison with other countries, and this method was also employed in the analysis of the correlation of the norms of the Constitution with other legislation of Ukraine.

The method of comparative political science used in the development of the materials of this study allowed investigating the achievements of the current President of Ukraine, V.O. Zelenskyy, relative to his predecessors and the previous government policy.

Content analysis as a special method of studying the content of the thesis sayings of the President of the country, certain norms of the legislation of Ukraine, various excerpts from the speeches of the head of state published in the press, provided a better insight into the current policy vectors of V.O. Zelenskyy. Having correlated the political views of the head of state, the vectors of the implementation of his powers with the real measures taken by the President of Ukraine, the author highlighted shortcomings and problems in the implementation of the constitutional foundations and principles of building a democratic independent state by the presidential power.

Elements of system-structural analysis, value-normative and institutional methods also contributed to a more extensive coverage of the subject within the framework of studying the exercise of constitutional powers by the President of the country and his Office (auxiliary and advisory body).

Statistical analysis was used to investigate voting in the elections to the central Parliament (Verkhovna Rada) of Ukraine in 2019.

## Results

From the standpoint of his constitutional appointment, the institution of the President of Ukraine is determined by the importance of the powers exercised and the effectiveness of functioning in the main areas of ensuring constitutional guarantees: to create conditions for ensuring the security of the country, the inviolability of the sovereignty and integrity of the state (Articles 1, 2; Articles 17, 18, Article 102 of the Constitution); to achieve stability of the legal status of state institutions of power (Articles 6, 106 of the Constitution); to create tools for the unhindered enjoyment of human rights and freedoms specified in Section 2 of the Fundamental Law of Ukraine, etc<sup>1</sup>.

The majority of measures to ensure the implementation of constitutional provisions regarding the vital aspects of internal and external public policy are adopted and implemented by the President of Ukraine through the issuance of special orders and decrees.

The consolidation of the powers of the head of state and the foundations of his constitutional status takes place by regulating the essential elements of the President's competence in the Fundamental Law of the state. However, the specification of certain provisions of the Constitution of Ukraine, admittedly, should occur by detailing the norms of the Fundamental Law in other legal acts.

Therefore, in 2017, the Verkhovna Rada (Parliament of Ukraine) proposed a draft law "On the President of Ukraine and the Impeachment Procedure", which was never implemented. In the draft, representatives of the Verkhovna Rada noted shortcomings in the construction of the norms of the Constitution of the country regarding the consolidation of the powers of the head of state due to their poor detail, which allowed individual Presidents at different stages of the history of independence of Ukraine to make attempts to expand their power towards absolutism. Therewith, the creators of the draft law "On the President of Ukraine and the Impeachment Procedure" emphasised the need for legislative regulation of the President's activities, since "presidential practice leads to the destruction of the legal system of Ukraine"<sup>2</sup>.

This practice of expanding presidential power and the struggle of the two vital structures of Ukraine: the Verkhovna Rada and the head of state, led to an unconstructive dialogue and disrupted the natural functioning of the state mechanism. From the standpoint of science and practice of real public constitutionalism, the form of the republic was constantly changing: from a parliamentary-presidential to a presidential-parliamentary regime of government (even a presidential republic) and vice versa. On October 1, 2010, by its decision, the Constitutional Court of Ukraine declared the

<sup>1</sup>Constitution of Ukraine. (1996, June). Retrieved from <https://zakon.rada.gov.ua/laws/card/>.

<sup>2</sup>Explanatory note to the draft Law of Ukraine No. 7248 "About the President of Ukraine and the Procedure for Termination of His Powers". (2017, October). Retrieved from [http://search.ligazakon.ua/l\\_doc2.nsf/link1/GH5LC00A.html](http://search.ligazakon.ua/l_doc2.nsf/link1/GH5LC00A.html).

Law of Ukraine “On Amendments to the Constitution of Ukraine” dated December 8, 2004 No. 2222-IV contrary to the fundamentals of the constitutional structure of the country and a return to the wording of the Fundamental Law of 1996, according to which Ukraine became a presidential republic. Consequently, the supreme body of constitutional control over compliance with the norms on the state structure of Ukraine also attempted to strengthen the presidential power. According to the special opinion of individual judges of the Constitutional Court of Ukraine, set out in the decision of 30.09.2010 No. 20-rp/2010, this decision was very contradictory, since the body of constitutional control and justice does not have the right to adhere to a universal legal position regarding the “automatic renewal of the previous version of the provisions of the Constitution of Ukraine”<sup>1</sup>.

Moreover, according to the author of the study, the Constitutional Court of Ukraine in its decision No. 20-rp/2010 of September 30, 2010 factually contributed to changing the form of government in the country, since the powers of the head of state were substantially expanded<sup>2</sup>.

The adoption of the Law of Ukraine “On the Status of the President of Ukraine” by the Verkhovna Rada in 2017 was absolutely necessary, which is also explained by the fact that almost any of the last Presidents of independent modern Ukraine for more than 20 years expanded their powers contrary to the norms of the Fundamental Law by adopting and legitimising presidential acts (decrees, orders), replacing the parliament and its laws. Individual heads of state, acting in their personal interests through “allies” in the Verkhovna Rada of Ukraine, in an emergency promoted the unconstitutional parliamentary acts they saw fit, which sometimes granted absolutely unlawful powers in various spheres of internal and external national policy. Thereby strengthening the legitimacy of presidential pressure in the field of making new political decisions without the consent of the legislative authority.

Notably, in 2019, in the decision No. 5-r/2019 of June 13, 2019 on the case “On the National Commission Implementing State Regulation in the fields of Energy and Utilities”<sup>3</sup>, the Constitutional Court of Ukraine nevertheless took a clear and unconditional position regarding compliance with the norms of the Constitution of the country, indicating that the presidential

powers to form and manage individual strategic central authorities cannot be expanded by the adoption of special laws. The body of constitutional jurisdiction, which ensures the supremacy of the Fundamental Law of the state and its norms [6], unconditionally concluded that the powers of the President of Ukraine are determined exclusively by the normative provisions of the Constitution of Ukraine and cannot be legislatively expanded<sup>4</sup>.

However, the detailing of these presidential powers remains necessary by the adoption of the aforementioned legitimate legislative act by the Verkhovna Rada to avoid the unlawful expansion of the competence of the head of state via orders and decrees.

Moreover, the norms of the Constitution of the country practically do not prescribe the impeachment procedure against the head of state (only the general aspects of such removal of the President are specified and consolidated in Part 3, Article 108, Article 111 of the Fundamental Law), while this procedure is rather cumbersome. And the involvement of numerous judicial instances and central authorities in the procedure initiated by the Verkhovna Rada of Ukraine to impeach acting heads of state, who can be directly pressured by the President of the country, generally turns the entire procedure into a legal fiction, unrealistic in practical execution.

For example, the Republic of Kazakhstan has adopted a law on the status of the President of the country at the highest constitutional level<sup>5</sup>. A great danger at this stage of the country’s development is the fusion of executive, presidential, and legislative power by establishing absolute pressure of the political elite.

In 2019, the powers specified in the Constitution of Ukraine (Section 8, Article 106 of the Fundamental Law) allowed V.O. Zelenskyy to dissolve the Verkhovna Rada during the inauguration, call new elections and call on the government to voluntarily resign, violating the procedural terms for the dissolution of parliament.

The new parliamentary elections allowed the party of the President of Ukraine “Servant of the People” to gain 43.16% of the votes (Fig. 1), the political organisation “Opposition Platform – for Life” gained 13.05%, the “Fatherland” party – 8.18%, the political organisation of the former head of state “European Solidarity” gained 8.10%, and the “Voice” party – 5.82%, other parties that nominated candidates retained 21.69% of the votes in aggregate [7].

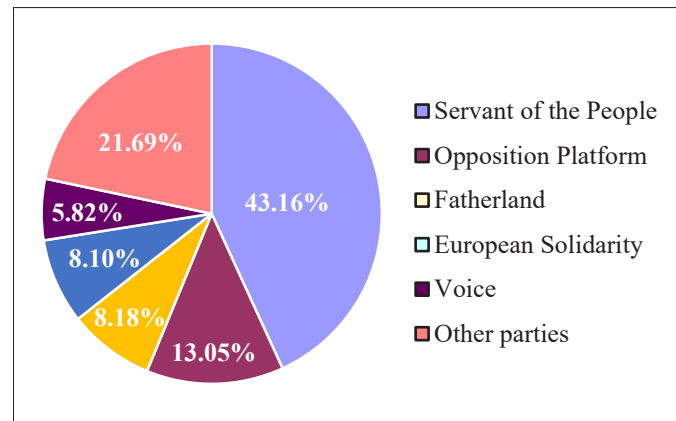
<sup>1</sup>Constitutional Court Decision No. 20-rp/2010 in the case of the constitutional submission of 252 People’s Deputies of Ukraine regarding compliance with the Constitution of Ukraine (constitutionality) Law of Ukraine “On Amendments to the Constitution of Ukraine” dated December 8, 2004 No. 2222-IV (case on compliance with the procedure for Amending the Constitution of Ukraine). (2010, September). Retrieved from [http://search.ligazakon.ua/l\\_doc2.nsf/link1/KS10094.html](http://search.ligazakon.ua/l_doc2.nsf/link1/KS10094.html).

<sup>2</sup>*Ibidem*, 2010.

<sup>3</sup>Constitutional Court Decision No. 5-r/2019 in the case of the constitutional submission of 46 People’s Deputies of Ukraine regarding compliance with the Constitution of Ukraine (constitutionality). (2019, June). Retrieved from [http://search.ligazakon.ua/l\\_doc2.nsf/link1/KS19014.html](http://search.ligazakon.ua/l_doc2.nsf/link1/KS19014.html).

<sup>4</sup>*Ibidem*, 2019.

<sup>5</sup>Constitutional Law of the Republic of Kazakhstan No. 2733 “About the President of the Republic of Kazakhstan”. (1995, December). Retrieved from [https://adilet.zan.kz/rus/docs/Z950002733\\_](https://adilet.zan.kz/rus/docs/Z950002733_).



**Figure 1.** The percentage of voting in the elections to the Verkhovna Rada of 2019

The results of the elections allowed the presidential party to take 254 places in the parliament out of 450 possible (56%), having received an absolute majority for the first time in the history of independent Ukraine. Therefore, there is a real danger of concentrating all power in the hands of the President and his political elite.

Another important issue needs to be addressed. With the aspirations stated at the inauguration to fight for the independence and indivisibility of Ukraine, the President of Ukraine has factually done very little in this area. The President of Russia and the federal authorities of the Russian Federation, in turn, have taken considerable steps in this area: the norms of the country's Constitution have been changed, and top-level legislative acts have been adopted establishing the independence of Crimea and Sevastopol from Ukrainian jurisdiction; amendments have been made to tax and budget legislation, schemes have been developed for further expansion of influence in Ukraine. Considering the significant powers within the framework of the implementation of legislative initiatives by the President of Ukraine (Article 93 of the Constitution), including the right to consider the critical draft laws expeditiously, the competence to make major decisions on military and emergency measures, as well as the fact that the head of state is the guarantor of the sovereignty of the country, V.O. Zelenskyy needs to take more active steps to protect the territories of Ukraine. Otherwise, a paradoxical situation arises that is new for the country, when the Constitution of the DPR (the self-proclaimed Donetsk People's Republic) and other laws of Donetska, Luhanska Oblasts (also the self-proclaimed republic) consolidate norms that directly violate the integrity of the territory of Ukraine and the foundations of the constitutional system, and the key official of the state is practically idle.

There also remains a problem relevant to the entire world, – the fight against coronavirus disease, – where timely, prompt actions and decisions of the President, including through the introduction of various restrictions and the implementation of financial and informational support, should contribute to the normalisation of economic and social activities. Therewith, the necessary measures of influence should not violate the natural

rights of citizens of Ukraine. Even Mexican researchers point out the importance of applying government and presidential response measures during the spread of coronavirus infection to restrict certain rights and freedoms of citizens of developing countries, freedom of business and their relationship with the guarantee of these constitutional powers even during a state of emergency [8].

Positive results of the current President's activity can be considered the development of institutions for the protection of human rights and freedoms by appointing various advisers authorised by the head of state for citizens, including children, disabled people and victims of military operations, the reform of the office of the President of the country, the nomination and appointment of various professionals to important posts, as well as attempts to establish a dialogue with the heads of other states.

In summary, it can be noted that only if all constitutional principles and norms are observed in the activities of the President, considering the increase in his activity in various areas of national policy development, it is possible to achieve unconditional prosperity of Ukraine.

### **Discussion**

Thus, according to the results of the study of statistical, regulatory, scientific sources, other literary and analytical data, it can be argued that the essential aspects of the further development of the constitutional institution of the President of Ukraine is the understanding of the contradictory practices of the head of state and borrowing the developments of various countries in this area of legal regulation.

Of interest, first of all, are the academic dissertation research aimed at investigating the constitutional and public features of the legal regulation of the activities of the head of state in presidential, semi-presidential, mixed, and parliamentary republics. In his monographic author's work, Ho Chi-jung makes an independent modern assessment of the semi-presidency of Taiwan and the People's Republic of China (PRC) through a comparative characteristic of the state potential of constitutional regulation and the exercise of powers by the head of state. In this scientific study, the twenty-year experience of the State of Taiwan and the People's Republic of China

in the implementation of social policy by various heads of the country is studied to establish the interrelation and verify the effectiveness of the exercise of supreme power in the system of industry-wide management under conditions of coordination of actions between the parliamentary representative power and the president. Therewith, there is a great opportunity to coordinate common interests in the field of law-making, the implementation of regulatory requirements of the Fundamental Law of the People's Republic of China. This became possible after the introduction of relevant amendments to the Constitution of China, which proclaimed the PRC as a democratic republic with a semi-presidential form and a system of supreme central government. The author of the monograph notes the problematic nature of the functioning of the modern constitutional structure of the supreme administration due to the ongoing creation of a strong but irresponsible institution of the presidency in the implementation of coordination and the existence of a "close connection" between the president and the parliament, causing limited equal interaction between the executive and legislative branches of government. The problem of the lack of a capable and independent government, the limitation of its competence by the decisions of the head of state, who is in full solidarity with the legislature, is also highlighted [9].

Ho Chi-jung also analyses popular opinion regarding the policy of the heads of state at various stages and in different historical periods (for 30 years) to establish the attitude of the population towards the supreme power and the effectiveness of its activities. Researcher has identified the following areas and criteria for studying the opinions of Chinese and Taiwanese citizens and experts in the field of public administration: fiscal, budgetary, and tax internal potential of the country under various forms of legitimate central government; administrative changes and the effectiveness of the activities of representatives of the highest authorities; legislative productivity within the framework of balance (full coherence) of the interests of legislative and presidential authorities; military potential and territorial sovereignty of the country [9].

C.M. Koch also devotes her studies to the investigation of the development of the constitutional and legislative foundations for the consolidation and implementation of the powers of US Presidents from the standpoint of historical retrospect through the use of comparative-historical and comparative-legal methods. This specialist emphasises that the establishment and expansion of the constitutional foundations of presidential power is associated with the first attempts to combat slavery, to guarantee the inalienable rights and freedoms of American citizens regardless of origin, social status, and nationality (especially regarding African Americans and Latin Americans). In the publication of C.M. Koch, considerable work has been done to analyse the activities of 44 US presidents, including the functioning of presidential power during the office of Barack Obama. The issues of the organisation of national security as the basis of independent external activity of

heads of state in various historical periods are also being studied [10].

In his thesis, R. Nelson raises questions of the constitutionality or unconstitutionality of the autocratic regime of the presidency in South Vietnam during the Civil War, when national security was guaranteed by the priority of public pressure on political processes in the country, but the citizens of the state enjoyed personal freedoms and rights with considerable reservations and restrictions. During this period, there was practically no system for ensuring civil independence. The overthrow of the unconstitutional government and the presidential power led to a deterioration in the conditions for ensuring internal security, but the individual freedom of citizens expanded, tools and means of constitutional guarantee of rights and freedoms in modern Vietnam began to be introduced (human rights and freedoms are consolidated in Chapter 2 of the Fundamental Law of the Socialist Republic of Vietnam) [11].

The Harvard Law Journal has published an interesting and practically significant work on the study of the constitutional foundations and the problem of the implementation of the highest state power, the role of the institution of the presidency in coordinating the interests of various public bodies. From the standpoint of their guarantee by executive management structures based on compliance with the most important principles of interaction between the authorities and the population, the study considered the features of the implementation of constitutional rights and freedoms: tolerance, consistency, democracy, responsiveness, efficiency. K.M. Taney, referring to the opinion of another expert Rodriguez, justifies the "presidential primacy" in the modern world as the key constitutional and state institution in conditions of declining importance of other structures of public administration and democracy. It reveals and analyses the effectiveness of the activities of the US President as a necessary condition for achieving the goals of the democratic policy of each state. Therewith, this specialist emphasises that "the president represents the only branch of government with the necessary flexibility and national support" [12].

In addition, K.M. Tani, developing the content of the constitutional principle of democracy in the state, points out that a considerable part of the institutions of representation from the people and the instruments of direct democracy are usually ineffective, especially during crises in the country. Therewith, according to the expert, an effective government and presidential power are essential factors of social development that use all means and tools to achieve desired public goals, even by limiting the personal and property rights of citizens. Since the energetic leadership of the country by the President will allow for the best results in the development of political and socio-economic relations than providing absolute freedom to choose the vectors of internal and external policy by other public administration bodies [12].

In this regard, it is possible to point to a relatively new position in personnel matters of the President of

Ukraine, V. Zelenskyy, who is currently engaging into various shake-ups and appointing specialists to the highest positions of the state, which, according to the head of state, should serve to solve numerous issues as soon as possible and further develop the country [13]. In particular, upon carrying out these measures regarding personnel changes, a new Commissioner for Children's Rights was appointed<sup>1</sup>.

In her review work "Presidential norms and Article II", D. Renan actualises the problems of applying the norms of the Constitution regarding the legality and legitimacy of the US President's actions. This author notes the impossibility of knowing the constitutional nature of the powers of the head of state and the institution of the presidency without referring to particular norms of the US Constitution. However, the legal understanding of the President's position and his interaction with other public authorities, especially legislative structures at the federal level, is often supplemented by the real practice of using illegitimate instruments and levers of political pressure, thanks to which the current head of state sets "their own rules". These "unwritten" rules of behaviour, according to the competent opinion of D. Renan, associate professor at the Harvard Law Faculty, and the non-normative foundations of the organisation of interaction simultaneously strengthen and limit the power of the head of state. This scientist previously held the high post of adviser to the Deputy Prosecutor General in the Ministry of Justice, which allowed her to consider the practical aspect of using the President's leverage on the executive authorities of the federation. D. Renan uses real examples to demonstrate the role of presidential norms in the development of the current government and raises topical issues for the science of constitutional law. Therewith, the main issue remains the problematic aspect, when the extra-legal system of interaction between the executive body of the federal government and the head of state ceases to ensure national interests, whether it is possible to raise the question of the illegality of the President's actions within the framework of constitutional norms. D. Renan's article concludes with a summary of the results of the study of judicial and non-judicial legal, organisational, and institutional instruments and conditions that provide a legitimate institution of the presidency based on constitutional norms [14].

Given the current situation in Ukraine, as well as the decline in the public authority of President Volodymyr Zelenskyy due to individual mistakes in positioning his own political figure in international and internal relations, this study is also of essential scientific and practical interest from the standpoint of investigating illegitimate organisational instruments of presidential

influence. The President of modern Ukraine, by studying public opinion on various regulatory guidelines, establishing contacts with representatives of foreign states, increasing the legitimacy of his activities, reorganising his Administration into the Office of the President of Ukraine and reducing the number of employees, is trying to improve the procedures for the exercise of presidential power.

### Conclusions

The study touched upon the main issues of ensuring the legitimacy of the activities and status of the President of the country by changing the norms of the Constitution and the adoption of a special law. The author analysed the reality of the danger of the power of one political elite, which exists not only in Ukraine, but also in Belarus, Russia. Currently, the problem of revising fictitious and non-viable legislative structures, the problem of convergence of political reality and constitutional, statutory regulation of the institution of the President is extremely urgent in Ukraine. The activity of the Constitutional Court of Ukraine, whose main duty is to check and balance the activities and decisions, acts of various central authorities for compliance with the norms of the Constitution of the country, can also help in this regard.

Contrary to the constitutional consolidation of the principle of separation of powers, in practice in Ukraine the qualities of unity, solidity, non-separateness of presidential and parliamentary power are preserved (due to the majority of representatives of the Servant of the People party); presidential power and the institution of the presidency in the perception of society are personified only by the figure of the current head of state; to maintain his authority, the modern head of state practically does not need to legitimise his power; the head of state, from constitutional positions, is factually the only person responsible for the exercise and control of public power in the country, but this responsibility is more moral, it is insufficiently regulated and detailed in regulations; organisationally, the President remains subordinate to no one and retains high independence and absolute managerial autonomy; the functioning of the entire state administration apparatus is closed to the head of Ukraine, the presidential power acts as an instrument of pressure, interpreting in its favour insufficiently detailed and clearly elaborated and blurred regulatory provisions of the Fundamental Law.

This study is of undoubted scientific interest, practical significance and constitutional, legal, socio-political purpose, and therefore, may be useful for further study of issues and areas of improvement of the institution of the presidency in Ukraine.

<sup>1</sup>Presidential Decree No. 245/2021 "On the Appointment of D. Gerasimchuk as Adviser – Commissioner of the President of Ukraine for the Rights of the Child and Child Rehabilitation". (2021, June). Retrieved from [http://search.ligazakon.ua/l\\_doc2.nsf/link1/U245\\_21.html](http://search.ligazakon.ua/l_doc2.nsf/link1/U245_21.html).

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## Конституційно-правовий статус глави держави та її регулювання у національному законодавстві

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### Анотація

У процесі написання статті було встановлено, що глава української держави є найважливішим гарантом стабільності соціальних відносин та внутрішньополітичних і міжнародних процесів. Він впливає безпосередньо шляхом розробки проектів різних нормативних актів, напрямом послань і розпоряджень на реалізацію різних конституційних положень у реальній управлінській практиці. Автором були показані окремі проблеми та недосконалість законодавчої регламентації діяльності чинного Президента України. Також було досліджено окремі правові конструкції щодо характеристики та особливостей діяльності Президента України та реформування різних державних інститутів. До роботи було залучено практику Конституційного Суду України, пов'язану з розглядом питань зміни конституційних, законодавчих засад розвитку країни та статусу глави держави. Тому метою цієї публікації є комплексне дослідження інституту глави держави незалежної України та інших країн з метою отримання порівняльного та правового досвіду для української системи законодавства. Основні результати дослідження були отримані засобами теоретико-методологічного аналізу літературних наукових джерел, а також методами формально-юридичного, порівняльно-правового, порівняльно-політичного, системно-структурного аналізу, ціннісно-нормативного та інституційного методів, контент-аналізу статистичних даних та офіційних документів. Вивчення сучасної практики та здобутків Президента України дозволило визначити практичну значущість, новизну окремих питань реалізації конституційних норм у діяльності глави держави. Розглянута у роботі тематика, пов'язана з регулюванням юридичного становища Президента у сучасному законодавстві України, є перспективною для подальшого наукового поглиблення та деталізації, вирішення різноманітних суперечливих питань, зокрема, з метою додаткового аналізу щодо сучасних правових реформ держави

**Ключові слова:** лава держави, Президент України, конституційно-правовий статус Президента, закріплення повноважень, законодавство України, Основний Закон, Верховна Рада