

# Differing Dynamics of Semipresidentialism across Euro/Eurasian Borders: Ukraine, Lithuania, Poland, Moldova, and Armenia

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**Abstract:** The postcommunist countries that chose semipresidential regimes can be divided into three territorial units. First, the Commonwealth of Independent States countries chose semipresidentialism as a natural evolution of Communist executive diarchy and an instrument to run clientelist politics. New European Union countries (Poland and Lithuania) largely lacked these conditions but found other reasons for semipresidentialism: as a counterbalance against populist tendencies in postcommunist politics and as a mechanism to “cultivate” newcomers in politics. It is in the border regions between Eurasia and Europe (in this article Armenia and Moldova) where semipresidential regimes cannot consolidate and continue to experience constant constitutional instability. The Orange Revolution in Ukraine resulted in constitutional amendments that violated constitutional procedural requirements and thus provided another example that the apparent “enlargement of Europe” tends to destabilize constitutional processes.

**Key words:** clientelism, EU expansion, institutional choice, Orange Revolution, postcommunist transition, semipresidentialism

## Introduction

The collapse of Communist regimes provoked scholarly interest in semipresidentialism not only because the overwhelming majority of postcommunist countries chose this type of regime,<sup>1</sup> but also because the collapse of Communist regimes provided another source of semipresidential constitutional arrangements, namely, executive diarchies existing under Communist one-party regimes. As Maurice Duverger noted, semipresidentialism is somewhat similar to Soviet

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administrative law, in that executive power is divided into strategic and managerial functions. In the Soviet Union, these functions were run by the Central Committee of the Communist Party and the government, respectively.<sup>2</sup> Moreover, when semipresidential regimes emerged, particularly in the Commonwealth of Independent States (CIS) countries, the political elite recognized that this regime fit the clientelistic characteristics of their countries' politics. Under semipresidentialism, the president enjoys abundant potential to manipulate elite clans by exploiting his prerogative to appoint and dismiss prime ministers. Thus, if a number of countries in various parts of the world consciously imported the 1962 French constitution, the evolution of Communist executive diarchies into semipresidential regimes would be an indigenous, natural process.<sup>3</sup> It is symptomatic that the term semipresidentialism entered the lexicon of the political and judicial sciences of postcommunist countries only after they adopted semipresidential constitutions. In a previous article on Ukrainian semipresidentialism, I described this typically Eurasian, natural development from Communist executive diarchy to postcommunist semipresidentialism.<sup>4</sup>

Yet this was not the only possible scenario for postcommunist countries. It is true that the Communist method of dividing strategic and managerial functions of executive power affected constitutional debate, even in the western part of the former socialist countries, for example, in Poland. However, the revolutionary characteristics of the transition of western postcommunist countries did not allow for a smooth transition of Communist executive diarchy to semipresidentialism. As a result, there are a number of countries where the 1962 French constitution, another source of semipresidentialism, affected constitutional processes, at least temporarily.

The semipresidential choices in these countries, Lithuania, Poland, and Slovakia (after 1998), cannot be attributed to either a Communist legacy or postcommunist clientelism. In a previous article I coauthored with Liutauras Gudžinskas, a Lithuanian political scientist, we explained Lithuania's semipresidential choice by the preference of the population for strongman rule and a concrete balance of power among the elites during the preparation of a semipresidential constitution. Moreover, the consolidation of semipresidentialism in Lithuania can be attributed to its role in assimilating political newcomers into the traditional elite community and counterbalancing populist voting behavior in parliamentary elections.<sup>5</sup>

This article focuses on the spatial diversification of semipresidential regimes on the western fringe of the former Soviet Union, namely Ukraine, Lithuania, Poland, Moldova, and Armenia. These countries are divided into three analytical meso-areas: the Eurasian core (Ukraine), the European fringe (Lithuania and Poland), and a typical border area, which appears to have shifted from the Eurasian fringe to the fringe of an "imagined" Europe (Armenia and Moldova). I rely on the concept of meso-areas and not just groups of countries to emphasize the importance of these countries' locations. In Ukraine, a core Eurasian country, semipresidentialism was adopted as a natural development of Communist executive diarchy. In the eastern European meso-area (Lithuania and Poland), semi-

presidentialism was consolidated, despite the elite's attempts to interpret their constitutions in a maximally parliamentary manner. Typical Euro/Eurasian border countries (Armenia and Moldova) failed to work out viable constitutional regimes. Thus, we find constitutional consolidation in Eurasia and Europe, and destabilization in the area between them.

This spatial approach is inspired by my dissatisfaction with the existing studies on semipresidentialism. First, these studies limit their attention to the "power triangle" of president, prime minister, and Parliament or, to be succinct, to measuring the strength of presidents quantitatively.<sup>6</sup> In contrast, I focus on interactions between institutions and political actors' strategies, as a result of which semipresidential regimes were introduced, consolidated, or dismantled in these countries. In other words, I use semipresidentialism as a prism to view the general characteristics of these countries' politics. Second, ordinary methods in comparative politics, which analyze countries as if they are self-sufficient political units, are insufficient for studying the politics of postcommunist countries, particularly the countries located across the European/Eurasian border. There is an amorphous mega-system covering all of the former Socialist countries and this megasystem, together with agencies of neighboring megasystems (such as the Venice Commission of the Council of Europe [CoE]), determines the constitutional processes of these countries to a significant extent.

Let me explain how I chose the cases for this article. Apart from the fact that I read four of the five state languages (with the exception of Armenian) of these countries, the following considerations guided me. (1) I chose Ukraine as an example of a typically Eurasian evolution of Communist executive diarchy into semipresidentialism. From this point of view, I could replace Ukraine with Russia or Belarus. However, my knowledge of these countries allows me to assume that the potential choice of Russia or Belarus as a case will not significantly change the conclusion of this article. (2) Among the new European Union (EU) member countries, only three have semipresidential regimes (Poland, Lithuania, and Slovakia, which shifted from a parliamentary to a semipresidential regime in 1998). This almost predetermined my choice of Poland and Lithuania. (3) Southeast Europe, Moldova, and the Caucasus are located between Eurasia and the EU. Southeast European countries are excluded due to my lack of knowledge. Moldova is an indispensable case since it shifted from a semipresidential to a parliamentary system in 2000. It was necessary to include one of the Transcaucasian countries as an example of "almost full presidential semipresidentialism" (see below). Here, a personal reason determined my choice of Armenia: I have visited it several times to run another project on unrecognized states (in this case, the Nagorno-Karabakh Republic). Since I have published essays on Ukrainian (before the Orange Revolution) and Lithuanian semipresidential regimes,<sup>7</sup> this article refers to the experiences of prerevolutionary Ukraine and Lithuania briefly, without detailed descriptions or facts.

This article has three criteria for comparison: domestic politics, dependence on international factors, and available intellectual resources, and argues that favorable conditions for the elaboration of viable semipresidential regimes exist-

ed in the Eurasian core and the European fringe, in contrast to border countries. As preliminary stages for analyses, I comment on the existing literature of semipresidentialism and propose a concept of “almost full presidential semipresidentialism” to cover most of the so-called propresidential constitutional drafts that have emerged in postcommunist countries.

### **From a Quantitative to a Historical-Institutional Approach**

It is not difficult to understand political scientists’ penchant for quantitative, scoring methods of analyzing semipresidential regimes since one of the most serious criticisms that semipresidentialism has faced is its excessive overreaching, which varies from extremely strong to symbolic, protocol presidencies.<sup>8</sup> Recently, Alan Siaroff presented a very sophisticated version of this criticism. Quantitatively measuring the strength of presidents according to nine parameters, Siaroff argued that presidents in a full and almost full presidential system (in the latter, the function of the prime minister exists but he/she is accountable only to the president, not to the Parliament) are highly homogeneous in terms of their strength. In contrast, the functions of presidents under so-called semipresidential regimes vary so extremely that it is inadequate to group them into one category. According to Siaroff, semipresidential regimes and regimes with parliamentary presidents are more or less parliamentary, whether the president is elected or not, powerful or not. Instead of the traditional distinction among presidential, semipresidential, and parliamentary regimes, Siaroff proposes four categories: “presidential systems, parliamentary systems with presidential dominance, parliamentary systems with a presidential corrective, and parliamentary systems with figurehead presidents.”<sup>9</sup> Remarkably, Siaroff’s concept of “parliamentary systems with a presidential corrective” echoes the concept of “rationalized parliamentarism”—an old term characterizing constitutions in interwar Europe and rediscovered by Polish lawyers to interpret their constitution (even the “Little Constitution” of 1992) in a maximally parliamentary manner.

Oleh Protsyk defends the concept of semipresidentialism by arguing that popular presidential elections significantly affect the formation of a cabinet, since, in this condition, various rules of the game are inconceivable under regimes of parliamentary presidents, such as first move advantages and “fresher” legitimacy, work.<sup>10</sup>

No doubt, quantitative analyses with simplified methods of scoring various aspects of a regime’s functioning have an indisputable merit; these analyses are capable of covering a large number of countries. However, they do not answer qualitative questions. For example, presidents are strong and political regimes are authoritarian in both Transcaucasia and Central Asia. However, almost full presidential semipresidentialism, modeled after the 1962 French constitution, emerged only in the former, while in Central Asia, Tatarstan, and Bashkortostan, the formal requirements of semipresidentialism (in particular, parliamentary confirmation of presidential candidates for prime minister “with an overwhelming majority”) have been strictly observed. This phenomenon cannot be understood without considering the difference in the behavior of elites. In the countries where

the rule of “winner takes all” prevails (Transcaucasia, Korea, and Taiwan), almost full presidential semipresidentialism emerges, while in Central Asia, Tatarstan, and Bashkortostan, where the elite like to demonstrate their solidarity, they prefer a typical semipresidential regime. Similarly, we cannot explain by quantitative analyses why Lithuania and Poland continue to be significantly presidential countries despite the political elite’s endeavor to interpret their constitutions in a maximally parliamentary manner.

To answer these questions, I was more inspired by the literature on historical institutionalism than the existing literature on semipresidentialism. Historical institutionalism is a theory that focuses on reciprocal, ceaseless, and dynamic interaction between institutions and political actors’ strategies.<sup>11</sup> Moreover, this theory facilitates transnational comparisons based on intermediate-level variables, located “between grand theories that highlight broad cross-national regularities and narrower accounts of particular national cases.”<sup>12</sup>

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### **Almost Full Presidential Semipresidentialism**

In the constitutional history of postcommunist countries, proposals of full presidential systems, let alone their realization, are extremely rare. In postcommunist countries, the supporters of a strong presidency, at most, requested that presidents be authorized to appoint prime ministers irrespective of the will of the Parliament. In other words, they requested almost full presidential semipresidentialism. Nevertheless, these proposals were presented incorrectly and interpreted as those for (full) presidentialism since, during the first half of the 1990s, politicians and experts in these territories did not know the concept of semipresidentialism, let alone its various subcategories. Therefore, to be accurate, the category of almost full presidential semipresidentialism must be defined.

This category corresponds to Siaroff’s Category 5, in which a popularly elected president appoints a prime minister who is not accountable to the legislature. Siaroff includes Guyana, South Korea, and Sri Lanka in this category. Siaroff excludes Taiwan from this category since the legislature has the right to pass a vote of no confidence by a two-thirds majority, though recognizing that it is unrealistic to fulfill this requirement.<sup>13</sup> Perhaps comparative political scientists specializing in Asia would include Taiwan in this category.

Under the ideal type of almost full presidential semipresidentialism the president initiates the appointment and dismissal of the prime minister, while Parliament’s commitment to it is nominal; the president may preside over the cabinet; the president appoints strategic ministers (such as defense, internal, foreign, and security affairs) directly; the prime minister does not tend to become a rival

to the president, by whom he/she was appointed; and the legislature votes for or against programs submitted by the (candidate for) prime minister, not for or against his/her candidacy itself, in times of parliamentary confirmation or a vote of no confidence.

It is important to emphasize that these parameters aim to measure a semi-presidential regime's closeness to full presidentialism, but not the president's strength. During the first half of the 1990s, the Armenian president was not authorized to dissolve Parliament, and, in this sense, was weaker than those presidents who can, but the lack of power to dissolve Parliament is an attribute of full presidentialism. Parliament's confirmation of a prime minister's programs (not candidacies) only has textual significance since Parliament, in any case, votes for or against a prime minister's candidacy. Nevertheless, this article shows the French, not Soviet, origin of the constitution.

The scoring is as follows:

(1) If the president is authorized to appoint a prime minister at will and the legislature's commitment to it is nominal, the score is a 2 (meaning the closeness to almost full presidential semipresidentialism). If the president is authorized to appoint the prime minister at will, but Parliament has the right to pass a vote of no-confidence in the cabinet (obligatory for the president) the score is 1. If the president is neither authorized to appoint nor dismiss a prime minister without Parliament's confirmation, the score is 0.

(2) If the constitution allows the president to preside over the cabinet and he/she actually does so, the score is 2. When the constitution allows it but the president rarely uses this prerogative (for example, once or twice a year), the score is 1. The score is 0 if the constitution does not allow this practice.

(3) If the constitution allows the president to appoint strategic ministers directly, the score is 2. If the constitution authorizes the prime minister to form the whole cabinet, the score is 0.

(4) If explicit cohabitation emerged, a (former) prime minister became a rival to the incumbent in presidential elections, or a rivalry between the president and prime minister caused a political crisis, the score is 0. If there was latent cohabitation (such as Primakov's term as prime minister in Russia in 1998–99, and the Sargsyan brothers' terms as prime minister in Armenia in 1999–2000, before and after the terrorist act in Parliament) the score is 1. The score is 2 if the prime minister always served as an aid to the president.

(5) If Parliament votes for against programs submitted by the (candidate for) prime minister at the time of confirmation of his/her appointment or of a vote of noconfidence, the score is 2. The score is 0 if Parliament votes for or against his/her candidacy, not his/her program.

Between 1991 and 1995 it is obvious that Armenia (before the promulgation of the 1995 constitution) practiced almost full presidential semipresidentialism (see table 1), while the French Fifth Republic after 1962, Armenia after 1995, Romania after 1991, and Poland under the Little Constitution (1992–97) are more moderate examples of this model.

**TABLE 1. Closeness to Full Presidentialism**

	GF	CM	AP	RV	VT	Total
France 1962–2006	1	2	0	0	2	5
Armenia 1991–95	2	2	2	2	2	10
Armenia 1995–2006	1	2	0	1	2	6
Romania 1991–2006	0	1	0	2	2	5
Moldova 1992–94	0	1	0	2	0	3
Moldova 1994–2000	0	1	0	0	0	1
Poland 1990–92	0	0	0	0	2	2
Poland 1992–97	0	1	2	0	2	5
Poland 1997–2006	0	0	0	0	2	2
Lithuania 1992–2006	0	0	0	0	2	2
Ukraine 1991–96	1	0	0	0	0	1
Ukraine 1996–2005	1	0	0	0	0	1

*Note.* GF: President's initiative in appointment and dismissal of the prime minister. CM: President's prerogative to preside over the cabinet of ministers directly. AP: Direct appointment of "strategic ministers" by the president. RV: Lack of rivalry between the president and prime minister. VT: Parliamentary confirmation of programs of prime ministers.

### Domestic, International, and Resource Factors

The diversification of semipresidential regimes and their stabilities/instabilities in the countries are analyzed here by three factors: domestic politics; dependence on international influences, particularly the 1962 French model and the Venice Commission of the CoE; and available intellectual resources. See table 2.

As for the first criteria, namely, transition and constitutional changes, it is possible that the more moderate, evolutionary, and indigenous the transition, the easier it was for a Communist executive diarchy to evolve into a semipresidential regime. This hypothesis, in principle, holds true—with the exception of Poland—among the five countries analyzed in this article. Despite the radical characteristics of the political transition in Poland since the constitutional amendments in April 1989, there are tangible continuities in the transformation of its executive organ of power. The Round Table reserved for the parliamentary president's "sweeping powers" in the areas of foreign and defense policy.<sup>15</sup> This took place because of the inertia in Communist thinking, as well as the fact that the president's main duty in the strategic sphere in 1989 was his negotiations with Moscow. Later, popularly elected President Lech Wałęsa strengthened his own power by way of the 1992 Little Constitution. Prime Minister Hanna Suchocka, who made a great concession to President Wałęsa, justified her decision, arguing that the Little Constitution was the normalization of the special powers of the president, which had their origins in the Round Table pact.<sup>16</sup> Overall, Poland experienced a short period of interregnum between the abolition of the hegemonic party system and the introduction of a presidency. In this sense, Poland was closer to Ukraine than to Lithuania.

**TABLE 2. Constitutional Processes in Three Meso-Areas (1989–90 to 1995–97)**

Meso-Areas	Countries	Eurasian	From the Eurasian		European fringe	
		core	fringe of Europe	fringe to the	Lithuania	Poland
		Ukraine	Armenia	Moldova		
Domestic politics	Transition and constitutional changes	E	R	E	R	R/E
	Methods of adopting the constitution	C	P	C	C	C
International factors	Influence of the French 1962 constitution	–	+	±	±	±
	Influence of the Venice Commission before 1995	–	–	+	–	–
Resource factors	Intellectual resources in jurisprudence and political science	+	–	–	+	+
	The elite's concern about institutional design	±	–	(Continuous (Military pressure) identity crisis)	+	+
Results	Constitutions	a	b	c	d	e
	The legitimacy of the constitution	±	–	–	+	+

*Note.* E: evolutionary; R: revolutionary

C: elite compromise; P: plebiscite

a Indigenous evolution from Communist executive diarchy to disintegrated semipresidentialism

b “Almost full presidential semipresidentialism”

c Copying the Romanian constitution

d Integrated semipresidentialism

e From “almost full presidentialism” (1992) to integrated semipresidentialism (1997)

Concerning the methods of adopting the constitution, the only example of the plebiscite adoption of the constitution in this article is Armenia (1995). In Poland (1992 and 1997) and Lithuania (1992) the constitutional drafts were put to refer-



endums after achieving parliamentary consensus. In 1992, despite the competitive and conflictive characteristics of Lithuanian and Polish politics, the elite in these countries took a lesson from the bitter experience of the political crisis in the first half of 1992 and reached the firm conviction that the constitution should be adopted through consensus. In Poland, the government almost ceased to function because of a confrontation between President Wałęsa and Prime Minister Jan Olszewski,<sup>17</sup> while in Lithuania, the Parliament split after Landsbergis's reckless referendum in May 1992.

The constitutional development in Ukraine was even more evolutionary than the other CIS countries because its 1996 constitution was a result of compromise among the elite, while in the other CIS countries constitutions were adopted after holding plebiscite referendums. On the eve of the adoption of the 1996 constitution, President Kuchma and the Supreme Rada achieved a compromise: the president did not request the prerogative to disband Parliament, while he retained enormous powers (particularly concerning cadre matters) that he could decide himself without consulting the Parliament or the prime minister.<sup>18</sup>

As for the influence of the 1962 French model, the constitutional processes in Lithuania, Poland, and Armenia, where former Communist leaders were once ousted from power, revealed striking parallels. First, debates around the constitution began when the anticommunist united fronts, such as the Sajūdis, Solidarity, and the Armenian National Movement (HHS) began to split between advocates of a strong presidency (further, I call them hardliners for simplification) and pro-Parliament moderates (Landsbergis versus others, Wałęsa versus Mazowiecki, and Levon Ter-Petrossian versus Vazgen Manukyan). There were admirers of the 1962 French constitution near the leaders of the hardliners, such as Egidijus Jarašiūnas, a lawyer and specialist in French law,<sup>19</sup> Aleksander Hall, leader of the Polish Conservative Party,<sup>20</sup> and Michel Lesage, a famous French lawyer and then-advisor to Ter-Petrossian. Nevertheless, the final drafts of Lithuania's constitution and Poland's 1992 Little Constitution took shape through complex negotiations among political actors and did not become very similar to the 1962 French constitution (see table 1). The 1962 French constitution influenced Moldova indirectly through the 1991 Romanian constitution, after which the Moldovan constitution was modeled. Since the Romanian constitution is a softened version of the 1962 French constitution,<sup>21</sup> the Moldovan constitution is not very similar to it, either. Overall, only the 1995 Armenian constitution copied and even strengthened the "almost full presidential" characteristics of the 1962 French constitution.

The only example of relevant influence of the Venice Commission before the promulgation of the first postcommunist constitution is Moldova. Because of the Transnistrian conflict, Moldova attracted the CoE's interest and enjoyed a "specially invited" status in the early 1990s. The Constitutional Commission consulted with the Venice Commission and "unexpectedly" received a careful response. The leadership of the Moldovan Parliament, in turn, urged the deputies to confirm the constitutional draft elaborated by the Constitutional Commission as quickly as possible for the early accession of Moldova in the CoE,<sup>22</sup> which would take place the next year (1995).<sup>23</sup>

As for intellectual resources, Moldova and Armenia suffered and continue to suffer from a lack of specialists in jurisprudence and political science, compared with the other three countries. The constitutional processes of Moldova and Armenia have been characterized by their haphazardness. In Ukraine, the regime evolved by itself, irrespective of significant variations in constitutional drafts. In Lithuania and Poland, which lacked this condition, politicians and specialists worked hard to construct an optimal semipresidential arrangement. Poland sacrificed three years (1992–95) for the unsuccessful experiment of a populist presidency. In contrast, Moldova spent only half a year to work out a constitutional draft, although with the help of the CoE. Armenia could not aggregate rich contents of various constitu-

tional drafts, ranging from almost full presidentialism to a parliamentary presidency elected by a convention of electors (see below).

In addition to the general insufficiency of intellectual human resources in Armenia and Moldova, the issue of institutional design did not concern the elite (the sixth criteria of table 2). Armenia lived under

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constant military threat and Moldova’s public discourse was occupied with ideological problems, such as the choice between a Moldovan or a Romanian identity, even after the devastating Transnistrian conflict. A Japanese political scientist remarked that in Moldovan politics, public concern in ideological and institutional issues lends itself to trade-off relationships.<sup>24</sup> These circumstances prevented the politicians and experts in Moldova and Armenia, which would not have been very competent without them, from concentrating on institutional design. The hasty constitutional processes of these countries had a more serious consequence; few of the political actors felt an attachment to the promulgated constitutions.

Let us examine the results of the constitutional processes mentioned above. In Ukraine, the transition was evolutionary, and the 1996 constitution was adopted through compromises among the elite. Its constitutional process was relatively free from international influence and had relatively abundant professional expertise. As a result, the evolution of Communist executive diarchy to semipresidentialism was typically realized. However, hasty compromise among the elite resulted in a lack of checks and balances of power. This situation provided abundant opportunities for politically motivated people to propose constitutional changes during 2000–04. Therefore, the legitimacy of the 1996 Ukrainian constitution was medium ( $\pm$ ).

In Lithuania and Poland, the elite were prone to compromise regarding constitutional issues, despite the conflictive characteristics of these countries’ politics. The democratic reputation of these countries helped them in drafting constitutions that were relatively free from international influence. These countries were able to concentrate on institutional design because of the lack of regional

conflicts and serious ethno-identical cleavages in society. As a result, these countries promulgated viable semipresidential constitutions.

In Armenia, the constitution was drafted by the anticommunist, nationalist majority under the strong influence of the 1962 French model. The constitution was adopted through a plebiscite, and the Parliament's commitment to this process was minimal. In Moldova, the constitution was drafted practically within half a year after the 1994 parliamentary elections. The Constitutional Commission copied the Romanian constitution. Paradoxically, the Venice Commission's commitment strengthened this characteristic of haste in the drafting of the constitution, which concentrated not on institutional design but on the name of the title nation and its language. As a result, the constitutions promulgated in Armenia and Moldova were barely perceived as legitimate by the public or the elite.

Summarizing the analyses above, it can be tentatively concluded that: if a country's elite lean toward compromise, its constitutional process will be relatively free from international influence, and if a country has developed jurisprudence and political science, it will produce a viable semipresidential regime. If a country's elite are liable to a plebiscite's decision on constitutional issues, dependent on international influence, and have poor expertise in jurisprudence and political science, this country will be prone to producing an unviable semipresidential regime. One may find this in the typical border meso-area, Armenia and Moldova. This causal relationship can be confirmed through a comparison of how the constitutions were drafted in these countries.

### **Comparing How the Constitutions Were Made (1990–97)**

#### **Eurasian Core: Ukraine**

Following the debate around the constitution in Ukraine from 1990 to 1996, it is striking that, despite the significant vacillation on constitutional drafts between typical semipresidentialism and almost full presidential semipresidentialism, the real governmental process, established in December 1991, when the presidential post was introduced, did not change until the promulgation of the constitution in 1996. The government continued to manage social-economic matters, as it did during the Socialist period. The responsibilities of the Communist Party leadership for strategic matters were passed to the presidency. The 1996 constitution only confirmed this situation. Remarkably, the most influential criticism of Kuchma's attempt to introduce almost full presidential semipresidentialism in Ukraine by the Constitutional Agreement in June 1995 was that this agreement contradicted the practice that had been consolidated during 1992–95, and therefore the cost of transition to another constitutional regime would be enormous.<sup>25</sup>

#### **European Fringe: Lithuania and Poland**

The drafting of the constitutions in Lithuania and Poland underwent a similar process. First, these countries experienced a period of free choice (Lithuania in 1990–91 and Poland in 1989–90), during which various constitutional drafts rang-

ing from parliamentary to almost full presidential semipresidentialism emerged. Second, the leaders of the anticommunist revolutions (Landsbergis and Wałęsa) tried to gain public support by introducing a presidential system before (or even postponing) the adoption of the constitution. Third, the political crises in 1992 forced the political elite to adopt a constitution through compromise. Fourth, because of the characteristics of compromise in these constitutions, serious adjustments were needed in 1997–98. Further, I will describe these four stages.

(1) Had postcommunist Lithuania resorted to restorationism (the idea that the political regime existing until the Soviet occupation should be restored), it would have chosen semipresidentialism with a strong president, since the 1938 Lithuanian constitution was based on this model. However, in contrast to Estonia and Latvia, Lithuania hoisted the banner of restorationism only for tactical purposes. Constitutional debate in Lithuania from 1990 to 1992 unfolded without any preliminary confinement. However, opinion polls conducted during this period show that the majority of respondents supported a popularly elected president, or a strong, one-man rule.<sup>26</sup> This means that Lithuania had a real option to choose almost full presidential semipresidentialism similar to the 1992 Polish Little Constitution. As a result of the Round Table agreement in Poland, the April 1989 amendments to the constitution introduced a parliamentary president—General Wojciech Jaruzelski was elected to this post.

(2) In Lithuania, Landsbergis's attempt to introduce a presidential office through a referendum in May 1992 failed, because it faced fervent resistance from moderate parliamentarians. In Poland, Wałęsa insisted on introducing a popularly elected presidency because, in a popular election, he had a much greater chance of winning against his rival, Prime Minister Tadeusz Mazowiecki, which is what happened.<sup>27</sup>

(3) After an unsuccessful referendum, the Lithuanian Parliament split. This political crisis induced parliamentarians to compromise. At the last stage of constitutional debate (autumn 1992), Landsbergis's unpopularity had become so obvious that his supporters, the main advocates for a strong presidency, had lost the desire to introduce it. They did not want to give broad powers to the potential winner, perhaps a leftist figure, in the coming presidential election. This situation facilitated the compromise between the pro-Landsbergis and the pro-Parliament forces, as a result of which the Lithuanian president secured broad powers. However, he can exercise his powers only after consulting with the Parliament or the prime minister. Thus, the result of the elite's compromise was opposite to that in Ukraine, which chose disintegrated semipresidentialism.

In Poland, after the first free elections in October 1991, the Constitutional Committee chaired by Mazowiecki, was organized. On the other hand, Wałęsa sent the Parliament a document explicitly requesting the introduction of an almost full presidential semipresidential constitution.<sup>28</sup> As noted above, the Polish government was paralyzed because of the confrontation between President Wałęsa and Prime Minister Jan Olszewski (December 1991–June 1992). To overcome this situation, Prime Minister Hanna Suchocka acquiesced to Wałęsa's authoritarian tendencies. As a result, the Little Constitution of 1992 had inconsistent

characteristics—it was situated between typical and almost full presidential semi-presidentialism (see table 1).

(4) The existing literature overestimates the continuity between the Little and full constitutions of Poland. Specialists on this topic often try to explain the Polish constitutional process during 1992–97 as an evolution of “rationalized parliamentarism.”<sup>29</sup> However, the promulgation of the 1997 full constitution, which prescribed semipresidentialism with a controlled president, was not an evolution of the Little Constitution but, on the contrary, motivated by its critical rethinking. Interviewing Polish lawyers and political scientists, one is surprised by their negative memory of President Wałęsa’s populist behavior. Wałęsa vetoed legal drafts and used the right to appoint three “presidential ministers” to struggle against prime ministers.<sup>30</sup> Having won the presidential election in November 1995, Alexander Kwaśniewski voluntarily abandoned the presidential prerogative to appoint the three ministers, and the full constitution omitted this provision. Kwaśniewski restrained from frequently using the veto. If he vetoed, he did so because of a purely legal disagreement.<sup>31</sup> The full constitution lowered the requirement for overriding presidential vetoes from two-thirds to three-fifths of the parliamentarians’ vote.

The Little Constitution allowed the Sejm to pass a vote of no confidence on the cabinet without nominating a candidate for a new prime minister. If the resolution did not include a proposal for the next prime minister, the president was authorized to choose whether to obey the resolution and nominate a new prime minister or to disband the Sejm.<sup>32</sup> Only a no-confidence resolution including a proposal for the next prime minister was obligatory for the president. This right to choose gave Wałęsa significant room to maneuver. Therefore, the 1997 constitution eliminated the possibility for the Sejm to hold a no-confidence vote without nominating the next prime minister.

In other words, this constitution borrowed the principle of a constructive vote of no confidence from the 1949 German constitution. All of these changes aimed to defend the prime minister from arbitrary interventions by the president. This was the lesson that the Polish elite learned from Wałęsa’s presidency.

In Lithuania, there were fewer ambiguities in the 1992 settlement than in Poland. However, its 1992 constitution did not answer the important question of whether the government’s term should correspond to the term of the Parliament or the president, while the Polish Little Constitution explicitly subordinated the cabinet’s term to that of the Parliament. This ambiguity was changed by a ruling from the Lithuanian Constitutional Court on January 10, 1998, which subordinated the term of the government to that of the Parliament.

### **On the Eurasian Fringe: Moldova and Armenia**

In Moldova, the anticommunist Popular Front never secured the majority of the Parliament (1990–94). In December 1990, the Moldovan Supreme Soviet chair, Mircea Snegur, became president of the Parliament. In Moldova, the Supreme Soviet chairman ex-officio chaired the Constitutional Commission. Since Snegur was popularly elected as the president in December 1991, he lost the initiative to

work out a new constitution. The Constitutional Commission remained inactive until the parliamentary elections in 1994, as a result of which Petru Lucinschi, the former first secretary of the Moldovan Communist Party (CPSU), became chairman of the Parliament and, accordingly, began to chair the Constitutional Commission. Despite having won the parliamentary elections by his harsh criticism of unionism with Romania, Lucinschi modeled the Moldovan constitution after the Romanian one. In contrast, the then president, Snegur, was against the Romanian model since he wished to have more powers, at least those secured by the 1962 French constitution.<sup>33</sup> As I already mentioned, the Transnistrian conflict helped Moldova join the CoE, and the Venice Commission's commitment to the Moldovan constitutional process strengthened its haste.

As a result of the influence of the Romanian constitution and consultations with the Venice Commission, the 1994 Moldovan constitution was based on the premier-presidential model, which was exceptional among CIS countries. Moreover, this constitution did not give the president any prerogative to resolve conflicts with the Parliament by using plebiscites. The constitution could only be amended by the Parliament, not through referendums. However, these relatively democratic characteristics of the Moldovan constitution would soon prove to be double-edged.<sup>34</sup>

As was the case with Lithuania and Poland, the victorious anticommunist union in Armenia, the HHS, had a charismatic leader, Levon Ter-Petrossian,<sup>35</sup> who became the Supreme Soviet chair.<sup>36</sup> Having won the struggle with Prime Minister Vazgen Manukyan (1990–91), Ter-Petrossian did not experience any serious resistance to introducing typical almost full presidential semipresidentialism by the Laws on the President and on the Supreme Soviet.<sup>37</sup> The constitution of Armenia was elaborated in an unfavorable situation. The victorious but extremely painful war deteriorated the political situation. The leaders of the country were fragmented, and the former comrades of the HHS slandered each other in public. Disputes between clans carried over into politics, and corruption and assassinations (political and nonpolitical) became a daily affair.<sup>38</sup>

In Armenia, deliberation on constitutional drafts in the Constitutional Commission started in 1993. This commission proposed reinforcing the existing, almost-full presidential semipresidential regime with a presidential prerogative to disband Parliament.<sup>39</sup> The Armenian Revolutionary Federation (HHD), a national leftist opposition, proposed a draft to introduce a regime with a parliamentary president. The Democratic Liberal Party (RA), the liberal opposition, proposed a typical semipresidential regime. Before long, the opposition parties unified their drafts and created a single draft of six (*shesterka*), which proposed a compromise between the HHD's and the RA's versions. The compromise proposed holding a convention of electors (parliamentarians and municipality representatives) to elect a president.<sup>40</sup> This was practiced in France from 1958 to 1962 and is practiced in Estonia today. The Supreme Soviet created a working commission to coordinate the presidential draft and the draft of six. The final draft, which was brought to a referendum on July 5, 1995, was so close to the presidential draft that "it was difficult to call it a compromise."<sup>41</sup> In 1995–96, Ter-Petrossian's harsh

repression paralyzed the HHD's and the RA's activities. Nevertheless, the opposition succeeded in making a parliamentary no-confidence vote binding for the president.<sup>42</sup> The very dubious referendum on July 5, 1995 "confirmed" the constitutional draft.<sup>43</sup> This was only the beginning of the chronic disease of Armenian politics that the international community regards as falsification.

To sum up, viable semipresidential constitutions were adopted in the Eurasian core and European fringe, which were blessed with an elite prone to compromise, international autonomy, and rich expertise in jurisprudence and political science. Armenia lay beyond the concern of the Venice Commission during the first half of the 1990s, but it copied the 1962 French constitution with an authoritative bent. The lack of fruitful compromise among the parliamentary factions and the dubious results of the 1995 referendum made the Armenian constitution illegitimate from the beginning. Moldovan politics during the first half of the 1990s was less conflictive than that of the later period, and the existence of the Romanian model and early contact with the Venice Commission helped Moldova in promulgating a premier-presidential constitution. However, this implied that Moldova might repeat the fate of another premier-presidential regime, that of Russia during 1991–93.

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*“As a result of the influence of the Romanian constitution and consultations with the Venice Commission, the 1994 Moldovan constitution was based on the premier-presidential model, which was exceptional among CIS countries.”*

### **Consolidation, Destabilization, or Demolition of Semipresidentialism (1998–2005)**

As was predictable from the constitutional processes in 1990–95, semipresidential constitutions consolidated in Lithuania, Poland, and, to a lesser extent, Ukraine, while the elite communities in Moldova and Armenia barely perceived their constitutions as legitimate from the beginning.

#### **Consolidation of Semipresidentialism on the Fringe of Imagined Europe: Lithuania and Poland**

Despite the elite's attempt to interpret the semipresidential constitutions in a maximally parliamentary manner, the presidents of Lithuania and Poland never turned into passive executors of parliamentary will. To the question of why Poland continues to hold costly popular elections if the Polish president is not distinguished from parliamentary presidents in their powers, Polish experts give two answers. First, since the president continues to have the powers to veto judicial drafts and dissolve Parliament, a parliamentary presidency would cause a legitimacy problem. A parliamentary presidency system gives rise to the question of why the president can revoke the decision of, and even disband, the body that elected him/her. Second, the Polish population's deep distrust of the elite would make it impossi-

ble to shift from popular to parliamentary elections of presidents. An optimal solution to this situation is to elect presidents that have minimal powers. This is a trend that new European countries are leaning toward.<sup>44</sup> Lithuanian experts often criticize the oligarchic characteristics of the parliamentary systems functioning in Latvia and Estonia, in comparison with which the Lithuanian regime is more democratic and has a mechanism of mutual checks and balances of power.<sup>45</sup>

In Poland, the bitter experiences under Wałęsa's presidency legitimized Kwaśniewski's self-restraining leadership style. In other words, the Polish electorate perceives the president as a safeguard against populism. The unexpected viability of the semipresidential regime in Lithuania can be explained by the contradiction between the oligarchic characteristics of its political elite and the rebellious voting behavior of the people. In this situation, any political newcomer can accumulate political capital quickly, relying on the discontent of the people. Semipresidentialism in Lithuania also functions as a safeguard by assimilating newcomers/challengers into the traditional elite community<sup>46</sup> and by counterbalancing populist voting behavior in parliamentary elections.

### **Destabilization of Semipresidentialism on the Fringe of Imagined Europe: Moldova and Armenia**

The fragile legitimacy of the Moldovan and Armenian constitutions quickly disappeared. The second Moldovan president, Petru Lucinschi (1996–2001), lost the left-centrist parliamentary majority as a result of the 1998 parliamentary elections.<sup>47</sup> During 1998–2001 (until the Communists' victory), five prime ministers were appointed and dismissed. This situation not only devastated Moldova's social-economic situation but also its international reputation, which is very important for a country heavily dependent on foreign aid.<sup>48</sup> Facing this deadlock, President Lucinschi held a consultative referendum to introduce an almost full presidential semipresidential regime on May 23, 1999, and began to consult with the Venice Commission and the Moldovan Constitutional Court. Lucinschi's agitation against the "parliamentary oligarchy" was effective and he consistently enjoyed more trust than the Parliament and the government in public opinion polls.<sup>49</sup> However, because of the democratic (antiplebiscite) characteristics in the Moldovan constitution, Lucinschi was not able to exploit this advantage in an intralite struggle.

In the Parliament, a strange alliance between the right-centrists and Communists against Lucinschi took shape and they proposed amending the constitution to introduce a parliamentary regime with the president elected by the Parliament. The Communist leader, Vladimir Voronin, understood that the public wanted the establishment of a workable executive power. After the constitutional amendment on July 5, 2005, Voronin repeated his position that the shift to a system of parliamentary presidency "does not limit his power at all." The main goal of the amendments was "maximum strengthening of executive power and the whole hierarchy of power" and the new procedure of presidential elections had only secondary significance.<sup>50</sup> There were two arbitrators in this situation: the Venice Commission and the Constitutional Court—both gave ambivalent advice.



According to MP Victor Stepaniuc, the Venice Commission sympathized more with the Parliament's amendments than with Lucinschi's almost full presidential version, but asked the Parliament not to hurry, noting that only several years had passed since the adoption of the constitution. Even after the fateful decision by the Parliament to introduce a parliamentary system, on July 11, 2005, the Constitutional Court adopted a ruling (*aviz*) that the president's proposal for constitutional amendments did not go beyond the limits set by the constitution and obliged the Parliament to accept this proposal for consideration. One of the judges, Gheorghe Susarenco, harshly criticized this ruling in his dissenting opinion, remarking that this ruling violated the Parliament's constitutional status as the only organ to deliberate constitutional amendments.<sup>51</sup> However, this ruling was practically meaningless since, according to the Moldovan constitution, the Parliament is allowed to start discussing constitutional amendments half a year after they are proposed (in this case, only in January 2001). At that time, Lucinschi's term was almost over.

To compensate for the reduction in legitimacy caused by the change from a popular to an intraparlimentary presidential election, the constitutional amendment of July 5 set a strict requirement: the president can be elected if he/she gains three-fifths of the parliamentarians' vote. The third Parliament (1998–2001) could not elect a new president, and Lucinschi, according to a provision of the new constitution, dissolved the Parliament in January 2001.<sup>52</sup> The parliamentary elections of 2001 resulted in a overwhelming Communist victory. This Parliament elected Voronin as president.

The constitutional amendment in 2000, and the Communists' victory in 2001, stabilized the political situation. Constitutional debates brought to the Constitutional Court, which often resulted in the defeat of the president and government, decreased significantly after 2001.<sup>53</sup> However, some experts maintain that Moldovan politics stabilized under Voronin not because the constitutional regime of 2000 functioned well, but because he was the leader of the largest organized party in the country and had leverage to influence the Parliament's activities.<sup>54</sup> Vladimir Mocriac, a specialist in constitutional law, argues that Moldova's shift from a semipresidential to a parliamentary system had no judicial or state-building motivation, but was a product of personal emotion and a provincial "petit gentry" mentality—those who achieve modest success in politics begin to feel like great leaders who should not compromise.

As Mocriac ominously predicted in 2000, the Communists could not gain three-fifths of the deputy mandates of the Parliament in 2005. A serious political and constitutional crisis seemed imminent. In this situation, the United States seemed to intervene in the domestic affairs of Moldova. On April 4, 2005, even the uncompromising opposition to the Communist authorities, such as the pro-Romanian Christian Democrats, voted for Voronin's candidacy. After this event, a rumor spread in Chişinău that on the eve of the parliamentary session, the American embassy convened the leaders of the opposition parties and persuaded them that Communist Voronin, who proved to be pro-EU, pro-NATO, and sufficiently harsh concerning the Transnistrian problem, satisfied the international communi-

ty, and asked them to vote for him. As a result, a Parliament without opposition emerged. As a condition to enter the great coalition, opposition parties requested constitutional amendments. For example, they asked the president to abandon his/her party affiliation while he/she is an incumbent. Another was to deprive the president of the prerogative to appoint prime ministers and dissolve the Parliament. In other words, the Moldovan president will become a protocol president if these amendments are passed.<sup>55</sup>

Even after the cease-fire in 1994, Armenia was in a semimilitary situation. The repression of several political parties and newspapers, along with massive falsifications in the 1996 presidential elections<sup>56</sup> not only discredited Ter-Petrosian, but also damaged the legitimacy of the 1995 constitution. At the beginning of 1998, accused of a compromising policy on the Karabakh problem, Ter-Petrosian was forced to resign. After this crisis until the notorious terrorist act in the parliamentary hall on October 27, 1999, and its aftermath (which continued until the spring of 2000), Armenian politics continuously attracted worldwide attention. After Ter-Petrosian resigned, there were two influential leaders in Armenian politics: Vazgen Sargsyan, defense minister, former field commander, and hero of the Karabakh war; and Karen Demirjian, the former Communist Party first secretary until 1988. This means that he was fortunately not responsible for the military conflicts with Azerbaijan after 1988. Therefore, it was easy for him to ride the wave of the Shevardnadze-Aliyev phenomenon (nostalgia for the peaceful and stable past) that was sweeping over Transcaucasia at the end of 1990s.

Armenia's political history would have been different from what actually took place, had these leaders competed in the presidential elections in 1998. However, Sargsyan preferred to remain a shadowy kingmaker than to become president because he foresaw the reaction of the international community and the Armenian diaspora to a former field commander (and a physical education teacher before that) becoming the Armenian president.<sup>57</sup> Sargsyan persuaded Robert Kocharyan, the former Karabakh president who was appointed to the post of prime minister by Ter-Petrosian in 1997, to run in the presidential election<sup>58</sup> and secured him a victory over Demirjian. After the parliamentary elections of 1999, the two winning factions, guided by Sargsyan and Demirjian, coalesced and created a parliamentary majority influential enough to control the president. Local observers remark that this was a factual cohabitation that might have transformed Armenia's almost full presidential semipresidentialism into a more typical semipresidentialism.<sup>59</sup> On the other hand, however, Kocharyan was not ready to be consoled by the continuation of this humiliating position. Although he filled important functions such as chairman of the State Defense Committee, president of Nagorno-Karabakh, and president of Armenia, he had always been a puppet of field commanders.

After the terrorist attack on Parliament in October 1999, the factual cohabitation continued since Kocharyan had no alternative but to make Sargsyan's younger brother prime minister. He authorized him to form a cabinet relatively independently, and to significantly reshuffle the contingent of procurators. When the critical situation had passed, in May 2000, Kocharyan fired Sargsyan and, before long, closed the terrorist attack investigation.

The year 2003 was a formative year for Kocharyan's administration. He won the presidential election over the son of the assassinated Demirjian in February 2003. According to the rule of winner takes all in Armenian politics, Kocharyan secured the victory of the parties that supported him in the parliamentary elections in May 2003. Kocharyan invited three parties to join the ruling coalition (the Republican Party [HHK], the HHD, and Country of Law [OEK]). Later, Kocharyan reminisced that forming this coalition was more difficult for him than the most painful days in the Karabakh war. The leader of the HHK was appointed prime minister. Thus, Kocharyan created a more typical semipresidential tradition. On the other hand, according to the rule of winner takes all, this ruling coalition monopolized the leading positions of the ministries and parliamentary committees. To keep balance among the parties, new ministerial posts were introduced. The opposition deputies declared that they were not ready to be invited to a "festival of strangers" and would participate in parliamentary debates for agitative, not legislative activities.<sup>60</sup>

In the 1998 presidential election, Kocharyan promised to amend the 1995 constitution in a democratic spirit. This statement was necessary because he did not want to present himself only as a hardliner on the Karabakh problem. When he became president, Kocharyan organized a presidential commission that consisted of sixteen party members and sixteen experts to work out a new constitutional draft. This cumbersome commission was inactive until 1999, when it was reorganized into a purely expert commission. Simultaneously, the Constitutional Court of Armenia became the headquarters for the elaboration of a new constitutional draft. In 2001, Armenia was accepted as a member of the CoE and the expert commission worked in close consultation with the Venice Commission. In June 2001, the Venice Commission issued a conclusion of about three hundred pages, and "among almost seventy disputed points, only four (for example, the system of appointing Yerevan mayor by the president) did not reach a consensus between the Venice Commission and the Armenian authorities."<sup>61</sup> The draft was passed on to the Parliament and after significant propresidential modifications, was put to a referendum, which was held at the same time as the parliamentary elections, on May 25, 2003. The Armenian constitution requires approval from one-third of registered voters for constitutional amendments to be passed, but neither the president nor the opposition advocated transforming the existing almost full presidential semipresidential constitution into a typical semipresidential one. This referendum passed almost unnoticed.

After the fiasco of the 2003 referendum, the president asked the Parliament to adopt further amendments to the constitution. The Constitutional Court was excluded from this process because it had spoiled relations with the president by issuing a strange ruling concerning the validity of the 2003 presidential elections.<sup>62</sup>

In 2004, three drafts were proposed by different coalitions in the Parliament: the ruling coalition proposed a draft based on the Russian model, where the president would appoint the prime minister, a noncoalition but propresidential party proposed a draft which closely resembled the 2001 draft, and the third was proposed by an opposition party, which followed a parliamentary model. In 2004,

after a three-year interval, the Armenian Parliament resumed talks with the Venice Commission. In December of the same year, the commission advised, obviously bearing the coalition's draft in mind, returning to the 2001 draft.<sup>63</sup> When I conducted fieldwork in Yerevan in April 2005, it seemed that the scenario of 2003 would be repeated. Armen Harutyunyan, the representative of the president in the Parliament and the president's main advisor in constitutional matters, said that he often reported to the president that it would be good if they held a successful referendum, but that nothing terrible would happen even if it were unsuccessful; "we will live on the existing constitution."<sup>64</sup> This time, however, the pro-presidential coalition geared up to legitimize the regime. Having been criticized by the Venice Commission in May, the coalition government submitted an amended version of the constitution in June, according to which the president appoints a prime minister who has the confidence of a parliamentary majority or, if this is impossible, the confidence of the majority of deputies (Article 55).<sup>65</sup> Thus, the new constitutional draft proposed a premier-presidential model. Nevertheless, the opposition continued to oppose the draft. On November 27, 2005, 64.4 percent of the registered voters participated in the referendum, and 93.3 percent of them voted for the draft.<sup>66</sup> The unnaturally high turnout and support provoked allegations of fraud from the opposition. However, this time, the CoE's criticism of alleged violations was modest.

### **Ukraine: From the Eurasian Core to the Fringe of Imagined Europe?**

If the widespread observation that the Orange Revolution made Ukraine closer to Europe is valid, then it provides another validation for this article's main idea that imagined Europeaness destabilizes constitutional processes. In the second half of 2003, a number of opinion polls convinced the pro-presidential forces in Ukraine that Leonid Kuchma's chosen successor, Viktor Yanukovych, could not defeat Viktor Yushchenko in the upcoming presidential election. Therefore, the pro-presidential parties tried to give Parliament more power. First, they proposed that the prime minister and the cabinet be nominated by the Parliament, not the president. Second, the Parliament would be obliged to form a parliamentary majority. If a parliamentary majority could not be formed, parliament would be dissolved. Thus, the formation of parliamentary coalitions was shifted from the sphere of politics to administrative law. Third, a system of imperative mandate would be introduced. Parliamentarians expelled from their parties would automatically lose their deputy mandate.<sup>67</sup> Thus, the president would lose his power to control the cabinet and instead the parliamentary oligarchs would form the cabinet and control parliamentarians. This extreme oligarchic regime was devised to secure the influence of the pro-Kuchma factions even if Yushchenko won the presidential election in 2004.

This attempt to reform the constitution failed in April 2004. According to the then dominant discourse among Ukrainian lawyers and political scientists, it was possible to promote democratization in Ukraine under the 1996 Constitution. The most serious problem with the 1996 Constitution was the lack of checks and balances of power. This could have been overcome by the concretization of consti-

tutional practice by law. Flaws in constitutional practice in Ukraine were caused by Kuchma's (intentional) negligence in enacting the organic (constitutional) laws that the constitution scheduled to adopt. In this situation, constitutional amendments would only intensify the legal chaos in the country.<sup>68</sup>

In the midst of the Orange Revolution, on December 8, 2004, the Supreme Rada suddenly made a decision on constitutional amendments. Its contents were very similar to the constitutional amendments rejected by the Parliament in April of the same year. This decision violated the Ukrainian constitution. First, once Parliament has voted against a constitutional amendment, the same amendment may not be proposed again for a year (Article 158).<sup>69</sup> Second, bills on constitutional amendments can be proposed to Parliament only with the approval of the Constitutional Court on the constitutionality of the amendment (Article 159).<sup>70</sup> This condition was not fulfilled because the decision on December 8 was a result of a quick deal among parliamentary factions. Third, the bill on constitutional amendments was adopted in a "package" with amendments of the electoral code and reshuffling of Central Electoral Commission members. In other words, Viktor Yushchenko gained fairer electoral law and electoral commissions to secure his victory in the repeated presidential election by accepting the former pro-Kuchma forces' proposal of constitutional reform. Although this was politically expedient, such an approach is unconstitutional since the Ukrainian constitution, unsurprisingly, outlines a much stricter procedure for amending the constitution than adopting law. Another reason for the skepticism of this reform was the unnaturally long period of transition (from January 1, 2005, to the parliamentary elections of 2006).<sup>71</sup>

Yushchenko was personally against this compromise with the former pro-Kuchma forces, but leaders of his "Our Ukraine" party persuaded him to accept the compromise.<sup>72</sup> Yuliya Tymoshenko, on the other hand, furiously criticized this constitutional reform.<sup>73</sup> However, some observers cynically commented that her anger was provoked by her desire to be appointed prime minister by the president as she did not enjoy the support of the then parliamentary majority.<sup>74</sup> Tymoshenko became increasingly sympathetic to the constitutional reform as her relations with Yushchenko became tense. On the other hand, Yushchenko's advisors, for example, Yuriy Klyuchkovs'kyi, who persuaded Yushchenko to accept the "constitutional reform," have become critical of it as the Orange Revolution coalition dissolved and, accordingly, their personal influence on decision making improved.<sup>75</sup>

### **Transnationalization of Constitutional Theories and Practices**

The constitutional theories and practices in the countries analyzed in this article have influenced each other. For example, the attempts to interpret semipresidential constitutions in a maximally parliamentary manner in Lithuania and Poland not only echoed each other but also influenced other postcommunist countries and even political science in the West. As I already noted, Polish lawyers and political scientists interpreted the Little Constitution of 1992 not as semipresidential but as rationalized parliamentary. Remarkably, they repeat Gaullist sophistry at the beginning of the 1960s. The most natural way to defend execu-

tive power from parliamentary voluntarism is to curb the status and power of cabinet ministers. This is exactly what the concept of rationalized parliamentarism originally meant. In other words, the concept of rationalized parliamentarism does not legitimize the continuation of a popularly elected president.<sup>76</sup>

From the viewpoint of comparative politics, the theoretical trick for this concept is fairly simple; the Polish experts argue that premier-presidential systems should not be called semipresidential. According to them, what matters is the distribution of power among the president, prime minister, and the Parliament and their interrelations, rather than whether the president is elected by the Parliament or the people.<sup>77</sup> Accordingly, the period of postcommunist Poland's constitutional development has been redefined. Tadeusz Mołdawa, director of the Institute of Political Science of Warsaw University argues that the concept of semipresidentialism is only applicable to Poland during 1989–92 (before the Little Constitution), and that the regime under the Little Constitution (1992–97) was already strongly rationalized parliamentarism, and the regime after 1997 is weakly rationalized parliamentarism.<sup>78</sup> Perhaps the Polish experts proposed the concept of “rationalized parliamentarism” to neutralize the undemocratic features of the Little Constitution and also to emphasize European characteristics of the Polish political regime. In Poland, the word semipresidentialism is associated with the politics of CIS countries. On the eve of the parliamentary constitutional reform in Moldova, the parliamentary chair, Dumitru Diacov, emphasized that they were trying to realize “rationalized parliamentarism.”<sup>79</sup> As noted, the concept of “rationalized parliamentarism” echoes Alan Siaroff's concept of “parliamentarism with a presidential corrective.” In his monograph, Mark Brzezinski completely repeats the discourse dominant in Polish academic circles,<sup>80</sup> which George Sanford politely criticizes.<sup>81</sup>

In Lithuania, the attempt to interpret the semipresidential constitution in a maximally parliamentary manner is represented by the aforementioned ruling of the Lithuanian Constitutional Court on January 10, 1998, according to which Lithuania's constitutional regime is a parliamentary system with “certain peculiarities of . . . mixed (semipresidential) form of governance.”<sup>82</sup> On the eve of Valdas Adamkus' anticipated victory in the presidential elections of 1997–98, the Lithuanian Constitutional Court needed to clarify whether the government's term is subordinate to presidential or parliamentary elections. The most probable author of this ruling was Egidijus Jarašiūnas, a Constitutional Court judge, who had been a comrade of Landsbergis in 1992 and written a constitutional draft of almost full presidential semipresidentialism. If he had been an admirer of the French Fifth Republic that time, this time, he was inspired by the French Third Republic. The ruling distinguished two concepts included in the constitution, namely “returning the government's credentials to the president” and “the resignation of the government” and stated that the government resigns only when the Parliament is reelected, while it returns its credentials to the newly elected president only to “express respect.”<sup>83</sup> The president is obliged to reappoint the incumbent prime minister automatically.

Egidijus Kūris, the then-director of the Institute of Political Sciences and International Relations, Vilnius University, thoroughly criticized this ruling.<sup>84</sup> Kūris

argued that parliamentary systems are neither less rational nor less effective compared to presidential and semipresidential systems, but a parliamentary system, with a popularly elected president, contradicts political logic. According to the ruling, popularly elected presidents have only a few legal levers to implement their political goals. Ridiculing the fact that the possible author of the ruling, Jarašiūnas, seemed to have borrowed the concept of resignation for the sake of courtesy (*demission de courtoise*) from the experience of the French Third Republic. Kūris remarked that it was this republic that almost all the flaws of a parliamentary system can be attributed.<sup>85</sup>

Another argument is the contradiction of parliamentary presidential systems. If a president is elected by a Parliament and plays more than a protocol role, questions emerge: why can he/she veto legal acts adopted by the body that elected him/her; and why can he/she dissolve the body that elected him/her? There are two ways of overcoming this contradiction: to raise the requirement to elect a president up to approval by three-fifths of parliamentarians (Moldovan and the pre-1998 Slovakian way) or to hold special conventions of electors to elect presidents (Estonian and the former French way [1958–62]). In the former case, it is extremely difficult to elect a president, as shown by Moldova's experience in 2005. According to Moldovan lawyer Vladimir Mocriac, this is why Slovakia shifted to a semipresidential regime and similar amendments are discussed in many postparliamentary countries. Mocriac remarks that popularly elected presidents with nominal power are becoming a dominant form of government in democratizing postcommunist countries.

### Conclusion

This article argues that the concept of semipresidentialism may serve a much wider research purpose than the currently dominant quantitative, scoring method of research. By focusing on the interaction between institutions (in this case, semipresidentialism) and political actors' strategies, which may lead to the consolidation or demolition of institutions, one can describe the general characteristics of the countries' politics.

Characteristically, for the western fringe of postcommunist countries, the diversification of semipresidential regimes can be understood only through the dynamics of a megasystem covering these countries. This article reveals the existence of three meso-areas and a V-curve relationship between them. Ukraine's semipresidential system represented two characteristics of Eurasian politics: the evolution of Communist executive diarchy and the president's clientelistic maneuvering. On the European fringe (Lithuania and Poland), semipresidentialism could be consolidated since it found its *raison d'être* as a stabilizer against populism.

Semipresidential choices in the typical border area, Moldova and Armenia, were neither blessed with the regime's successiveness, practical utility, nor honored by intellectual debate in their elaboration. Most important, because of the plebiscite or the rough-and-ready adoption of their constitutions, the political and academic elite of these countries did not feel a sense of loyalty to their constitutions. Moldova's premier-presidential regime was a comic repetition of Russia's

premier-presidentialism in 1990–93, which was destined to be liquidated into one or the other orientation (a parliamentary system or almost full presidential semi-presidentialism). Almost full presidential semipresidentialism in Armenia fits its political elite's winner-takes-all behavior and thus was more viable than Moldova's democratic semipresidentialism. However, this regime appeared illegitimate internationally and domestically, once Armenia declared its intention to follow the European path of democratization. Unfortunately, the Europeanization of Ukraine facilitated by the Orange Revolution was accompanied by overt violations of constitutional norms.

Thus, a V-curve diagram emerged: relatively stable semipresidentialism in the Eurasian core and the European fringe in contrast to constant constitutional crises in the border region, Moldova and Armenia. The accession of these border countries to the CoE did not improve the situation. The commitment of the European structures to the constitutional processes of the countries analyzed here could have positive effects only if the local actors had sufficient professional expertise and were capable of resolving domestic political conflicts around the constitution by themselves. Otherwise, local actors will only interpret the Venice Commission's remarks to their own advantage. In the worse cases, as with Armenia in 2003, the authorities held a referendum to democratically amend the constitution, allegedly, in cooperation with the CoE, but intentionally neglected mobilizing votes to bury these amendments.

Moldova's shift to a parliamentary system revealed problems with parliamentary presidential systems. The requirements of the Parliament in nominating presidents need to be unrealistically high because he/she should have sufficient legitimacy to veto and dissolve the parliament. The only solution seems to be to make presidency a purely symbolic and protocol function, a reform now that was discussed in the Moldovan Parliament.

Another unexpected finding of this paper is that constitutional courts have an important role in the constitutional processes of these countries. The ruling of the Lithuanian Constitutional Court on January 10, 1998, established a premier-presidential interpretation of the Lithuanian constitution. The Moldovan Constitutional Court maintained its independence, even during the severe struggle between the president and legislature in 1998–2000. The Armenian Constitutional Court became the headquarters for working out a new constitutional draft during 1999–2001.<sup>86</sup> This may be a viable subject for future analysis.

## NOTES

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1. Among almost thirty countries emerging from the former Socialist camp, only six (the new Czech Republic, Hungary, Slovakia, Latvia, Estonia, and Albania) chose parliamentary systems. Remarkably, in only one of them, an unrecognized state of Transnistria, has a full presidential system emerged. The other countries, except for Turkmenistan,



which is very difficult to classify by modern political concepts, chose semipresidentialism. In 1998, Slovakia shifted from a parliamentary to semipresidential regime. On the other hand, in 2000, Moldova shifted from a semipresidential to parliamentary regime.

2. Maurice Duverger, *Les constitutions de la France* (Paris: Presses Universitaires de France, 1993), 115.

3. If the most important characteristic of semipresidentialism is executive diarchy, postcommunist semipresidentialism is even more typically semipresidential than the 1962 French model. Obviously, Charles de Gaulle did not target executive diarchy when he proposed the draft of the 1962 constitution. He wished to consolidate the power that he obtained while managing the Algerian crisis by shifting from "rationalized parliamentarism," prescribed in the 1958 constitution, to a semipresidential regime. See Duverger, 104–9. The prime minister in this context was expected to be no more than an aid to the president, who needed parliamentary support to work effectively. A hierarchical executive diarchy "in which power is usually skewed more in favor of one political actor than another" (president or prime minister), characteristic of current French constitutional practice, is a product of almost fifty years' experience. See Robert Elgie, "France," in *Semipresidentialism in Europe*, ed. Robert Elgie, 71 (Oxford: Oxford University Press, 1999). In contrast, when postcommunist countries promulgated semipresidential constitutions, the elite of these countries already realized, even though they did not know the term semipresidentialism, that the appointment games of prime ministers would become a focal point of the functioning of a regime. Therefore, while in the 1962 French constitution, the president's power to appoint prime ministers and Parliament's power to pass a vote of no confidence on the cabinet of ministers are prescribed in different articles located distant from each other (Articles 8 and 49, respectively), postcommunist constitutions regulate the appointment (and, if the constitution is democratic, also the dismissal) games systematically.

4. Kimitaka Matzusato, "Semipresidentialism in Ukraine: Institutional Centrist in Rampant Clan Politics," *Demokratizatsiya* 10, no. 1 (2005): 45–58.

5. Kimitaka Matzusato and Liutaurus Gudžinskas, "An Eternally Unfinished Parliamentary Regime? Semipresidentialism as a Prism to View Lithuanian Politics" *Acta Slavica Iaponica* 23 (2006): 146–70.

6. On the other extreme, there are a number of descriptions of domestic politics of the countries that chose semipresidentialism. Several chapters of the collection edited by Robert Elgie (1999) belong to this group.

7. Matsuzato, "Semipresidential in Ukraine," and Matzusato and Gudžinskas, "An Eternally Unfinished."

8. Mathew Shurgart and John M. Carey, *Presidents and Assemblies: Constitutional Design and Electoral Dynamics* (Cambridge: Cambridge University Press, 1992).

9. Alan Siaroff, "Comparative Presidencies: The Inadequacy of the Presidential, Semipresidential and Parliamentary Distinction," *European Journal of Political Research* 42 (2003): 309.

10. Oleh Protsyk, "Prime Ministers' Identity in Semipresidential Regimes: Constitutional Norms and Cabinet Formation Outcomes," *European Journal of Political Research* 44 (2005): 721–48.

11. Kathleen Thelen and Steven Steinmo, "Historical Institutionalism in Comparative Politics," in *Structuring Politics: Historical Institutionalism in Comparative Analysis*, ed. Sven Steinmo, Kathleen Thelen, and Frank Longstreth, 14, 16–17 (Cambridge: Cambridge University Press, 1992).

12. *Ibid.*, 10.

13. Siaroff, 295.

14. I understand legitimacy here as the persistence of something like a Nash equilibrium, in which individuals adhere to definite rules of a game even when the rules are temporarily disadvantageous to them, because they consider that deviation will make the individual worse off than will adherence.

15. Mark Brzezinski, *The Struggle for Constitutionalism in Poland* (New York: St. Martin's Press, 1998), 101.

16. Alfred Stepan and Ezra N. Suleiman, "The French Fifth Republic: A Model for Import? Reflections on Brazil and Poland," in *Politics, Society, and Democracy: Comparative Studies*, ed. Alfred Stepan and Juan J. Linz, 407 (Boulder: Westview, 1995).

17. *Ibid.*, 403–7.

18. Matsuzato, "Semipresidentialism in Ukraine," 51–52.

19. At present, a judge of the Lithuanian Constitutional Court. Also, see Matsuzato and Gudžinskas, "An Eternally Unfinished."

20. Brzezinski, 95.

21. Tony Verheijen, "Romania," in *Semipresidentialism in Europe*, ed. Robert Elgie, 197 (Oxford: Oxford University Press, 1999).

22. Interviews with Victor Stepaniuc, MP, chair of the committee on culture, sciences and education, May 25, 2005, Chişinău; and Dumitru Ciuvaşhenko, the editor of the newspaper *Moldavskie vedomosti*, May 30, 2005, Chişinău.

23. Another paradoxical, modernizing effect of the Transnistrian conflict was that Moldova introduced a full proportional system for parliamentary elections as early as 1994, which continues to function today, blurring the problem of separated territory. See William Crowther, "The Politics of Democratization in Postcommunist Moldova," in *Democratic Changes and Authoritarian Reactions in Russia, Ukraine, Belarus, and Moldova*, ed. Karen Dawisha and Bruce Parrott, 310 (Cambridge: Cambridge University Press, 1997).

24. Reiko Muto, "A Crucial Reason for Moldova's Return to a Parliamentary Regime: Trade-off Relations between Ideology and Institutional Design in Public Concern," in *Analele Asociației Naționale a Tinerilor Istoricilor din Moldova* [The Annals of the National Association of Young Historians in Moldova], 7 (2006): 227–33.

25. Mykola Kozyubra, "Proekt konstytutsii Ukrainy v redaktsii vid 15 lystopada 1995 roku" [The Draft of the Constitution of Ukraine on November 15, 1995]; in *Konstytutsiya nezalezhnoi Ukrainy, knyha 2, dokumenty, statii* [The Constitution of Independent Ukraine, Volume 2, Documents, Articles]: 12.

26. Matsuzato and Gudžinskas, 152–54.

27. Mark Chmaj and Mark Żmigrodski, eds., *Gabinety Koalicyjne w Polsce w latach 1989–1996* (Lublin Poland: Uniwersytet, 1998), 48–50.

28. Stepan and Suleiman, 403.

29. For example, see Leszek L. Garlicki, "The Presidency in the New Polish Constitution," *East European Constitutional Review* 6, no. 2–3 (1997). <http://www.law.nyu.edu/eecr/vol6num2/feature/presidency.html>.

30. For example, in December 1995, even after A. Kwaśniewski won the presidential elections, the minister of internal affairs, Andrzej Milczanowski (Wałęsa's man), accused Prime Minister Oleksy for contacting Russian intelligence. Also, see Antoni Dudek, *Pierwsze lata III Rzeczypospolitej, 1989–2001* (Krakow: Arcana, 2004), 431–32.

31. Interview with Antoni Dudek, researcher at the Institute of People's Memory, September 6, 2004, Warsaw.

32. Polish Const. art. LXVI, sec. V

33. Interview with Vladimir Mociac, the chair of the constitutional law department of the Independent International University, June 1, 2005, Chişinău.

34. President Lucinschi would soon lament that the 1994 constitution was too democratic to be effective.

35. On his biography, see Joseph R. Masih and Robert O. Krikorian, *Armenia at the Crossroads* (Amsterdam: Harwood Academic Publishers, 1999), 36.

36. Gerard J. Libaridian, *Modern Armenia: People, Nation, State* (New Brunswick, NJ: Transaction Publishers), 209–10. Also, see Masih and Krikorian, 23.

37. Promulgated on August 1, 1991, and November 19, 1991, respectively. I asked Manukyan (prime minister in 1990–91) why he could not find an optimal division of labor with Ter-Petrosian (the then Supreme Soviet chair). My question was motivated by the

fact that confrontation between the president and the Parliament was a universal phenomenon in CIS countries during the first half of the 1990s, but that confrontation between the head of the state and the prime minister was a rare phenomenon, because of the inertia of Communist executive diarchy. Manukyan answered that in CIS countries, anticommunist revolutions were conducted from above, but Armenia's revolution was conducted from below (interview, April 26, 2005, Yerevan).

38. Masih and Krikorian, 39–46

39. Armen Arutyunyan, *Institut prezidenta Respubliki Armeniya (Srvanitel'no-pravovoi analiz)* (Yerevan: Mkhitar Gosh, 1996), 94–95. Also, see Masih and Krikorian, 48.

40. Arutyunyan, 94–100.

41. *Ibid.*, 101.

42. A possible explanation for this compromise is that by 1995, Ter-Petrosian had learned from the experiences of other CIS countries and began to think that a more typical semipresidentialism with Parliament's confirmation of the prime minister's program did not look so bad because in this system he would be able to sacrifice prime ministers for unpopular policies. Moreover, he desperately wished to have the right to dissolve Parliament, which was possible only by a certain compromise with the semipresidential approach (Interview with Vartan Pogosyan, project coordinator for the German Technical Cooperation, April 25, 2005, Yerevan).

43. *Novoe vremya*, "Konstitutsiya prinyata esli verish' Tsentrizbirkmu," (The Constitution Was Adopted if You Believe the Central Electoral Committee) July 8, 1995.

44. Interviews with Stanisław Gebethner, professor at the Institute of Political Science, Warsaw University, September 8, 2004, Warsaw; and Tadeusz Mołdawa, director of Institute of Political Science, September, 2004, Warsaw.

45. Interview with Egidijus Kūris, chairman of the Constitutional Court of Lithuania, August 3, 2004, Vilnius.

46. The assimilations of Valdas Adamkus, Artūras Paulauskas, and Viktor Uspaskich, and unsuccessful attempts to assimilate Roland Paksas.

47. The parliamentary chair, Dumitru Diacov, chose to coalesce with Snegur's faction, thereby worsening relations with the president.

48. See Paul D. Quinlan, "Moldova under Lucinschi" *Demokratizatsiya* 10, no. 1 (2002): 83–102.

49. Ciuvașhenko interview.

50. *Nezavisimaya Moldova*, July 19, 2000.

51. Republica Moldova, *Curtea Constituțională, Culegere de hotărâri și decizii, 2000* [The Republic of Moldova, the Constitutional Court, the Collection of Resolutions and Decisions] (Chișinău 2001), 28–30.

52. Quinlan, 99–100.

53. Interview with Ion Vasilati, judge of the Constitutional Court of the Republic of Moldova, May 24, 2005, Chișinău.

54. Interviews with Vasilati, Ciuvașhenko; and Vlad Cubreacov, MP, chairman of the CDPP's Parliamentary group, May 26, 2005, Chișinău. Vasilati, a judge of the Constitutional Court, explained the popularity of the Moldovan Communists by their behavior. If someone complains, they visit his/her flat to explain the reasons for his/her grievance and the way to resolve it. These organizational activities distinguish Voronin from Lucinschi, who only gave beautiful speeches on TV and in newspapers. March says: "Having long aimed to put a party organization in every district, they [the Communists] had party workers in 1,000 of the country's 1,004 villages and claimed to have met virtually every voter during the [electoral] campaign." Quoted from Luke March, "Socialism with Unclear Characteristics: The Moldovan Communists in Government," *Demokratizatsiya* 12, no. 4 (2004): 512.

55. Interview with Stepaniuc and Ion Varta, MP from the CDPP, May 26, 2005, Chișinău.

56. Masih and Krikorian, 56–58.

57. The then leader of the Nagorno-Karabakh Republic, Samvel Babayan, shared this behavior.

58. Kocharyan did not have the right to run in the presidential election since the constitution requires Armenian citizenship of more than ten years to become a candidate (Article 50).

59. Interview with Lyudmila Harutyunyan, dean of the Department of Sociology, Yerevan University, people's deputy of the USSR in 1989–91, April 22, 2005, Yerevan.

60. Interview with Hmayak Hovhannisyán, MP, president of the Armenian Political Science Association, April 27, 2005, Yerevan.

61. Interview with Feliks Tochyan, judge of the Constitutional Court of Armenia, April 26, 2005, Yerevan.

62. Recognizing the elections as valid, the court recommended that the president hold a referendum within a year. See also *Novoe vremya*, April 19, 2003 and Libaridian, 255–563. Information available at <http://www.alplus.am/eng/?go=issue&id=23419>.

64. Interview with Armen Harutyunyan, representative of the president in the National Assembly, April 25, 2005, Yerevan.

65. Armenian Const. art. LV.

66. According to the Central Electoral Commission 1,411,711 voted for the draft, while 411,711 voted against. See *Respublika Armeniya*, November 30, 2005.

67. Denys Kovryzhenko, "Problemni pytannya konstytutsiinoi reformy," [Problematic Questions of the Constitutional Reform] in *Chasopys parlament* [Journal Parliament] no. 1 (2004): 23–25; and the author's interview with Yurií Klyuchkovs'kyi, vice-chair of the parliamentary commission of state building and local self-government, a leader of the "Our Ukraine" party, March 11, 2004, Kyiv.

68. See Matzusato, "Semipresidentialism in Ukraine," 55, and Oleksandr Syniookyi, "Will the Ukrainian Parliament Counterbalance Semipresidentialism?" in *Emerging Meso-Areas in the Former Socialist Countries: Histories Revived or Improvised?* ed. K. Matzusato, 137–54 (Sapporo: SRC, 2005).

69. Ukr. Const. art. CLVIII.

70. Ukr. Const. art. CLIX.

71. Interview with Mykola Kozyubra, the former judge of the Constitutional Court of Ukraine (1996–2002), December 21, 2005, Kyiv. Kozyubra does not adhere to the first argument because there are in fact textual differences between the April and December bills.

72. *Zerkalo nedeli*, "Anatomiya dushi Maidana," December 11–17, 2004. <http://www.zerkalo-nedeli.com/ie/print/48633>.

73. *Zerkalo nedeli*, "Yuliya Tymoshenko: 'Kuchma, kak molodoi olen, priskal podpisat politereformu, dlya nego i ego okruzheniya—eto akt reinkarnatsii!'" December 11–17, 2004. <http://www.zerkalo-nedeli.com/ie/show525/48660>.

74. Interview with Denys Kovryzhenko, expert of the Agency for Legislative Initiatives, December 20, 2005, Kyiv.

75. Ibid.

76. Duverger, 106–7.

77. Stanisław Gebethner, "Parlamentarne i prezydencskie systemy rządów (Porównawcza analiza polityczna)" [Parliamentary and Presidential Systems of Government (Comparative Political Analysis)], *Państwo i prawo* [The State and Law] no. 7–8 (1994): 26–37, and Gebethner Interview V. Mocriac, a Moldovan lawyer, supports this definition (interviewed on June, 1 2005, Chişinău).

78. Interview with Tadeusz Moldawa, September 7, 2004, Warsaw.

79. *Nezavisimaya Moldova*, June 20, 2000.

80. Brzezinski, 97–100.

81. George Sanford, *Democratic Government in Poland: Constitutional Politics since 1989* (New York: Palgrave Macmillan, 2002), 83.

82. Information available at <http://www.lrkt.lt/dokumentai/1998/n8a0110a.htm>.

83. Ibid.

84. Egidijus Kūris, "Politiųjų klausimų jurisprudencija ir Konstitucinio Teismo obiter dicta: Lietuvos Respublikos Prezidento institucija pagal Konsitucino Teismo 1998 m. sausio

10d. nutarimą” [Political Questions’ Jurisprudence and *Obiter Dicta* of the Constitutional Court: The Institution of the President of the Republic of Lithuania According to the Constitutional Court Decision of January 10, 1998], in *Politologija*, no. 1 (1998): 3–94.

85. *Ibid.*

86. On the role of the Ukrainian Constitutional Court in regulating the relations between the president and legislature, see Syniokyi, 150–52.