

SECTION 2. CONSTITUTIONAL AND MUNICIPAL LAW

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CONSTITUTIONAL ROLE OF THE PRESIDENT OF UKRAINE AS HEAD OF STATE

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Modern constitutional reforms in Ukraine actualize the issue of determining the optimal form of government and the role of the President as the guarantor of the Constitution and the head of state. The purpose of the article is to study the constitutional powers and place of the President of Ukraine in the mechanism of state power, as well as analyze his interaction with other branches of power. The article examines how the status of the President of Ukraine as the head of state reflects his key functions defined by the Constitution and ensures balance in the system of power. The historical context of the term “head of state” and its adaptation to modern realities, in particular in the context of Ukraine, are analyzed.

One of the most important elements of any state system is its head – a person who holds the highest position in the state and has a significant influence on the political and administrative life of the country. The term “head of state” has become widely used to denote a constitutional body, which is a senior official in the state, which plays a key role in the state mechanism. Many scholars have addressed issues related to the head of state, specifically the president, including Barabash Y. H., Boryslavskiy L. V., Hetman A. P., Petryshyn O. V., Serohina S. H., and others.

The term “head of state” was first officially used in France in the Constitutional Charter of 4 June 1814, which established the foundations of the monarchy during the Bourbon Restoration. This document, which established the foundations of the monarchy, stated that “The king is the supreme head of the state, commands the land and sea forces, declares war, makes treaties of peace, alliance and commerce, appoints to all places of public administration, and makes the necessary regulations and ordinances for the execution of the laws and the security of the state” [1].

Since then, the term has come to refer to the highest official, regardless of the form of government. Although initially it was the monarch, over time the concept of “head of state” has also come to be used in the context of presidential and parliamentary republics, where the head of state acts as an elected or appointed person who performs the functions of representation and administration.

Today, the term “head of state” is a standard definition for a senior official who has constitutionally defined powers and performs important functions in the administration of the state. Usually, this is a single-person body of general competence, which not only represents the state at the international level, but also performs a number of key functions in the system of state authorities. Depending on the form of government, the role and powers of the head of state can differ significantly. In monarchies, this is traditionally a monarch (king, emperor), who is a symbol of the unity and continuity of the state. In republics, the head of state can be elected, such as the president, and perform executive functions or serve as a symbolic representative of the nation.

Analysis of the evolution of the institution of the head of state, from monarchical traditions to modern republican models, shows that in Ukraine the President combines the functions of representing the state at the international level, guaranteeing state sovereignty and coordinating the activities of the branches of government. His powers, enshrined in the Constitution, cover a wide range of areas - from foreign policy and national security to legislative initiative and interaction with the judiciary [4]. However, as noted in scientific studies (Boryslavskiy L.V., Petryshyn O.V.), the effectiveness of the implementation of these powers depends on strict adherence to constitutional boundaries and the principles of checks and balances.

The status of the President of Ukraine as the head of state and the right to speak on behalf of the state can be characterized as the main legal and functional appointments of the President of Ukraine, which symbolizes his functions - the main areas of activity, enshrined in Art. 102 of the Constitution of Ukraine, which in turn will include the content of the specific powers of the President of Ukraine, enshrined in Art. 106 of the Constitution of Ukraine. Thus, Art. 102 of the Constitution of Ukraine is general in relation to 2 Art. 102, therefore Section V (President of Ukraine) and all other norms of the Constitution of Ukraine on the President of Ukraine and Section I “General Principles”. Part of Article 102 of the Constitution of Ukraine enshrines provisions on the President as the guarantor of certain spheres of state and social life [2, p.455].

The President of Ukraine, as the guarantor of compliance with the Constitution of Ukraine, is obliged to act under any circumstances only on

the basis, within the limits of his powers and in the manner provided for by the Constitution and laws of Ukraine, which was emphasized in the Decision of the Constitutional Court of Ukraine dated October 15, 2008 No. 23-пп/2008 (case on the proclamation by the President of Ukraine of an all-Ukrainian referendum on a popular initiative). No “serious” reason can be a basis for the President to go beyond the limits of his competence established by the Constitution of Ukraine and detailed in the current constitutional legislation [2, p.456]. The President of Ukraine may not have any other representative mandate, hold a position in state authorities or in associations of citizens, as well as engage in other paid or entrepreneurial activities or be a member of the management body or supervisory board of an enterprise aimed at making a profit. (Part 3 of Article 103 of the Constitution of Ukraine) [5].

The 2019 elections opened a new stage in the development of the institution of the President of Ukraine, setting before the state the task of improving the mechanisms for the implementation of presidential powers. In this context, the Constitutional Court of Ukraine plays a key role, which must ensure a balanced distribution of power, prevent excessive concentration of powers in the President, and restrain unjustified constitutional changes. The effectiveness of the Court's activities will become a determining factor in strengthening democratic principles and ensuring the stability of the constitutional order in Ukraine [3].

The term “head of state” does not always allow us to fully characterize the functions and competence of this body, since in different countries the head of state performs various duties that often go beyond the traditional idea of a monarch or president. In modern democratic states, the head of state can have different legal statuses, from a symbolic figure to an active participant in the political process. The institution of the head of state has indeed undergone significant evolution, which was reflected in its essence, functions and legal status. Over time, the role of the head of state has changed depending on the form of state government, political traditions and needs of society, which made this term less clear and insufficient to fully describe all aspects of the activities of this position. Based on the analysis of the permanent constitutional process in Ukraine, we can conclude that a radical revision of the existing form of state government is inappropriate. Instead, it is urgent to improve individual elements of the system of power that impede the effective functioning of the mechanism of separation of powers [5, p. 113]. In particular, certain aspects of the President's interaction with other branches of government need to be clarified and refined to ensure the proper balance of checks and balances.

Conclusions. The institution of the President of Ukraine as the head of state plays a key role in ensuring the stability of the state system,

guaranteeing compliance with the Constitution and coordinating the activities of the branches of government. An analysis of the constitutional status of the President, enshrined in Articles 102 and 106 of the Constitution of Ukraine, indicates his multifaceted role, which combines the functions of representing the state at the international level, guaranteeing state sovereignty, territorial integrity and implementing domestic and foreign policy.

The evolution of the concept of “head of state” from monarchical traditions to modern republican models demonstrates the adaptation of this institution to the needs of a democratic society. In Ukraine, the President acts as a sole body of general competence, which ensures balance in the system of separation of powers through a mechanism of checks and balances. However, the effectiveness of the exercise of presidential powers depends on the clear observance of constitutional boundaries, which is emphasized by the decisions of the Constitutional Court of Ukraine.

Modern challenges, in particular after the 2019 elections, highlight the need to improve the mechanisms of interaction of the President with other branches of government to ensure proper balance and prevent excessive concentration of powers. Instead of a radical revision of the form of government, it is advisable to clarify certain aspects of constitutional legislation, which will contribute to the effective functioning of the system of government. The role of the Constitutional Court of Ukraine remains crucial for strengthening democratic principles and ensuring the stability of the constitutional order. Thus, the President of Ukraine, as the head of state, plays a central role in the state mechanism, combining representative, guarantee and coordination functions, which requires constant improvement of legal regulation to ensure effective governance and democratic development of the country.

Bibliography:

1. Anderson F.M. Constitutional Charter of 1814. The Napoleon Series. URL: https://www.napoleon-series.org/research/government/legislation/c_charter.html (accessed: 09.09.2025).
2. Barabash Y. H., Hetman A. P., Serohina S. H. ta in. Konstytutsiia Ukrainy: naukovy-praktychnyi komentar (Constitution of Ukraine: scientific-practical commentary). Kyiv : VAITE, 2024 (accessed: 09.09.2025) (in Ukrainian).
3. Boryslavskiy L. V. Instytut Prezydenta Ukrainy pislia vyboriv 2019 roku: novyi etap rozvytku. (Institute of the President of Ukraine after the 2019 elections: a new stage of development). *Konstytutsiinyi visnyk. (Constitutional Bulletin)*. 2019. № 1. URL: <https://www.constjournal.com/>

pub/1-2019/instytut-prezydenta-ukrainy-pislia-vyboriv-2019-roku-novyi-etap-rozvytku/ (accessed: 09.09.2025) (in Ukrainian).

4. Konstytutsiia Ukrainy vid 28 chervnia 1996 r. (iz zminamy) (Constitution of Ukraine: Law of Ukraine No. 254/96-VR of June 28, 1996 (with amendments)) URL: <http://zakon1.rada.gov.ua/laws/show/254k/96-vp> (accessed: 09.09.2025) (in Ukrainian).

5. Petryshyn O. V., Forma derzhavnoho pravlinnia v Ukraini: do poshuku konstytutsiinoi modeli (Form of government in Ukraine: towards a constitutional model) *Pravo Ukrainy*. 2014. № 8 (in Ukrainian).

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SOME ISSUES OF EXERCISING THE RIGHT TO JUDICIAL PROTECTION OF CERTAIN CATEGORIES OF CITIZENS: ON THE EXAMPLE OF INTERNALLY DISPLACED PERSONS

ДЕЯКІ ПИТАННЯ РЕАЛІЗАЦІЇ ПРАВА НА СУДОВИЙ ЗАХИСТ ОКРЕМИХ КАТЕГОРІЙ ГРОМАДЯН: НА ПРИКЛАДІ ВНУТРІШНЬО ПЕРЕМІЩЕНИХ ОСІБ

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Проблема внутрішнього переміщення населення в Україні, спричинена збройною агресією Російської Федерації, стала одним із найзначніших гуманітарних та правових викликів новітньої історії держави. Мільйони громадян були змушені залишити свої домівки, рятуючи власне життя та безпеку, що, за оцінками Управління Верховного комісара ООН у справах біженців (УВКБ ООН), становило понад 10% від загальної кількості внутрішньо переміщених осіб у всьому світі [2]. Правовий статус цих осіб, відомих як внутрішньо переміщені особи (ВПО), суттєво відрізняється від статусу біженців, оскільки, згідно з міжнародним правом, ключовою відмінністю є