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The Head of State's Constitutional Liability

Abstract: The paper aims to introduce the concept of constitutional liability of the President, and the institutions of the President's constitutional liability. The author presents the liability and its relations with other types of head of state's liabilities. The presented analysis includes all European countries.

Keywords: *head of state; constitutional liability; parliament; constitutional court; referendum*

Introduction

The rule of law is currently recognized as the most perfect form of the political system. It is characterized by not only thought-out construction, solid ideological foundation, extensive catalogue of systemic principles, but most of all by effective institutional guarantees of law and order. Analysing the literature it seems that the usefulness of the various institutions can be measured only by examining the frequency of their use, the suitability for daily functioning of the state. Such an attitude side-lines all kinds of 'systemic fuses', which by their nature, by definition, should not be constantly used but should prevent a certain negative phenomena. One of instruments of obvious preventive nature is an institution of constitutional liability.

Concept of liability on the ground of legal sciences

Defining the concept of responsibility on the basis of legal science faces a number of difficulties. The basic problem is the lack of a definition of this concept uniform for particular areas of law (Lang, 1968, p. 4; 1969, p. 54; Bojarski, 2003, p. 47). On the contrary, the meaning of the concept differs between particular provisions, which

translates into heterogeneous terminology (Lang, 1968, pp. 5–7). Currently, legal doctrine distinguishes criminal liability, civil liability, constitutional liability and other. Legal entities may also bear liability of a different kind, arising from a breach of the provisions of administrative law, labour codes, and other regulations. At the same time, the institution of liability is of fundamental meaning to the operation of the law as a regulator of social relations. The definition of the law, in addition to indication that it includes "all legal regulations in force, i.e. binding standards of required conducts of general (addressed to entities unmarked personally) and abstract nature (applied in certain class of repeated situation)" (Wojtyczek, 2009, p. 381), also emphasizes its "binding character (obligation to respect the law by public authorities […] and any other entities) and the state's right impose sanctions, including criminal sanctions in case of violation of the law". (Wojtyczek, 2009, p. 381) A separate issue is a reflection on multiplication of types of liability in modern countries, their effectiveness and correlation between particular types.

Constitutional liability is undoubtedly a form of legal liability, for it is defined on the basis of the law. Usually it is also functionally linked to a violation of legal norms, referred to in this case as so called constitutional tort. It is worth mentioning that since the constitutional liability is of legal nature, it is wrong to define it by both constitutional and legal adjectives, which can be found in the literature. The specific nature of constitutional liability is accurately expressed by M. Pietrzak (1992, p. 9), who indicates its: special subjective scope, special objective scope, special implementation method, special system of penalties[1].

The subject of constitutional liability is a constitutional tort or an offense committed in connection with holding an office. It is not possible to develop a universal directory of actions corresponding to the aforementioned characteristics. Specific directories of such actions were developed within particular political systems (Grabowska, 2011, pp. 326–249).

The objective scope of the constitutional liability includes people holding functions exceptionally important to the interests of the state (Zawadzki, 1984, pp. 192–193).

[1] Constitutional liability was formed as a special kind of liability, when it comes to its subjective and objective scope, its method of implementation as well as the system of penalties. Its isolation from criminal and political liability of ministers raised a justified question regarding its essence. Its objective scope has not been limited to ministers and presidents as it also covers holders of other state positions. Also, when it comes to the subjective scope, the constitutional liability is associated with acts not only violating the Constitution and statutes, but it also embraces legal actions, causing considerable damage to the interests of the state or actions involving a serious breach of obligations related to the position held, which are in opposition to activities that are fair and far-sighted.

This group, specific for particular systems, is usually not extensive. It covers mainly heads of states of a republican type, as well as ministers.

Specifics of implementation of the constitutional liability consists in exclusion from competence of common courts. Also in this respect there is a strong variation between particular countries, where parliaments, constitutional courts, special tribunals, and even the nation may be involved in the process. A different method of implementation is a consequence of special objective scope of constitutional liability which includes persons protected under the law in a special way.

Constitutional liability is characterized also by a different system of penalties. It is related to the fact that nowadays it is primarily aimed at removing from office and – possibly – at preventing from holding public office in the future. At the same time, "it is »additional « responsibility, which goes beyond that which is borne by all citizens. It is justified by the need for penalization of actions of those in the highest positions in the state, that are socially harmful and illegal, though not always generate criminal liability" (Granat, 2010, pp. 235–236)[2].

Evolution of the Concept of Constitutional Liability

Such specific nature of constitutional liability results from a long-term evolution. The problem of accountability of those in power – closely related to its abuse – is an object of interest of researchers of state and law since ancient times. Antiphon the Sophist is said to have written: "Justice is that not to exceed the rights of the State of which he is a citizen" (Sylwestrzak, 2003, pp. 40–41). Socrates, who examined structural forms, pointed to governance in accordance with the laws and with respect to the will and dignity of the subjects, as to features which characterize the monarchy. A monarch who violates laws for the protection of his power, wealth and privileges was described as a tyrant (Sylwestrzak, 2003, p. 44). The political thought of Plato and Aristotle includes postulates for creation of such a system in which the state organization will cause the law to be respected (Tokarczyk, 2000, pp.205–206). The idea of law and order was a subject of interest of the Roman jurisprudence, especially of Cicero, who argued that "just as the law stands over the official, so the officials stand above the people" (Sylwestrzak, 2003, p. 87).

During the medieval period the doctrines of the law of the state created the idea of the right of resistance against the ruler. The idea was expressed by philosophers representing completely different views as St. Thomas Aquinas and William of Ockham (Tokarczyk, 1999, pp. 136, 169). The creation of an appropriate legal structure

[2] Judgment of the Constitutional Tribunal of the Republic of Poland of 21 February 2001.

– which was the English impeachment – took place in the late Middle Ages (Pietrzyk, 1992, p. 8)[3]. Popularization of this kind of institution was a long process and took several hundred years.

The idea of exercising power in moderation had its proponents during the Enlightenment (e.g. Erasmus of Rotterdam), although supporters of keeping up appearance in order to conceal the true face of the ruler, as Niccolo Machiavelli, were also active. It was a period of strong diversity of views – next to the idea of rule of law, which was part of the doctrine of A.F. Morzewski, Jean Bodin promoted the idea of passive resistance against those abusing power, and in extreme cases, 'tyrannicide' (Sylwestrzak, 2003, pp. 155 and 159).

The modern doctrines of separation of powers, which aim at preventing its abuse, have been developed in the seventeenth and eighteenth centuries. J. Locke isolated legislative, executive and federation (primarily of foreign policy) authority, all based on the principles of the nation's sovereignty and political representation (Dudek, 1988, p. 113). The problem of the abuse of power was described K.L. Montesquieu (1957, p. 231), who claimed that every guardian of power has such tendency, and realizes it until he encounters limits. In the opinion of J.J. Rousseau, the tendency to abuse power requires control over those in power, exercised by the people (Górecki, 1992, p. 114).

Juridisation – and sometimes even constitutionalisation – of single ideas or even more developed concepts occurred at the turn of the eighteenth and nineteenth centuries, as a result of the American and the French revolutions. The idea of the nation's sovereignty was taken into account, which resulted in separation of political sovereignty, i.e. deciding on the development of the social order, from the legal sovereignty, realized by state authorities establishing and applying the law. The solution to the problem of the abuse of power led to the creation of the new model of the responsibility of those in power before the sovereign or his representatives (Podbielski, 1975, p. 9).

Currently, it is assumed that the regulation of the principles of operation of every office should include 'the principle of mistrust' (Górecki, 1992, p. 46)[4]. The idea of control of the power implemented by an extensive complex of specialized institutions, has become the foundation of the concept of the rule of law. Particular emphasis is put

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[3] According to Pietrzak (1992): "Development of effective warranties, inhibiting the arbitrariness of rulers fell to countries where resistance against absolutism was the most efficient and productive with new institutional solutions. England led these countries".

[4] The principle is mentioned by Górecki (1992) in the analysis of the problem of lack of legal liability of the President of Poland in the Constitution of 1935.

on the primacy of the law over state institutions, and thus over persons holding various public offices, as well as on the principle of legality. This approach is complemented by complex systems of accountability of civil servants, including disciplinary liability, liability based on general principles, political and constitutional liability (Pietrzak, 1992, pp. 8–9). The classic institution of constitutional liability is considered to be one that can be initiated by one of the houses of parliament (usually the so called lower house), and carried out by the second house (usually the so called higher house), or the constitutional court (Pietrzak, 1992, p. 26).

There are two objectives of the functioning of the institutions of constitutional liability. The first is to ensure the implementation of the Constitution by persons performing the most important functions in the state, which means not only refraining from violating its provisions, but also taking actions aimed at implementing constitutional norms. The second is to ensure that those who are subject to constitutional liability will include the principle of legality and the rule of law in their actions. The implementation of these two objectives is in the interests of each country, and its practical application is a hallmark of the rule of law (Sokolewicz, 2001, p. 8–9).

Typical for the institution of constitutional liability is that "it is often extended to actions which are lawful but harmful to the interests of the state, in violation of official duties, a denial of prudent and far-sighted actions. Repressive measures applied by a judicial body are usually varied, but their main purpose is primarily to remove the head of state or the minister from office and condemn their activities" (Pietrzak, 1992, p. 26).

Democratic legal state is characterized by an extensive system of monitoring compliance with the law. In order for the system to be effective, it must be differentiated. While the control is to be carried out also in respect of the persons holding the highest offices in the state, there must be a special formula of responsibility. It should be borne in mind that such persons are legally privileged. Typical republican head of state is entitled to immunity, excluding them from the reach of the ordinary courts. Hence, the need to introduce accountability implemented on special terms.

In the case of states of republican type, subjects of constitutional liability include primarily the president and the ministers. The rule is that the republican head of state bears legal responsibility, usually not only constitutional, but also criminal, although its enforcement depends on the specifics of immunity in a particular country (Górecki, 1992, p. 44).

Genesis of Constitutional Liability

The origin of the institution of constitutional liability of the president is related to the establishment of the United States of America. You have to be aware, however, that the idea of a public official liability was not innovative, but referred to the institutions of impeachment known to the English legal system (Zaleśny, 2004, pp. 58–59)[5]. However, it included also the head of the state while in England it covered only the ministers (liable for their own actions as well as for actions countersigned by the monarch).

The institution of impeachment – in its original version – was supposed to be helpful in enforcing the liability of persons for whom there was a fear that they can use their special position, office, or influence to avoid punishment. Realistically, it was found that such persons can – directly or indirectly – impact on the court. The solution to this problem was to create separate adjudicating authority and procedure for selected entities (Działocha & Zalasiński, 2007, p. 1).

The twilight of impeachment came with emergence of the institution of political liability of ministers in England in the 18th century. There is an opinion that the co-existence of these institutions resulted in preventive use of political responsibility towards impeachment (Pietrzak, 1992, p. 33). This thesis is true since the parliament gained a tool which allowed to remove an official before he violates the Constitution or statutes, though perhaps the ease of use of political responsibility is more important. However, this institution does not apply to persons holding the office of president.

The adoption and modification of these institutions by the system of the United States (the Constitution of 1787) was a matter of choice only partially. When it comes to the legal system, the United States formed on the basis of different systemic assumptions, spring up directly from the English tradition. Rejection of a series of legal solutions – especially those including the control of the executive – was impossible due to the adoption of the principle of national sovereignty (Podbielski, 1975, p. 17). Sporadic cases of resignation from the legal – including constitutional – liability of the president, taken later in some countries were evaluated critically. Such solutions, applied in Poland under the Constitution of 1935 constituted a derogation from

[5] The institution of impeachment was used to enforce accountability of the officials. Its origins are disputable. Various authors refer to other case studies, indicating the following dates: 1289., 1349., 1376., 1459. It is undisputable that at the time of its adoption by the US system the institution of impeachment was already fully developed and required only adjustments to the specifics of the republican state.

the republican tradition and alluded to the solutions used in monarchies (Górecki, 1992, p. 46).

The institution of constitutional liability emerged in continental Europe in the 18th century, and took different forms in different countries, as Sweden, Poland or France (Pietrzak, 1992, p. 34). Finally, the French contributed to the popularization of the institution of the president's constitutional liability in Europe by including it in all republican constitutions. They also were the first to have attempted to enforce the constitutional liability (Marx, 1980, pp. 131–132; Pietrzak, 1992, p. 48)[6].

Table 1. Liability of European Heads of State

	State	Head of state	Liability
1.	Bosnia and Herzegovina	presidency	criminal
2.	The Czech Republic	president	criminal
3.	The Federal Republic of Germany	president	constitutional
4.	The French Republic	president	legal (negligence)
5.	The Grand Duchy of Luxembourg	monarch	no
6.	The Hellenic Republic	president	constitutional, criminal
7.	The Holy See / Vatican City	monarch	no
8.	The Kingdom of Belgium	monarch	no
9.	The Kingdom of Denmark	monarch	no
10.	The Kingdom of Norway	monarch	no
11.	The Kingdom of Spain	monarch	no
12.	The Kingdom of Sweden	monarch	no
13.	The Kingdom of the Netherlands	monarch	no
14.	The Principality of Andorra	monarch	no
15.	The Principality of Monaco	monarch	no
16.	The Principality of Liechtenstein	monarch	disciplinary*
17.	The Italian Republic	president	constitutional, criminal
18.	The Portuguese Republic	president	criminal

[6] The events of December 2, 1851 were related to the dispute between the President of the French Second Republic Louis Bonaparte, and the parliament. The president aiming to increase his prerogatives finally dissolved the parliament and declared a state of emergency. The parliament considered the decision to be a coup, voted a motion to remove Louis Bonaparte from office and decided to hold him constitutionally liable. The president used the army against the Parliament and restored the empire.

	State	Head of state	Liability
19.	The Republic of Albania	president	constitutional, criminal
20.	The Republic of Austria	president	constitutional
21.	The Republic of Belarus	president	criminal
22.	The Republic of Bulgaria	president	constitutional, criminal
23.	The Republic of Croatia	president	constitutional
24.	The Republic of Cyprus	president	criminal
25.	The Republic of Estonia	president	criminal
26.	The Republic of Finland	president	criminal
27.	The Republic of Hungary	president	constitutional
28.	The Republic of Iceland	president	constitutional, criminal
29.	The Republic of Ireland	president	legal (improper behaviour)
30.	The Republic of Latvia	president	criminal
31.	The Republic of Lithuania	president	constitutional, criminal
32.	The Republic of Macedonia	president	constitutional
33.	The Republic of Malta	president	legal (improper behaviour)
34.	The Republic of Moldova	president	constitutional
35.	The Republic of Montenegro	president	constitutional
36.	The Republic of Poland	president	constitutional, criminal
37.	The Republic of Romania	president	constitutional, criminal
38.	The Republic of San Marino	president	no
39.	The Republic of Serbia	president	constitutional
40.	The Republic of Slovenia	president	constitutional
41.	The Republic of Turkey	president	criminal
42.	The Republic of Ukraine	president	criminal
43.	The Russian Federation	president	criminal
44.	The Slovak Republic	president	constitutional, criminal
45.	The Swiss Confederation	president	criminal
46.	United Kingdom of Great Britain and Northern Ireland	monarch	no

* Prince takes disciplinary liability before the Family Council (Wiszowaty, 2010, pp. 425–427)

Source: own comparison.

Propagation of the institution of president's constitutional liability is closely related to the increase of the number of republican states. The 19th century was a period when it gradually became popular so that in the 20th century it is a typical element of the constitution of the modern state. Thirty-four out of forty-six European countries are republics, with eighteen recognizing constitutional liability of presidents (Table 1). Republican states provide for presidential legal responsibility. Nine countries permit the constitutional and penal responsibility of the head of the state (Albania, Bulgaria, Greece, Iceland, Lithuania, Poland, Romania, Slovakia, Italy). Twelve countries allow only criminal liability (Belarus, Bosnia and Herzegovina, Cyprus, Czech Republic, Estonia, Finland, Latvia, Portugal, Russia, Switzerland, Turkey, Ukraine), and nine only constitutional (Austria, Croatia, Montenegro, Macedonia, Moldova, Germany, Serbia, Slovenia, Hungary). Two of them allow the legal responsibility for 'inappropriate behaviour' (Ireland, Malta), and one state for negligence (France).

Countries with monarchical system do not provide legal responsibility of the head of the state. There are possibilities though, such as deprivation of the right to succession, when someone from the ruling family enters into a marriage without the consent of Parliament. An exception in this regard is Liechtenstein, where although the ruling prince is not subject to legal liability, the law provides for two special types of liability, which apply to him. Under the so-called Constitution of the Princely House of Liechtenstein of 26 October 1993, the Family Council may take disciplinary measures against the prince when his activity damages the reputation, honour and prosperity of the Princely House of Liechtenstein. These measures include: giving a reprimand or deprivation of the throne (Wiszowaty, 2010, pp. 425–426). The second form of liability of the Prince of Liechtenstein consists in holding a referendum, at the request of one thousand five hundred citizens, on the motion of no confidence[7]. If the motion is passed, the Prince is notified and has six months to make a decision, and within two months of the referendum the Family Council proposes a method for proper settlement (Wiszowaty, 2010, p. 427).

Constitutional Liability and Political Liability

Constitutional liability should be clearly separated from political responsibility. M. Pietrzak (1992, p. 8) believes that "Impeachment, also known as criminal, legal or constitutional responsibility, and the institution of the political accountability of ministers, developed as a by-product of the use of impeachment, became, as of the 18th century, the condition for the formation of a rich catalogue of institutions and

[7] Article 13 of the Constitution of Liechtenstein of October 5, 1921.

legal solutions, submitting to control and counteracting abuse of state power by the ruling and guaranteeing the rights and freedoms of the individual".

Although there are opinions expressing strong interactions between these two types of responsibility, it seems that the differences outweigh the similarities. According to J. Zaleśny (2004, p. 43), both types of liability refer to the quality of performing political roles "hence holding people politically responsible due to constitutional reasons, holding constitutionally responsible because of political reasons as well as not holding constitutionally responsible because of political arguments are frequent in practice". Of the above three cases, the first and the third only prove the coexistence of institutions of constitutional liability and political accountability in modern countries. The second case can be seen as an example of confusing these institutions, or deliberate using the institution of constitutional liability in bad faith by politicians.

One can indicate a strong association between constitutional liability and political responsibility, but taking place in a different ground. Entrusting the parliaments with conducting a number of important tasks, including in particular the initiation of proceedings on the constitutional liability of the President, caused that obtaining the relevant majority is necessary to taking of activity in this area. Obtaining the proper support in the representative body, which is constituted based on lists created by the political parties, means that the decision is of a political nature. The political element is therefore an integral part of the modern institution of constitutional liability, though the legislator should take care to make the legal element dominant.

Considering the degree of mutual relation of the constitutional and political responsibility, it is worth noting that various forms of control may – but need not – be associated with different forms of accountability. Pietrzak (1992, p. 26) rightly points to the example of recognizing a statue unconstitutional. As a consequence, it loses its binding force (in whole or in part), which however does not lead to drawing consequences against members of parliament, even though they adopted the unconstitutional act.

Among the characteristics of the constitutional liability one must indicate its individual nature and necessity of the condition of wilfulness. The individualization of responsibility must take into account that: firstly, it is borne by the guardian of power, and thus does not burden the office in any way; secondly, in contrast to the political responsibility, constitutional liability cannot be borne jointly and severally, therefore it must identify and punish the person guilty of committing a particular offense. The possibility of joint and several liability is irrelevant, as long as we consider the case of a head of state, but the need for legal eligibility and evaluation of an act committed by a particular person determinates legal, not political nature of the president's responsibility.

Arguments in favour of a legal nature of constitutional liability are also provided by the necessity to prove guilt. While in the case of a typical parliamentary accountability (political) there is no such a requirement, it is a prerequisite for holding legally liable. The constitutional liability of the president often includes not only the constitutional tort, but also a criminal offense, which determines the legal nature of the legal responsibility (Sarnecki, 1999, pp. 1–2).

A separate issue is that of the ongoing politicization of the institution of constitutional liability of the president. It should be noted that a highly politicized parliament plays a key role in holding the head of state liable. Motives of the initiators of constitutional liability are often of a political nature. In the opinion of W. Sokolewicz (2001, pp. 11–12): "The above distinction remains its value so far the constitutional liability is decided by the State Tribunal, acting as a judicial authority, separate and independent from other » authorities«, whose members have an attribute of independence […]. The Tribunal in the abovementioned shape has all formal conditions for adjudging solely on the basis of the law, in isolation from variable political conjunctures".

Reflections on the nature of the responsibility of the President in modern European republics are verified by the reality. While the number of European countries constitutions introduced constitutional liability of the President, none of them does not allow him to bear political responsibility, or – which is in fact the same – parliamentary accountability (Chruściak, 2009, pp. 301–302; Grabowska & Grabowski, 2012, pp. 171–190).

Constitutional Liability and Criminal Liability

During the analysis of the issue of liability of the president one can come into contact with the opinions that in some cases there is no constitutional responsibility, but criminal responsibility. This statement would be true, if the problem of accountability of high state officials was considered only the historical level, referring to the institution of impeachment, in its original form. In England of the turn of the fourteenth and fifteenth centuries there was a special criminal procedure, used by cooperating houses of parliament in order to discipline royal officials (Pietrzak, 1992, p. 32). Long-term evolution of the institution of impeachment, and the creation of other institutions to enforce aimed at enforcing liability of persons holding important offices, loosely referring to the their prototype, lead to many misunderstandings. Therefore, it is worth to point out similarities and differences between the two types of liability.

Criminal liability is "legal liability for human actions and omissions, which consists in imposing a penalty. Penalty is a special kind of legal sanction, different from e.g. the obligation to repair the damage […] or from sanctions which ensure the implementa-

tion of the decisions of public authorities […]. »Penalty« *sensu stricto* […] is a sanction directed at personal goods (liberty, property, sometimes even life or – in the historical development – inviolability and bodily integrity), and its purpose is not to remove the effects of the violation of the law, but to subject the perpetrator to penalty. Even when simple restoration of the *status quo ante* is possible […], it does not abolish the punishment". (Sarnecki, 2003, pp. 1–2).

The specificity of the criminal law consists in in the fact that the responsibility is a result of an offense, meanwhile the constitutional liability is also related to other acts (Zaleśny, 2004, p. 50). Catalog of such acts – legal, though affecting the broad interests of the state – is extensive and may include: neglect, improper use of office, abuse of power, mismanagement, political crime, etc.

Some researchers argue that the criminal nature of the president's constitutional liability follows from frequent including of high treason within the constitutional liability (Dziemidok-Olszewska, 2003, p. 319). This argument seems to be groundless, because this offense is punishable under the provisions of the criminal law, which is logical, because it does not have to be related with violation of the constitution in any way. Thus, the crime of high treason should be located within the criminal responsibility rather than constitutional. This is justified because the opportunity to commit such offenses is not limited only to persons holding the office of a president or a minister.

A separate issue is that the constitutional provisions found in some countries introduce additional requirements for the enforcement of constitutional liability. In the Federal Republic of Germany the provisions combine the presidential responsibility with 'deliberate offence' (Wojtaszczyk, 1993, p. 27), while in the Republic of Slovenia it is required to determine the wilful misconduct (Zaleśny, 2004, pp. 49–50). This feature should be considered as another element differentiating constitutional and criminal liability. Although the concepts of a 'deliberate offence' and 'wilful misconduct' are known to criminal law, they usually do not determine the responsibility of the perpetrator of the prohibited act.

Criminal responsibility and constitutional liability are connected by the fact that in both cases proceedings is conducted in accordance with the rules of criminal procedure. The popularity of this solution is partly due to reference to the tradition of the English impeachment and partly due to the specific characteristics of criminal procedure. The rules of criminal procedure, after a long-term improvement, are nowadays complete in terms of effectiveness as well as the protection of the rights of the accused, which seem necessary for conducting activities by the constitutional authorities of the law-abiding state

Constitutional liability proceedings is not the only case of using the rules of criminal procedure for the needs other than determination of criminal responsibility.

These rules also used during the work of parliamentary committees of inquiry, but that does not mean that their activities are treated as the enforcement of criminal responsibility.

Another problem concerns the type of sanctions applied in the case of constitutional liability. They are defined in the literature as specific as they are much different from other types of responsibilities. Therefore, it is impossible to identify the constitutional liability with the criminal responsibility, nor with any other. This issue will be discussed in later sections of this analysis (Zaleśny, 2004, p. 68).

Moreover, unlike in the case of criminal law, constitutional liability proceedings is primarily intended not so much to punish the entity, but to deprive it of its office, which is intended to protect the public interest. The same objective lies behind application of criminal measures in such cases. This is due to the specific nature of the responsibility of the state officials, applicable to the president (Pietrzak, 1992, pp. 20–21). As a rule, however, the focus is put on removing from office rather than to take legal measures of a criminal nature.

Usually, the regulations do not formulate a categorical prohibition for standing again in an election. The justification is of a double nature: 1) first of all, the final decision in cases when a person removed from office stands again in an election, belong to the voters; 2) secondly, when a person removed from office will be also held criminally responsible, he or she cannot apply for election for president.

In conclusion, it is worth noting that many of the rules governing the president's constitutional liability are explicit about the possibility of commencing a separate criminal proceedings against the accused. It is therefore possible to conduct the procedure (usually after impeachment of the President), and to convict him by a criminal court, if only actions committed by him are considered to be crimes. It should also be noted that unlike the entities deciding on the guilt of the president accused of having committed a constitutional tort (where the authorities can be as diverse as the parliament, the constitutional court, a special body, and even the nation) (Działocha & Zalasiński, 2007, p. 2), in cases of possible violations of criminal law specialized common courts are competent to evaluate the actions of the president (Pietrzak, 1992, p. 27).

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