

# HOW DEMOCRATIC ARE THE CONSTITUTIONS OF POST-COMMUNIST COUNTRIES? COMPARATIVE ANALYSIS OF THE CONSTITUTIONS OF HUNGARY, LATVIA AND UKRAINE<sup>1</sup>

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## **Abstract**

This article is a comparative analysis of the Constitutions of three post-communist countries – Hungary, Latvia, and Ukraine – in the field of democracy and its values. These countries were chosen on the basis of their different status: Hungary is a post-communist country, Latvia is a post-soviet country, but now it is a member of EU, Ukraine is a post-soviet country with possibility to become a member of EU in the future. In the article the following directions were investigated: the main democratic principles of the Constitutions of Hungary, Latvia and Ukraine; possibilities for citizens to recall the elected officials and remove the president from office; comparative analysis of two Hungarian constitutions – 1949 and 2011.

**Keywords:** Hungary, Latvia, Ukraine, democracy, democratic values, constitutional democracy, post-communist countries, post-soviet countries

## **Introduction**

After the collapse of Soviet Union all post-soviet and post-communist countries received an impetus for their own way in their functioning and development. Most of these countries have chosen the democratic path of their development, but the successes in this direction have been different for all countries. Countries were creating their democratic legislative norms, principles of functioning of the state and its institutions, the forms of cooperation between authorities and citizens, etc. The most important direction in this field was a creation of effective Fundamental Law, which would support all transformational process in the country and functioning of all its institutions and population.

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This article intends to analyse the Constitutions of three post-communist countries – Hungary, Latvia, and Ukraine – in the field of democracy and its values. These countries were chosen on the basis of their different status: Hungary is a post-communist country, Latvia is a post-soviet country, but now it is a member of EU, Ukraine is a post-soviet country with possibility to become a member of EU in the future.

The goal of this article is to make an analysis of the mentioned Fundamental Laws and 1) define the most democratic constitution which gives wide possibilities for public participation and development of democracy; 2) define the less democratic constitution and points which do not support democratic transformations.

The question is: What are the main directions for development and reinforcement of democracy which should be reflected in any democratic constitution?

## **The main democratic principles of the Constitutions of Hungary, Latvia and Ukraine**

A constitution is the legal basis of functioning of a country. In many countries it is called the fundamental law. As it was noted by G. Jacobsohn (2010, p. 47), constitutions may be viewed as instruments through which a nation goes about defining itself. This is often attempted in preambles – but in other parts as well – wherein all manner of noble intentions is detailed in lofty and inspiring prose.

According to P. Nikolic (1989), existence of a constitution traditionally has been regarded as a hallmark of democratic polity, that is, the constitutionalism or the concept of limitation on the governmental power and rule of law. The existence of a constitution is an unquestionable characteristic of a vast majority of contemporary democratic countries. He noted that the historical practice of the modern states shows that in democratic countries there is deep rooted determination toward the existence of constitution as the basis of legal order and of entire state organisation.

A constitution lays the foundation for functioning of institutions within the state, their interaction, a clear distribution of powers of the authorities, the fundamental rights and freedoms of the individual in society. R. Tripathi and S. Parajuli (2009, p. 13) claim that creating a constitution is an act of institutionalisation of a democracy, securing fundamental democratic, political and social relations. That is, the desirability of a principle of constitutionality. Constitutionality consists in limiting the power and is subject in all the state organs and other holders of the functions of power to the constitution, with a view to making impossible the arbitrariness and self-will, as well as in securing and protecting, and not only giving formal guarantee of the rights and freedoms of man and the citizen,

then a conclusion that constitutionality and democracy are deeply interpenetrated forces itself on the population.

Researchers of constitutional processes have determined the important directions and aspects that must be inherent in any democratic constitution.

Sotirios A. Barber (2010) argues that any successful constitution has to have a possibility for citizens to change it, a possibility for constitutional reform as a whole. He notes that a good constitution preserves doubt about its own success even as it works (with arguable success) to approximate its ends and maintain the capacity for constitutional reform. He defined that the “capacity for constitutional reform” is the active and self-regarding virtue of a community. In the author’s opinion, in any event, a constitution that leaves its people incapable of constitutional reform is at best a failure in progress (p. 27).

James E. Fleming supports Barber’s views (2010) on a successful constitution and emphasises that a constitution or constitutional order might fail with respect to change or reform. He distinguishes two types of such failure. One, a people might lose the very capacity to change or reform. He suggests here that for a people committed to constitutional self-government, this clearly would be a form of failure. Two, a constitution or constitutional order might breach the limits of legitimate constitutional change (p. 39–40). Further on, he adds that his constitution-perfecting theory of securing constitutional democracy presupposes a conception of constitutional success and of the preconditions of constitutional success. As he notes, he develops “a guiding framework with two fundamental themes: first, securing the basic liberties that are preconditions for *deliberative democracy* to enable citizens to apply their capacity for a conception of justice to deliberating about and judging the justice of basic institutions and social policies, as well as the common good; and, second, securing the basic liberties that are preconditions for *deliberative autonomy* to enable citizens to apply their capacity for a conception of the good to deliberating about and deciding how to live their own lives” (p. 40). The author concludes that together, these themes afford everyone the status of free and equal citizenship in a morally pluralistic constitutional democracy.

According to Rewati Raj Tripathi and Surya Prasad Parajuli (2009, p. 12), it is important that ‘constitutionalism means not only that there are rules creating legislative, executive and judicial powers, but that these rules impose limits on those powers. Often these limitations are in the form of individual or group rights against government, rights such as freedom of expression, association, equality and due process of law’.

At first sight, the constitutions of Hungary, Latvia and Ukraine are very similar. They proclaim the principles of democracy, human rights and freedoms, and the rule of law, but this is only at first glance. A deeper analysis shows significant differences.

*The Constitution of Latvia* defines the main directions of the country's development, and supports the main human rights and freedoms. This Constitution was adopted in 15 February 1922.

As it is defined at the beginning of the Constitution, "the people of Latvia, in a freely elected Constitutional Assembly, have adopted the following State Constitution:

The State of Latvia, proclaimed on 18 November 1918, has been established by uniting historical Latvian lands and on the basis of the unwavering will of the Latvian nation to have its own State and its inalienable right of self-determination in order to guarantee the existence and development of the Latvian nation, its language and culture throughout the centuries, to ensure freedom and promote welfare of the people of Latvia and each individual".

The Chapter I of Latvian Constitution defines that "Latvia is an independent democratic republic. The sovereign power of the State of Latvia is vested in the people of Latvia".

According to Latvian Constitution, citizens of Latvia can initiate a national referendum, even in the issue of recalling the Parliament (*Saeima*).

The State shall recognise and protect fundamental human rights in accordance with this Constitution, laws and international agreements binding upon Latvia (Chapter VIII, art. 89). According to Article 100, everyone has the right to freedom of expression, which includes the right to freely receive, keep and distribute information and to express his or her views. Censorship is prohibited; according to Article 101, every citizen of Latvia has the right, as provided for by law, to participate in the work of the State and of local government, and to hold a position in the civil service. Local governments shall be elected by Latvian citizens and citizens of the European Union who permanently reside in Latvia. Every citizen of the European Union who permanently resides in Latvia has the right, as provided by law, to participate in the work of local governments. The working language of local governments is the Latvian language. The next Articles – 102 and 103 define that everyone has the right to form and join associations, political parties and other public organisations; the State shall protect the freedom of previously announced peaceful meetings, street processions, and pickets.

Thus, in Latvian constitution all necessary democratic directions are taken into consideration and clearly defined.

*The Constitution of Ukraine* (28 June, 1996) defines the same: "Ukraine is a sovereign and independent, democratic, social, law-based state" (Chapter I, art. 1); "Human rights and freedoms and their guarantees determine the essence and orientation of the activity of the State. The State is answerable and responsible to the individual for its activity. To

affirm and ensure human rights and freedoms is the main duty of the State (Chapter I, art. 3); 'Ukraine is a republic. The people are the bearers of sovereignty and the only one source of power in Ukraine. The people exercise power directly and through bodies of state power and bodies of local self-government' (Chapter I, art. 5). According to Article 34, everyone is guaranteed the right to freedom of thought and speech, and to the free expression of his or her views and beliefs, and by Article 36, citizens of Ukraine have the right to freedom of association in political parties and public organisations for the exercise and protection of their rights and freedoms and for the satisfaction of their political, economic, social, cultural and other interests.

*The New Constitution of Hungary* (was adopted by Parliament on 18 April 2011 and entered into force on 1 January 2012) proclaims the same principles (Article B): '1. Hungary shall be an independent, democratic state governed by the rule of law. 2. Hungary's form of government shall be that of a republic. 3. The source of public power shall be the people. 4. The people shall exercise its power through its elected representatives or, in exceptional cases, in a direct manner'. The last point is quite controversial. Why shall people exercise its power in a direct manner "in exceptional cases"? Usually, in any democratic state, citizens can implement their right to participate in power action by two main means – directly as elected officials and through election. These are two basic and equal forms. However, by new Hungarian constitution, citizens can exercise their power in a direct manner "in exceptional cases"! At a time when the processes of the empowerment of direct democracy are going around the world, in the new Hungarian constitution it is allowed for citizens only "in exceptional cases".

According to Sotirios A. Barber, James E. Fleming (2010) and some others, a significant element of any democratic constitution is a possibility to change it. With regard to the order of amendments to the constitution, the Constitutions are divided into hard and flexible.

In accordance with the procedure for amending the *Constitution of Ukraine*, it is close to strict constitutions, which is confirmed by the following factors:

- 1) The Constitution of Ukraine cannot be changed if the changes envisage the abolition or restriction of human and civil rights and freedoms or if they are aimed at eliminating independence or violating the territorial integrity of Ukraine (Part 1, Article 157 of the Constitution of Ukraine);
- 2) The Constitution of Ukraine cannot be changed in conditions of martial law and state of emergency (Part 2 of Article 157 of the Constitution of Ukraine); and

- 3) the bill on amendments to the Constitution of Ukraine cannot be considered by the Verkhovna Rada of Ukraine without the opinion of the Constitutional Court of Ukraine on the compliance of the draft law with the requirements of Articles 157 and 158 of the Constitution of Ukraine (Article 159 of the Constitution of Ukraine), etc.

In the *Hungarian Constitution*, there are clear mechanisms of adoption of the Constitution and making changes to it. By Article S, a proposal for the adoption of a Fundamental Law or for the amendment of the Fundamental Law may be submitted by the President of the Republic, the Government, any parliamentary committee or any Member of the National Assembly. For the adoption of a Fundamental Law or for the amendment of the Fundamental Law, the votes of two thirds of the Members of the National Assembly shall be required. The Speaker of the National Assembly shall sign the adopted Fundamental Law or the adopted amendment of the Fundamental Law within five days and shall send it to the President of the Republic.

In the *Latvian Constitution*, articles 76 and 77 are dedicated to amendments of the Constitution. By Article 76 (Amendment of the Constitution), the Parliament may amend the Constitution in sittings at which at least two-thirds of the members of the Parliament participate. The amendments shall be passed in three readings by a majority of not less than two-thirds of the members present. By Article 77 (Referendum about Amendment), if the Parliament has amended Articles 1, 2, 3, 4, 6, or 77 of the Constitution, such amendments, in order to come into force as law, shall be submitted to a national referendum.

In general, in the *Latvian Constitution* citizens have very wide possibilities to have an impact on power and on the process of decision-making in the country. A significant role belongs to a national referendum. Article 79 (Referendum after Popular Initiative) defines that an amendment to the Constitution submitted for national referendum shall be deemed adopted if at least half of the electorate has voted in favour. A draft law submitted for national referendum shall be deemed adopted if the number of voters is at least half of the number of electors as participated in the previous Parliament election and if the majority has voted in favour of the draft law. Article 80 (Right to Vote in Referendum) defines that all citizens of Latvia who have the right to vote in elections of the Parliament may participate in national referendums. Citizens of Latvia have the right to legislate. According to Article 64 (Right to Legislation), the Parliament, and also the people, have the right to legislate, in accordance with the procedures, and to the extent, provided for by this Constitution.

## **Possibilities for citizens to recall the elected officials and remove the president from office in the Constitutions of Hungary, Latvia and Ukraine**

Clear and precise possibilities for citizens to change the power between elections – to recall the elected officials, to remove the president from office must be reflected in any democratic constitution. Nobody can be defended from people in politics who want to receive power for personal purpose and use it for solution of personal tasks and personal enrichment. And a very important task of legislation in this context is to make this activity impossible.

For instance, in Ukraine one can observe some very precarious tendencies – each new Ukrainian power before receiving it, in the period of elections, is making a lot of promises to develop the country in the direction of democracy and to build the system of public administration on the basis of democracy. However, after receiving the power, political leaders, in most cases, do not conduct a really effective policy in this direction.

This situation has taken place in Ukraine several times:

- *In the period after “orange revolution”. Presidency of Victor Ushchenko.*

The “Orange revolution” in 2004 was a display of citizens’ readiness to make the changes in the country and their desire to live in democratic country. This revolution has proved that citizens are very active and they are ready to take active part in the life of their country, that civil society in Ukraine is not only formed, but active functioning – it can assert personal rights, interests and even form power and its structures. And the much important indicator of it – Ukrainian citizens want to live in a democratic country and want to base it on the democratic principles.

After the “Orange revolution”, the citizens of Ukraine believed that they will take an active part in the life of their country; that they will be really involved in the process of decision-making, and were waiting for the promised reform. However, a short period later, it was a big level of disappointment of Ukrainians by activity of the leaders of “Orange revolution”. There were not any of the expected reforms in the country, as well as any concrete steps of political leaders to execute their pre-elected promises, particularly in the direction of public consultation and real public participation in the process of decision-making.

The election of the President of Ukraine in 2010 has shown the great disappoint of Ukrainians by the leaders of “Orange revolution”. As a result, political power was received by their opponent.

- *Presidency of Victor Yanukovich.*

Ukrainians thought that maybe so strong totalitarian person as V. Yanukovych will be better than a weak and inactive V. Ushchenko. Another motivation to vote for this person was his promises to develop

the country in democratic direction and achieve real and effective European integration of Ukraine as well. However, from the first days of his presidency the situation was quite different. Ukrainians start to understand that this leader is strong, but not democratic and all promises to develop the country in democratic direction were only pre-election promises. The events from November 2013 on the Maidan in Ukraine, new democratic revolution was a citizens' reaction to it.

- *Presidency of Petro Poroshenko.*

5 years after of the presidency of Petro Poroshenko, it was not possible to say that the forms and methods of public participation, particularly public consultations were improved, that he really consulted with the citizens which were the main requirements of the Maidan. This President of Ukraine repeated the main mistake of their predecessors – ignoring his own promises to consult with citizens, to involve them into the process of decision-making, to take the decision on the basis of public opinion, interests and desires.

Ukrainians were waiting from their president Petro Poroshenko the following main things: reforms, fight against corruption, and wide public participation. 5 years later there was no real public participation in the process of decision-making, real public control of the governmental activity, as before there was a significant gap between power and citizens, activity of all branches of power was not transparent and open for public, there were not any concrete and effective reforms.

In the opinion of the author, all the above-mentioned was possible, because in the Ukrainian Constitution any legal possibilities for citizens to recall elected officials, to remove the President of the country from office are absent. All representatives of power at all levels feel themselves free from any responsibility before society. Ukraine has a situation in which elected officials can work not for themselves, but for the country and population only if they want it. If they do not want to, they can do whatever they want without any control and responsibilities before people and country.

However, now Ukrainians hope that the situation will be changes significantly. The new President of Ukraine, Volodymyr Zelenskiy, shows very positive and effective activity and results. In a very short period of time (less than 3 months), many necessary transformations were carried out in the form of dissolution of the parliament, and as a result, the adoption, by the new parliament, many very important for the country laws, which old parliament refused to accept for many years: The law on illegal enrichment, the law on impeachment of the president, the law on reducing the number of members of parliament from 450 to 300, and most importantly, the law on the removal of immunity from members of parliament. Ukrainian society was waiting these legal acts from the first year of Ukrainian independence after collapse of the Soviet Union – more than 28 years.

Let's return to the consideration of constitutions and their main directions in the field of democracy.

According to the *Ukrainian Constitution*, citizens cannot have the rights of legislative initiative. Concerning the President of Ukraine, "the President of Ukraine enjoys the right of immunity during the term of authority. Persons guilty of offending the honour and dignity of the President of Ukraine are brought to responsibility on the basis of the law. The title of President of Ukraine is protected by law and is reserved for the President for life, unless the President of Ukraine has been removed from office by the procedure of impeachment (Chapter V, art. 105). As it is noted here, the President of Ukraine can be removed from office by the procedure of impeachment. In the art. 108 p.3 there is again a reference to impeachment:

The powers of the President of Ukraine terminate prior to the expiration of term in cases of:

- 1) resignation;
- 2) inability to exercise his or her powers for reasons of health;
- 3) removal from office by the procedure of impeachment; and
- 4) death (Chapter V, art. 108).

There are two references to impeachment of the President of Ukraine in the Constitution of Ukraine. However, there is no any reference on the mechanism of it, as well as on the procedure, e.g. who will vote, how, and who will be the initiator of this process, etc. In Ukrainian society there are active discussions on how to remove the president from office by impeachment. There is an opinion that this is impossible, since there is no law in the country about the impeachment of the president. However, there is some definition of this procedure in the Regulations of the Supreme Council of Ukraine. Chapter 30 of these Regulations has the name: "Procedure for extraordinary termination of the responsibilities of the President of Ukraine in connection with the inability to implement their duties due to health conditions, and in the event of the impeachment of the President from office". By this Regulations only members of the Parliament (people's deputies) – Supreme Council of Ukraine (Verkhovna Rada) can remove the President from office (Chapter 30, art. 171):

1. The Verkhovna Rada may remove the President of Ukraine from office in the order of impeachment only in case of committing state betrayal or other crime;
2. The consideration in the Verkhovna Rada of the question of the removal of the President of Ukraine from office in accordance with the procedure of impeachment is carried out in accordance with Articles 85, 111 of the Constitution of Ukraine, the law on interim investigation commissions, a special temporary investigation commission and temporary ad hoc commissions of the Verkhovna Rada of Ukraine and this Regulation; and

3. The reason for initiating the issue of removal of the President of Ukraine from office in the procedure of impeachment and the formation of a special temporary investigation commission is a written submission on this, signed by a majority of people's deputies from the constitutional composition of the Verkhovna Rada, whose signature is not withdrawn.

Article 172 defines the procedure of the impeachment of the President from office: The Verkhovna Rada, by a majority of the people's deputies from its constitutional composition, decides to initiate the issue of removing the President of Ukraine from office in the order of impeachment and including it in the agenda of the Verkhovna Rada session as urgent. The Chairman of the Verkhovna Rada of Ukraine immediately informs the President of Ukraine about the adoption of such decision (Chapter 30, art.172).

So, in Ukraine there is a possibility to remove the President from the office by the impeachment. However, only people's deputies can do it. Citizens of Ukraine can only vote and elect the President, but they do not have any possibility to remove he/she from office. Thus, the people do not have any significant impact on the President who was elected by these people. And the procedure of impeachment by the Verkhovna Rada is also complicated. Due to the Regulations, the people's deputies should be against the President of Ukraine to remove he/she from office, but it is really very difficult to achieve, because the situation in Verkhovna Rada is a little complicated. The deputies practically solve nothing. They should just sit and press the button at the right moment and should vote as the party leader says. Otherwise, the deputy expelled from the party. Deputies are very dependent on party leaders who decide everything. In the period of Yanukovich, the 1<sup>st</sup> deputy of the leader of his party M. Chechetov stood at all meetings of the Supreme Council and showed by hand how to vote! Which democratic parliament is this possible in?

Another important problem: it is needed to prove that the President has committed a crime against the state. For this, it is necessary to create special temporary investigation commission, temporary ad hoc commissions, etc. It is very complicated and therefore is very difficult to implement. There were several attempts to remove the Presidents of Ukraine from their posts, but all these attempts were not successful. In 2010, 2011, 2013, 2014 there were the attempts to remove V. Yanukovich from office. Special drafts of laws were prepared by the people's deputies and directed for consideration at the Verkhovna Rada. For example, by the people's deputy Grigoriy Omelchenko even in 2010 was registered "the Draft Resolution on the Establishment of a Special Interim Investigation Commission of the Verkhovna Rada of Ukraine on the Investigation of action of the President of Ukraine Viktor Yanukovich,

which contains signs of crimes and consideration of the question of his removal from office of the President of Ukraine in the procedure of impeachment”. This draft Resolution was registered and sent to the special Committee for consideration. It was the end of the review of this draft. If it would have been adopted, and Yanukovich was dismissed from the position of the President of the country, this would have helped to avoid many problems in the aftermath, save many people’s lives, and perhaps escape the war.

In the country, until the new President of Ukraine V. Zelenskiy, was a great necessity to create and adopt the law “On impeachment of the President of Ukraine” where had to clearly define the possibilities for citizens to remove the President and the precise and easy procedures of it. In Ukraine there were the several attempts to make it by people’s deputies, as well as to propose other acts in this direction. The fate of these bills was the same as the mentioned above draft Regulation of impeachment of V. Yanukovich. They did not go further than the committees’ consideration. Only with the new President of Ukraine Volodymyr Selenskiy, it became possible to adopt this law.

Here is the table of all registered in Verkhovna Rada people’s deputies’ proposals on impeachment of the President of Ukraine with the dates:

**Table 1. All registered in Verkhovna Rada of Ukraine people’s deputies’ proposals on the impeachment of the President of Ukraine with the dates**

Registration number	Date	Name
1577	14.01.1998	Draft Law on the Procedure of Dismissal from the Office of the President of Ukraine by the Impeachment
2041	31.08.1998	Draft Law on the Procedure of Dismissal from the Office of the President of Ukraine by the Impeachment
2041-1	26.01.2001	Draft Law on the Procedure for Dismissal from the Office of the President of Ukraine (impeachment)
6052	31.01.2002	Draft Resolution on the initiation of the question of the removal of the President of Ukraine Kuchma L. D. from office in the order of impeachment and the creation of a special temporary investigative commission
1177	10.06.2002	Draft Decree on the initiation of removal of Kuchma L. D. from the post of the President of Ukraine in the procedure of impeachment and the formation of a Special Interim Investigation Commission
1327	16.07.2002	Draft Law on the Procedure of Removal from the Office of the President of Ukraine by the Impeachment
1327-1	06.08.2002	Draft Law on the Procedure of Removal from the Office of the President of Ukraine by the Impeachment

2215	20.09.2002	Draft Decree on the initiation of removal of Kuchma L. D. from the post of the President of Ukraine in the procedure of impeachment and the formation of a Special Interim Investigation Commission
1327/II	22.09.2003	Draft Resolution on the rejection of draft laws of Ukraine "On the procedure for removal from office of the President of Ukraine (impeachment)" and "On the procedure for removal of the President of Ukraine from office in the order of impeachment"
4070	11.03.2004	Draft Resolution on initiating a procedure for the removal of Leonid Kuchma from the post of President of Ukraine in the procedure of impeachment and the formation of the Special Temporary Investigation Commission of the Verkhovna Rada of Ukraine
3495	26.04.2007	Draft Resolution on ensuring the prevention of anti-constitutional actions and attempts to usurp state power and initiating a procedure for the removal of Victor Yushchenko from the post of President of Ukraine by impeachment
3691	02.02.2009	Draft Law on Amendments to the Law of Ukraine "On the Constitutional Court of Ukraine" (regarding the simplified procedure of impeachment of the President of Ukraine)
3691/II	10.06.2009	Draft Resolution on the rejection of the draft Law of Ukraine on amendments to the Law of Ukraine "On the Constitutional Court of Ukraine" (regarding the simplified procedure of impeachment of the President of Ukraine)
6366	30.04.2010	Draft Resolution on the Establishment of a Special Interim Investigation Commission of the Verkhovna Rada of Ukraine on the Investigation of Action of the President of Ukraine Viktor Yanukovich, which contains signs of crimes and consideration of the question of his removal from office of the President of Ukraine in the procedure of impeachment
9066	23.08.2011	Draft Law on the Procedure of Impeachment of the President of Ukraine
2220	07.02.2013	Draft Law on the Procedure of Impeachment of the President of Ukraine
2220/II	03.04.2013	Draft Resolution on the rejection of the draft Law of Ukraine on the procedure for the impeachment of the President of Ukraine
4171	21.02.2014	Draft Law on Impeachment of the President of Ukraine
1097	28.11.2014	Draft Law on the Procedure of Impeachment of the President of Ukraine
2278	03.03.2015	Draft Law on a Special Interim Investigation Commission of the Verkhovna Rada of Ukraine to Investigate the Case of Removal of the President of Ukraine from office by Procedure of Impeachment
7381	07.12.2017	Draft Law on Amendments to Certain Legislative Acts of Ukraine on Ensuring the Possibility of Removing the President of Ukraine from office in the Procedure of Impeachment

8003	06.02.2018	Draft Law on Amendments to the Law of Ukraine “On the Judiciary and Status of Judges” (on improving the procedure for impeachment of the President of Ukraine)
8014	07.02.2018	Draft Law on a Special Interim Investigation Commission of the Verkhovna Rada of Ukraine on the Impeachment of Senior Officials of Ukraine

As can be seen, there were really many attempts of people’s deputies of Ukraine to create the drafts of laws on impeachment of the President, but none of them were adopted by Verkhovna Rada of Ukraine. In the author’s opinion it has taken place, because MPs were highly dependent on party leaders, and party leaders, in turn, were very dependent on the President. This unhealthy situation led to the fact that laws, which really necessary for the country and society were not only not adopted, but their drafts did not even reach consideration at the session of the Supreme Council, but remained in the committees. For the achievement of real democratic power in Ukraine it was extremely important to break this system of circular dependence of politicians from each other, and first of all from the President (not *de jure* but *de facto*). It was made only when Ukraine has received a new President of the country in spring 2019.

Chapter IV of Ukrainian Constitution is dedicated to the Supreme Council of Ukraine – Verkhovna Rada. On 10 pages there are definitions of the procedures of election, composition of this body, the main directions of activity and the spheres of it, the mechanisms of functioning, etc. However, in this Article there is not the most important thing – possibilities for citizens to recall the Verkhovna Rada and its elected members. There is not any point of what to do in the case if a member of Supreme Council does not fulfil his/her obligations to voters.

Unlike the Ukrainian Constitution, the *Constitution of Latvia* clear defines this possibility and the mechanisms for it: “Not less than one tenth of electors has the right to initiate a national referendum regarding recalling of the *Saeima*. If the majority of voters and at least two thirds of the number of the voters who participated in the last elections of the *Saeima* vote in the national referendum regarding recalling of the *Saeima*, then the *Saeima* shall be deemed recalled” (Chapter II, par.14).

The same situation is with the power and responsibilities of the Presidents of the countries. Unlike Latvia, where “the *Saeima* shall elect the President for a term of four years” (Chapter III, art. 35), in Ukraine “the President of Ukraine is elected by the citizens of Ukraine for a five-year term, on the basis of universal, equal and direct suffrage, by secret ballot” (Chapter V, art. 103). If in Latvia the President is elected by the *Saeima*, there is precise mechanism for removing the President from office and not only by the *Saeima*, but by the voters as well: “If in the referendum more

than half of the votes are cast against the dissolution of the *Saeima*, then the President shall be deemed to be removed from office, and the *Saeima* shall elect a new President to serve for the remaining term of office of the President so removed. Upon the proposal of not less than half of all of the members of the *Saeima*, the *Saeima* may decide, in closed session and with a majority vote of not less than two-thirds of all of its members, to remove the President from office" (Chapter III, art. 50–51). And a very important point is that "the President may be subject to criminal liability if the *Saeima* consents thereto by a majority vote of not less than two-thirds" (Chapter III, par. 54). So, as one can see, in the Latvian Constitution there is a clear balance between power and responsibility, nobody can act without control and scot-free. In general, the Ukrainian Constitution in the official English translation has 49 pages, but Latvian only 13. And on these 13 pages it was possible to precisely define the duties and responsibilities of all branches of power, citizens' power and freedoms. Unlike the Ukrainian Constitution, the Constitution of Latvia not only clearly defines the election mechanisms, but also the opportunity for citizens to remove elected officials from their posts.

The *Constitution of Hungary* is very similar to the constitution of Ukraine. It has even the same number of pages, but there is not any possibility for citizens to recall elected officials such as members of the parliament or mayors, as well as to remove the president from office. According to the Hungarian Constitution, the Parliament of Hungary has significant power. It can elect the President of the Republic, the members and President of the Constitutional Court, the President of the Curia, the Supreme Prosecutor, the Commissioner for Fundamental Rights and his or her deputies, the President of the State Audit Office, elect the Prime Minister and decide on any matter of confidence related to the Government, dissolve any representative body which operates in violation of the Fundamental Law, adopt the State Budget and approve its implementation, etc. At the same time, after election, citizens do not have any impact on these elected persons. Only President of the country can dissolve Parliament when the Government's mandate ends, if Parliament fails to elect the person proposed by the President of the Republic to serve as Prime Minister within forty days of presentation of the first nomination, or Parliament fails to adopt the State Budget for the current year by 31 March (Art. 3, p. 3 of the Constitution).

The President of the country, in turn, is elected by parliament (Art. 10) as the President of Latvia, but if in Latvia there is clear mechanism of citizens' impact on this person, in Hungary citizens do not have this possibility. The mandate of the President of the Republic, according to Article 12 of the Constitution, shall be terminated:

- by the expiry of his or her term,
- upon his or her death,
- by his or her inability to perform his or her responsibilities for over ninety days, if the conditions for his or her election no longer exist,
- by the declaration of his or her incompatibility,
- by resignation or
- by removal from office as the President of the Republic.

So, the last point is a possibility to remove the President from office, but it can only be possible to realise by the Parliament. According Article 13, “if the President of the Republic wilfully violates the Fundamental Law or any Act while in office, or if he or she commits a wilful offence, one-fifth of the Members of Parliament may propose his or her removal from office. The impeachment procedure shall require a two-thirds majority of the votes of the Members of Parliament. Voting shall be held by secret ballot”. So, Hungarian citizens do not have any power to have an impact on these processes. If they are not satisfied with the activities of the President or Parliament, they will have to wait only for new elections. However, the President of this country does not have significant power and responsibilities.

The more powerful person is Prime-Minister. By this new Constitution, the responsibilities of Government and therefore of the Prime-Minister are not defined in general. As it is defined in Article 15: “The Government shall be the general body of executive power, and its responsibilities and competences shall include all matters not expressly delegated by the Fundamental Law or other legislation to the responsibilities and competences of another body. The Government shall be answerable to Parliament”. That is, all activities, all its directions, which are not designated in the constitution for other bodies, are in the sphere of government! In this context there is only one question: How it was possible in XXI century to develop new constitution for a democratic country without concrete responsibilities of the Prime-Minister? Now, whole democratic world goes in the direction of clear definitions of power and responsibilities of all branches of power, for all even civil servants, but Hungary goes by another way – strengthening the power and its separation from the people.

Thus, here is the table which represents possibilities for citizens of Hungary, Ukraine and Latvia to change the elected officials in the period between elections:

**Table 2. Constitutional possibilities for citizens of Latvia, Hungary, and Ukraine to remove the President from office and to recall the parliament**

Country	Possibilities for citizens to recall the Parliament	Possibilities for citizens to remove the President from office
Ukraine	_____	_____
Hungary	_____	_____
Latvia	Not less than one tenth of electors has the right to initiate a national referendum regarding recalling of the <i>Saeima</i> . If the majority of voters and at least two thirds of the number of the voters who participated in the last elections of the <i>Saeima</i> vote in the national referendum regarding recalling of the <i>Saeima</i> , then the <i>Saeima</i> shall be deemed recalled" (Chapter II, art. 14).	If in the referendum more than half of the votes are cast against the dissolution of the <i>Saeima</i> , then the President shall be deemed to be removed from office, and the <i>Saeima</i> shall elect a new President to serve for the remaining term of office of the President so removed. Upon the proposal of not less than half of all of the members of the <i>Saeima</i> , the <i>Saeima</i> may decide, in closed session and with a majority vote of not less than two-thirds of all of its members, to remove the President from office (Chapter III, art. 50–51).

## **New Hungarian Constitution: Pros and Cons. Comparative Analysis of Both Two Constitutions – 1949 and 2011.**

Active discussions among researchers and practitioners are about the new Hungarian constitution, which was developed and adopted relatively recently – in 2011. There is a lot of criticism of the new constitution.

Bálint Magyar notes that overall, the balance of the assessments of the new constitution in the legal literature has been extremely disapproving. Critics suggest that instead of effecting amendments necessary for a consolidation, the new constitution, building on a romantic construction of the past, is ill-adapted to set limits to the state's power – a crucial function of any constitution. In reality, the Fundamental Law's real purpose was to cement the power of the Fidesz. (*party of V. Orbán* – auth.) – p. 114. Magyar defines the main disadvantages of the new constitution. They are the following: The new Fundamental Law:

- limited the possibility of turning to the Constitutional Court. The jurisdiction of the Constitutional Court over budget and tax laws ceased. Whenever the Constitutional Court, with its powers curtailed, would qualify a law as anti-constitutional, it would simply be added to the constitution;
- terminated the Supreme Court, and removed its president from office;

- gave the Fiscal Council the right to veto the annual budget accepted by parliament at its discretion; meanwhile the President of the Republic now has the right to dissolve the parliament even shortly after the elections, if the budget is pending;
- abolished the independence of municipal governments from the row of fundamental rights, and following from this of course, their right to property: which de facto ends municipal autonomy and prepares any and all of its segments for nationalization; and
- eliminated citizens' right to social security, which enabled the systematic dismantling of the established structure of normative social entitlements and support. – p.115

According to András Bozóki, Orbán replaced the constitution with what was called the Fundamental Law, which essentially states that the citizens are ready to adjust to a new order, as he named the “System of National Cooperation”. In 2011 a coup directed from above took place in Hungary. A liberal constitutional concept on the neutrality of the state was replaced by a confrontational notion of the state built on the dichotomy of “good” versus “bad” and “friend” versus “enemy”. The key words of the new system are “work”, “home”, “order”, “nation”, and “family”. – p. 460–461.

Taking into account the significant criticism of the Hungarian new constitution by Hungarian scientists, it is important, within the framework of this article, to analyse the two constitutions – 1949 and 2011.

In the Preamble of new constitution, it is defined that old Fundamental Law was a ‘communist constitution of 1949, since it was the basis for tyrannical rule; therefore, we proclaim it to be invalid’. Any constitution of any democratic state should be changed if it supports the occupation of a country or is the basis for tyrannical rules. However, even a brief analysis of old constitution shows that it has not any points, which would support or contribute to the occupation of the country. On the contrary, according to Article 2, “the Republic of Hungary is an independent, democratic constitutional state. In the Republic of Hungary supreme power is vested in the people, who exercise their sovereign rights directly and through elected representatives. No activity of any person may be directed at the forcible acquisition or exercise of public power, or at the exclusive possession of such power. Everyone has the right and obligation to resist such activities in such ways as permitted by law”. By Article 3 of old constitution, in the Republic of Hungary political parties may be established and may function freely, provided they respect the Constitution and laws established in accordance with the Constitution; by Article 4, labour unions and other representative bodies shall protect and represent the interests of employees, members

of cooperatives and entrepreneurs; by Article 5, the State of the Republic of Hungary shall defend the freedom and sovereignty of the people, the independence and territorial integrity of the country, and its national borders as established in international treaties; by Article 6, the Republic of Hungary renounces war as a means of solving disputes between nations and shall refrain from the use of force and the threat thereof against the independence or territorial integrity of other states. The Republic of Hungary shall endeavour to cooperate with all peoples and countries of the world.

Thus, an analysis of the old constitution shows that it does not contain any item that would contribute to the occupation of the country or “is the basis for tyrannical rules”. All common points of the old constitution were really democratic and supported a democratic way of development of the country. One could go further and make a comparative analysis of responsibilities of the Parliament, President and Government in both these constitutions.

In the new constitution, part of the powers of the Parliament of the country were cut or cancelled, in particular with regard to social and economic policy, and the Government’s program. Here is a table with power and responsibilities of the Parliament according to both constitutions:

**Table 3. Responsibilities of the Parliament of Hungary by constitutions of 1949 and 2011**

Responsibilities of the Parliament by Constitution 1949	Responsibilities of the Parliament by Constitution 2011
<p><b>Article 19</b></p> <p>(1) The Parliament is the supreme body of State power and popular representation in the Republic of Hungary.</p> <p>(2) Exercising its rights based on the sovereignty of the people, the Parliament shall ensure the constitutional order of society and define the organization, orientation and conditions of government.</p> <p>(3) Within this sphere of authority, the Parliament shall</p> <ol style="list-style-type: none"> <li>adopt the Constitution of the Republic of Hungary;</li> <li>pass legislation;</li> <li>define the country’s social and economic policy;</li> <li>assess the balance of public finances, approve the State Budget and its implementation;</li> <li>decide on the Government’s program;</li> </ol>	<ol style="list-style-type: none"> <li>In HUNGARY the supreme body of popular representation shall be Parliament.</li> <li>Parliament shall: <ol style="list-style-type: none"> <li>enact and amend the Fundamental Law of Hungary;</li> <li>adopt Acts of Parliament,</li> <li>adopt the State Budget and approve its implementation,</li> <li>authorise recognition of the binding nature of any international agreement subject to its responsibilities and competences,</li> <li>elect the President of the Republic, the members and President of the Constitutional Court, the President of the Curia, the Supreme Prosecutor, the Commissioner for Fundamental Rights and his or her deputies, and the President of the State Audit Office,</li> </ol> </li> </ol>

<ul style="list-style-type: none"> <li>f) conclude international treaties of outstanding importance to the foreign relations of the Republic of Hungary;</li> <li>g) decide on the declaration of a state of war and on the conclusion of peace;</li> <li>h) declare a state of national crisis and establish the National Defense Council, in the case of war, or imminent danger of armed attack by a foreign power (danger of war);</li> <li>i) declare a state of emergency, in the case of armed actions aimed at overturning constitutional order or at the acquisition of exclusive control of public power, in the case of acts of violence committed by force of arms or by armed groups which gravely endanger lives and property on a mass scale, and in the event of natural or industrial disaster;</li> <li>j) with the exceptions laid down in the Constitution, rule on the use of the Hungarian Armed Forces both abroad and within the country, the deployment of foreign armed forces in Hungary or in other countries from the territory of Hungary, and the stationing of the Hungarian Armed Forces abroad or of foreign armed forces in Hungary;</li> <li>k) elect the President of the Republic, the Prime Minister, the members of the Constitutional Court, the Parliamentary Ombudsmen, the President and Vice-Presidents of the State Audit Office, the President of the Supreme Court and the General Prosecutor;</li> <li>l) upon recommendation made by the Government, which shall first be submitted to the Constitutional Court for its review, dissolve representative bodies of local government whose actions have been found unconstitutional, decide on the territory of counties, their designation and seat, as well as the declaration of cities with county level rights and the establishment of the Districts of the Capital; and</li> <li>m) exercise general amnesty, etc.</li> </ul>	<ul style="list-style-type: none"> <li>f. elect the Prime Minister and decide on any matter of confidence related to the Government,</li> <li>g. dissolve any representative body which operates in violation of the Fundamental Law,</li> <li>h. decide to declare a state of war and to conclude peace,</li> <li>i. make decisions on any special legal order and participation in military operations,</li> <li>j. grant pardons, and</li> <li>k. exercise other responsibilities and competences defined by the Fundamental Law and other laws.</li> </ul>
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The responsibilities of the President of Hungary after the adoption of new constitution were transformed as well. For example, such items like b), according to which the President of the Republic shall conclude international treaties in the name of the Republic of Hungary; if the subject

of the treaty falls within its legislative competence, prior ratification by the Parliament is necessary for conclusion of the treaty, have been removed from the duties of the President.

Here is the table of duties of the President of Hungary according to 2 constitutions:

**Table 4. Responsibilities of the President of Hungary in constitutions of 1949 and 2011**

Constitution 1949	Constitution 2011
<p><b>Article 30/A</b>  <b>(1)</b>The President of the Republic shall</p> <ul style="list-style-type: none"> <li>a) represent the State of Hungary;</li> <li>b) conclude international treaties in the name of the Republic of Hungary; if the subject of the treaty falls within its legislative competence, prior ratification by the Parliament is necessary for conclusion of the treaty;</li> <li>c) accredit and receive ambassadors and envoys;</li> <li>d) announce general parliamentary and local government elections, mayoral elections as well as the dates of the European parliamentary elections and national referenda;</li> <li>e) have the right to participate in and speak at sittings of the Parliament and of its committees;</li> <li>f) have the right to petition the Parliament to take action;</li> <li>g) have the right to initiate national referenda;</li> <li>h)</li> <li>i) appoint and dismiss the Governor and deputy governors of the Magyar Nemzeti Bank, the President of the Pénzügyi Szervezetek Állami Felügyelete (Hungarian Financial Supervisory Authority) and university professors by recommendation of persons or organizations specified in a separate law; appoint and dismiss the university rectors; appoint and promote generals; and confirm the President of the Magyar Tudományos Akadémia (Hungarian Academy of Sciences) in his office;</li> </ul>	<ul style="list-style-type: none"> <li><b>3.</b> The President of the Republic: <ul style="list-style-type: none"> <li>a. shall represent Hungary,</li> <li>b. may attend and address any session of Parliament,</li> <li>c. may propose bills,</li> <li>d. may propose national referenda,</li> <li>e. shall set a date for the general elections of Members of Parliament, local representatives and mayors, and of members of the European Parliament, and for national referenda,</li> <li>f. shall make decisions on any special legal order,</li> <li>g. shall convene the inaugural session of Parliament,</li> <li>h. may dissolve Parliament,</li> <li>i. may send adopted Acts to the Constitutional Court to examine their conformity with the Fundamental Law, or may return them to Parliament for reconsideration,</li> <li>j. shall propose persons for the positions of Prime Minister, the President of the Curia, the Supreme Prosecutor and the Commissioner for Fundamental Rights,</li> <li>k. shall appoint professional judges and the President of the Budget Council,</li> <li>l. shall confirm the appointment of the President of the Hungarian Academy of Sciences, and</li> <li>m. shall form the organisation of his or her office.</li> </ul> </li> <li><b>4.</b> The President of the Republic shall: <ul style="list-style-type: none"> <li>a. recognise the binding nature of international agreements by authorization of Parliament,</li> <li>b. accredit and receive ambassadors and envoys,</li> </ul> </li> </ul>

<ul style="list-style-type: none"> <li>j) confer titles, orders, awards and decorations specified by law and authorize the use thereof;</li> <li>k) exercise the right to grant individual pardons;</li> <li>l) issue rulings in cases of citizenship;</li> <li>m) issue rulings in all issues assigned to his sphere of authority on the basis of separate laws.</li> </ul>	<ul style="list-style-type: none"> <li>c. appoint Ministers, the Governor and Deputy Governors of the National Bank of Hungary, the heads of autonomous regulatory bodies and university professors,</li> <li>d. appoint university rectors,</li> <li>e. appoint and promote generals,</li> <li>f. award statutory decorations, prizes and titles, and authorise the use of foreign state decorations,</li> <li>g. exercise the right to grant pardons to individuals,</li> <li>h. decide on any matter of territorial administration within his or her responsibilities and competences, and</li> <li>i. decide on any matter related to the acquisition and termination of citizenship,</li> <li>j. decide on any matter assigned to his or her competence by law.</li> </ul>
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At the same time, one of the points of the duties of the President of the country, which was in the constitution of 1949 and preserved in the constitution of 2011, looks very strange. This is the appointment of university rectors, and as it was added in new constitution, even university professors! In many democratic countries it is the responsibility of Ministers of Education and in some democratic countries' university professors are not appointed, but elected on open election. This is exactly, for instance, the case of Ukraine. It is defined in the Law of Ukraine "On Education" and in the special Regulation of the Cabinet of Ministers of Ukraine "On Methodological Recommendations on the peculiarities of the electoral system and the procedure for electing the head of a higher educational institution". As it was noted in these Recommendations: "The head of high educational institution is elected by competition by secret ballot for a term of five years in accordance with the Law of Ukraine "On Higher Education", the charter of a higher education institution and taking into account these Methodological Recommendations. The state bodies whose sphere of management includes higher military educational institutions (higher education institutions with specific educational conditions) have the right to establish, by their acts, special requirements for candidates for positions of heads of relevant higher military educational institutions (higher education institutions with specific educational conditions) and the procedure their appointment".

If university rectors are appointed by the president of a country, this ensures state control over all educational institutions and makes them

dependent on a particular person – the one who appoints rectors. Such situation cannot take place in a democratic state.

As for the powers and responsibilities of the Hungarian Government, the Constitution of 2011 does not clearly state them at all. In contrast to this constitution, in the 1949 constitution, the powers of the Government were clearly defined, namely:

**Table 5. Responsibilities of Hungarian Government by Constitutions of 1949 and 2011**

Constitution 1949	Constitution 2011
<b>Article 35</b> <b>(1)The Government shall</b> <ol style="list-style-type: none"> <li>a) defend constitutional order, and defend and ensure the rights of the natural person, legal persons and unincorporated organizations;</li> <li>b) ensure the implementation of laws;</li> <li>c) direct and coordinate the work of the Ministries and other organs placed under its direct supervision;</li> <li>d) ensure that the legal operation of local government is monitored;</li> <li>e) ensure the formulation of social and economic policies and the implementation thereof;</li> <li>f) define State responsibilities in the development of science and culture, and ensure the necessary conditions for the implementation thereof;</li> <li>g) define the State system of social welfare and health care services, and ensure sufficient funds for such services;</li> <li>h) supervise the operation of the Hungarian Armed Forces and of the law enforcement agencies;</li> <li>i) take the measures necessary to limit and alleviate the consequences of natural disasters that endanger lives and property (hereinafter referred to as a state of danger) and to maintain public order and safety;</li> <li>j) participate in the development of foreign policy; conclude international treaties in the name of the Government of the Republic of Hungary;</li> <li>k) represent the Republic of Hungary in the institutions of the European Union that require government participation;</li> <li>l) attend to those responsibilities assigned to its sphere of authority by law.</li> </ol>	<b>Article 15</b> <ol style="list-style-type: none"> <li>1. The Government shall be the general body of executive power, and its responsibilities and competences shall include all matters not expressly delegated by the Fundamental Law or other legislation to the responsibilities and competences of another body. The Government shall be answerable to Parliament.</li> <li>2. The Government shall be the supreme body of public administration and may establish public administration organs as defined by law.</li> <li>3. Acting within its competence, the Government shall adopt decrees by statutory authorisation on any matter not regulated by an Act.</li> <li>4. No decree of the Government shall conflict with any Act.</li> </ol> <b>Article 18</b> <ol style="list-style-type: none"> <li>1. The Prime Minister shall determine the Government's general policy.</li> <li>2. Ministers shall have autonomous control of the sectors of public administration and the subordinated organs within their competence in line with the Government's general policy, and shall perform the responsibilities determined by the Government or the Prime Minister.</li> <li>3. Acting within their competence, government members shall adopt decrees by authority of an Act or a government decree, whether independently or in agreement with any other Minister; such decrees may not conflict with any Act, government decree or any order of the Governor of the National Bank of Hungary.</li> </ol>

<p>m) have powers, in the event of a state of preventive defense emergency, to introduce measures by way of derogation from the acts governing the administrative system and the operation of the Hungarian Armed Forces and the law enforcement agencies; such measures shall remain in force until the Parliament's decision, not to exceed 60 days, and the Government shall continuously inform the President of the Republic and the competent parliamentary committees concerning these measures.</p> <p>(2) Within its sphere of competence, the Government shall issue decrees and pass resolutions, which may not be contradictory to any act of Parliament.</p> <p>(3) In a state of danger and in a state of preventive defense emergency the Government, if authorized to do so by Parliament, may issue decrees and pass resolutions by way of derogation from the provisions of the respective laws. A majority of two-thirds of the votes of the Members of Parliament present shall be required to pass the law establishing the regulations to be applied in a state of danger and in a state of preventive defense emergency.</p> <p>(4) With the exception of legal statutes, the Government shall annul or amend all legally irreconcilable resolutions or measures taken by any subordinate public authorities.</p>	<p>4. Government members shall be answerable to Parliament for their activities, and Ministers shall be answerable to the Prime Minister. Government members may attend and address any session of Parliament. Parliament and any parliamentary committee may oblige government members to attend any of their sessions.</p> <p>5. The detailed rules for the legal status and remuneration of government members and the substitution of Ministers shall be determined by an Act.</p>
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As one can see, there are not any concrete responsibilities for the Government. If responsibilities of Government are not defined clearly, but spheres of competence of the President and Parliament are precisely defined, it means that Prime-Minister can do whatever he/she wants outside the competences defined for the President and the Parliament. In fact, this is the usurpation of power. In all democratic countries there is now a tendency to clearly define the responsibilities and duties of all branches of power, and especially the Government. In Hungary, on the contrary, the new constitution blurred the powers of the government.

The situation in Hungary with backsliding from democracy was described by famous Hungarian scholar Prof. András Bozóki even in 2011 at the beginning of the full-scale transformation of Hungary

from democratic country into the country with an autocratic, as some researchers call it, or, as other scientists call it, a hybrid regime: “some problems notwithstanding, Hungary remained until relatively recently (until the eve of 2006), a success story of democratic consolidation. By 2011, however, Hungarian society was forced to realize that the system that had become increasingly freer over the decades had come to a standstill, and it was turning in an autocratic direction”.

## Conclusions

Taking into account the aforementioned, as well as the situation with the inability of citizens to change the power in the country during the period between elections, as mentioned above, the new constitution of Hungary leaves more questions than it gives answers. In any case it is clear that new constitution does not improve democracy in the country.

Thus, taking into account all above-mentioned, one can make a conclusion that the most democratic constitution is the constitution of Latvia, and the less democratic is new Hungarian constitution. If citizens of Hungary are not satisfied with the power, they will not have any legal possibilities to change it, to recall the members of the Parliament or to remove the President from office.

In any democratic constitution should be reflected the following directions and possibilities for citizens:

- to take active part in the process of decision-making;
- to participate in the processes of making any changes to the constitution;
- to remove the president from office and to recall all elected officials.

In general, now it is a time to create common requirements for the constitutions of all democratic countries, particularly for the country-members of the European Union and the Council of Europe. These organisations is the strong mechanism of impact on the countries-members, and they should use all their resources for coordination the democratic development in these countries and do not allow to transform them from democratic to authoritarian or with hybrid regimes as in the case of Hungary and some others, like Ukraine in the period of the presidency of V. Yanukovich.

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