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ABSTRACT

Volodymyr Fedchenko. Certain aspects of criminal proceedings on the basis of agreements during the pre-trial investigation. The pre-trial investigation considered the issue of criminal proceedings on the basis of agreements, as one of the types of special procedures for its conduct in accordance with the provisions of current criminal procedure legislation, and taking into account the principles of equality before the law and the courts. It is proved that the need to apply agreements in certain criminal proceedings during the pre-trial investigation is due on the one hand to the need to create additional guarantees for the rights and freedoms of these participants in criminal proceedings, and on the other, allows certain participants in criminal proceedings, subject to special conditions, to reach a compromise, reconcile, admit their guilt, and as a result allows to apply simplified criminal proceedings while agreeing on the parties to the agreement on punishment.

The definition of the agreement in criminal proceedings is defined. Emphasis is placed on the fact that the conclusion of agreements is usually based on the possibility of participants of one party to offer participants of the other party to conclude certain agreements, and accept them, but on mutually beneficial terms. The necessity of enshrining in the CPC of Ukraine a norm regulating the procedure for drawing up the relevant procedural document in compliance with all procedural forms on reflecting in such a document the intentions of the defense party in the person of a suspect or accused to enter into a relevant agreement.

Keywords: *pre-trial investigation, criminal proceedings, conciliation agreement, plea agreement, victim, suspect, accused, prosecutor.*

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VICE-PRESIDENCY IN THE SYSTEM OF STATE POWER HIGHEST BODIES: WORLD CONSTITUTIONAL THEORY AND PRACTICE

Рікардо Фурфаро, Андрій Смотуха. ІНСТИТУТ ВІЦЕ-ПРЕЗИДЕНТА В СИСТЕМІ ВИЩИХ ОРГАНІВ ДЕРЖАВНОЇ ВЛАДИ: СВІТОВА КОНСТИТУЦІЙНА ТЕОРІЯ І ПРАКТИКА. Дослідницька робота присвячена аналізу конституційно-правового статусу віце-президента в системі вищих органів державної влади в різних країнах світу. Автори визначили його переваги та недоліки з точки зору ефективності, стабільності та безперервності державного управління.

В усіх президентських республіках конституціями запроваджено посаду заступника президента – віце-президента з чітко визначеними його повноваженнями як за діяльності чинного президента, так і за його відсутності. Однак і тут спостерігаються суттєві відмінності залежно від географічних, історичних, традиційно-правових та соціально-політичних особливостей держав з президентською формою правління.

Авторами з'ясовано, що найбільш стабільним і ефективним є цей конституційно-правовий інститут виявився США – країні з президентською формою республіки, що пройшла шлях від звичасво-традиційного підґрунтя до нормативно-конституційного регулювання. Водночас цей

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інститут не позбавлений певних суперечностей і колізій, коли, наприклад, віце-президент обирається за системою виконавчої влади, а здійснює конституційно закріплені повноваження у сфері законодавчої влади.

У Латинській Америці постаті віце-президентів є переважно технічними, оскільки підлягають значній політичній персоніфікації з боку чинних президентів. Водночас у сучасній лагіноамериканській моделі президентства є кілька важливих демократичних елементів. Там активізуються багатопартійні системи, що створює умови для появи парламентської та позапарламентської опозиції президентській владі як однієї з ознак системи стримувань і противаг.

У решті світу, переважно в змішаних республіках, інститут віце-президентства майже не існує. Проте остаточно не вирішено порядок передачі тимчасових повноважень глави держави, що періодично порушує питання переходу від змішаного (дуалізм виконавчої влади) до специфічного типу республіканського правління – президентського чи парламентського.

Ключові слова: *віце-президент, конституція, повноваження, глава держави, вибори, кандидат, форма правління.*

Relevance of the study. The efficiency of public administration, the effectiveness of the governmental mechanism, the optimal relationship between the state and civil society and the individual, which is especially important in the constitutional recognition of the highest social value, is currently the main approach to assessing the state, formed not only theoretical and historical arguments, but also practical and political tools. The main criterion for distinguishing, in general, modern varieties of the republican form of government (parliamentary, presidential and mixed) is the relationship between parliament, head of state and government. From here it was developed by the French lawyer Sh.-L. Montesquieu's theory of checks and balances has found its regulatory enshrinement in many modern constitutions.

Given this, it is customary to separate the «rigid» system of separation of powers, which is inherent in the presidential republic, in which each branch of government has a crucial independence for its effectiveness. For his/her part, the president – whether as head of state, or executive head, or head of government, but necessarily – the commander in chief of the armed forces of the state, elected by voters – citizens of the country, has a wide range of powers in almost all areas of life – enshrined in the constitution and laws and the so-called hidden, presumed, related to the exercise of his/her constitutional powers [6, с. 73]. However, the president's exercise of power may sometimes be interrupted or suspended due to both dependent and non-dependent circumstances, such as early termination due to voluntary resignation or forced impeachment, permanent or temporary incapacity for health reasons, and death.

The constitutions of most countries prohibit incumbent presidents from delegating their powers to others or bodies, except in the case of early termination of the presidency in the mixed republics, their temporary fulfilment (and only to a very limited extent) is entrusted either to the chairman of parliament (in parliamentary-presidential republics) or to the head of government (in presidential-parliamentary republics) before the scheduled early presidential elections.

On the other hand, in almost all presidential republics the constitutions introduce the position of deputy president – vice-president, with clearly defined powers, both in the activities of the current president and in his/her absence. However, even here there are significant differences depending on the geographical, historical, traditional legal and socio-political characteristics of countries with a presidential form of government. This puts on the agenda taking into account certain foreign experience and rethinking the advantages and disadvantages of building an effective and sustainable system of public administration in a particular country.

Recent publications review. The issues of the institution of the presidency have been directly studied at the monographic level in their scientific works by such domestic authors as S. Ahafonov, D. Belov, O. Boyko, O. Voloshchuk, A. Guliyev, O. Novikov, N. Plakhotnyuk, S. Seryohina, O. Chernyshevych, V. Shatilo and others. However, even despite some comparative legal studies, issues concerning the institution of vice-presidency were not addressed, given its natural absence in Ukrainian political and legal realities. Instead, it has been thoroughly covered in the works of many foreign scholars, such as B. Polunin, S. Barzman, J. C. Baumgartner, R. E. Case, J. K. Goldstein, G. C. Kiser, I. G. Williams, J. Witcover, et al.

The research paper's objective is regarding the lack of domestic and, conversely, a significant array of foreign legal research on the role and place of the vice-president in the system of higher government, to explore the advantages and disadvantages of this

constitutional institution in terms of foreign political and legal theory and practice..

Discussion. Today, more than 70 countries on all continents (except Australia) have introduced the post of deputy head of state. Mostly they are called «vice-president»; occasionally it is, for example, «vice-chairman of the council», «deputy president» and so on. In some countries, heads of state have several deputies (vice-presidents). In the remaining 80 countries with a republican form of government, the temporary exercise of the powers of the heads of state is entrusted to either the speakers of parliaments or the prime ministers, depending on the type of republic [15]. With such diversity, it is impossible to carry out a comprehensive review of the constitutional legal status of the analyzed institution within the framework of a scientific article. Hence, we consider it appropriate to limit ourselves primarily to the classical founding countries and key regions of the world that determine the trends of its further development.

United States. First of all, we should fully agree with some Ukrainian legal scholars, who, while not being supporters of the American way of public and social life, argue that for the sake of justice we must recognize the perfection of the presidential form of government in the United States with no less perfect system of checks and balances, which managed, using classical European constitutional doctrines, to construct appropriate insurance mechanisms against the impossibility of rebirth of the presidency into authoritarianism or totalitarianism, excluding the possibility of encroachment on the cult of Law and Constitution. [6, c. 73].

However, shortly after the adoption of the US Constitution in 1787, it turned out that its provisions are too concise and do not cover all life situations that may occur. When drafting the Constitution, too much was «meant» and, in the end, it was not spelled out in the text itself. In addition, as the United States embarked on the path of building a fundamentally new state at the time, some problems were simply unknown, and their emergence could not be predicted [5, p. 35]. The same happened with the post of US vice-president.

There are several ways to improve the constitution. The most common of these are the replacement of an outdated constitution with a new one or making changes to an existing constitution. However, the American legislators chose their own, rather original way: they did not change the existing articles and did not replace them with new ones, but supplemented the Constitution with new articles – amendments. All amendments were carefully weighed and discussed, in some cases, not even for years, but for decades. All amendments were aimed at overcoming real practical situations and preserving democratic values, which are the cornerstone of the US Constitution.

The positions of president and vice-president were established by the US Constitution, adopted in 1787 and entered into force in 1789. The vice-president is elected together with the president for 4 years (unlike the president, he/she can be elected an unlimited number of times). The Constitution did not give the vice-president any power. He/she presides over the Senate (without the right to vote, except for an equal number of votes «pros» and «cons» his/her vote is decisive), participates in government meetings and performs certain president's instructions. But the main significance of this position is the substitution of the president in case of his/her resignation, impeachment or death. In this case, he/she holds the presidency until the end of the current term, i.e. without holding early elections. The vice-presidential nominee must meet the same requirements as a presidential candidate – be a US citizen of at least 35 years of age, born in the country and have resided in the United States for the last 14 years. Candidates for both positions represent the same political party, but different states. The candidate for the position of vice-president is nominated by the presidential candidate.

Initially, the post of vice-president was held by a presidential candidate who gained a second result in the election. After the situation in 1796, when the president and vice-president became members of different political parties, in 1804 the 12th Amendment to the Constitution was adopted, established the rule of separate voting for presidential and vice-presidential nominees.

For a long time, the position of vice-president, although considered to be second, remained politically insignificant. For example, Vice-president J. Calhoun even resigned in 1832 after being elected to the Senate, and H. Truman reluctantly agreed to become vice-president because he believed that the position of senator gave him much more importance.

However, in the second half of the twentieth century the powers of the second person in the government were expanded (although they did not change the constitutional plan). Since 1949, the Vice-President has participated in meetings of the Cabinet and the National Security

Council (an advisory body to the President to address critical national security and foreign policy issues), assisted in strengthening the White House's ties with Congress, and traveled abroad on behalf of the president. Since 1954, he has chaired meetings of the US administration in the president's absence. In 1967, the 25th Amendment to the Constitution enshrined a de facto provision where, in the event of the presidency vacancy, the vice-president as proclaimed the US «full president». The same Amendment of 1967 stipulates that the new president must immediately appoint a vice-president (he must be approved by a majority vote of both houses of Congress). Prior to that, the post remained vacant until new elections.

In the history of the United States, nine presidents – J. Tyler, M. Fillmore, A. Johnson, Ch. Arthur, Th. Roosevelt, C. Coolidge, H. Truman, L. Johnson and G. Ford – have taken office from vice-presidencies. Moreover, G. Ford became the only American head of state who did not pass the election procedure. In 1973 he was appointed as Vice-president by Congress (after the resignation of Vice-president S. Agnew), and in 1974 he substituted President R. Nixon, who resigned due to the Watergate scandal, thus avoiding the impeachment procedure. Six vice-presidents later became presidents after the elections: J. Adams, T. Jefferson, C. Coolidge, L. Johnson, G. Bush Sr. and J. Biden.

Although the US Constitution does not establish educational or other professional qualifications for both presidential and vice-presidential candidates, all of them in recent history, without exception, had a university degree, significant managerial experience (before they were, for example, senators, state governors, state attorneys general, etc.), served in the armed forces and participated in hostilities. In fact, they have gradually supplemented, and in some cases filled, some professional gaps, even of their presidents.

A significant change in the public perception of the vice presidency institute was the work of US Vice-President W. Mondale during the term of President J. Carter (1977-1981) [12, p. 9; 13]. Mr. Mondale traveled extensively around the country and the world, defending the administration foreign policy. One of his notable trips abroad was to visit the aircraft carrier «Midway», which was in the Indian Ocean in 1979-1980 during the events with American hostages in Iran. W. Mondale was the first vice-president to establish the concept of «vice-president-activist», starting the tradition of weekly dinners with the president, which continues to this day. More importantly, he expanded the role of vice-president from a regular official to an the president's adviser, to a regular participant, and a specialist in resolving misunderstandings in the administration. Subsequent vice-presidents (J. Bush Sr., D. Quayle, A. Gore, D. Cheney, J. Biden, M. Pence, K. Harris) followed this model [14, p. 85]. In 1977, W. Mondale, exercising his right to a casting vote, voted in the US Senate, which led to the adoption of a bill to increase funding for social insurance program [11].

Incumbent US President J. Biden, still the Vice-President of the B. Obama administration in 2009-2017, the first African-american president in the country's history, has not betrayed the tradition of representing racial minorities by electing Vice-presidential candidate K. Harris. She became the first female vice-president in US history, as well as the first African-American and Asian-American person to hold the post. In general, for the first time in US history, the Biden administration has the largest number of secretaries of state (ministers) – representatives of racial minorities.

At the end of the review of the American model of vice presidency, it should be noted that, according to some authors, it is very simple, because it is characterized by the unity of executive power, which is concentrated in the president's hands. In addition, the American model of presidency in general is extremely rational: it lacks the executive power dualism inherent in other countries, in which the president and prime minister often become rivals because of the desire to influence government policy [1, p. 147-148], in contrast to the American president and vice-president.

Latin American countries were the first to follow the United States example in establishing a presidential system of government. At the same time, the Latin American model differs significantly from the US presidency model. It is in Latin America that presidential systems show instability and weakness to the same extent. The instability is manifested primarily in the fact that, according to some data, since the independence of 20 countries in the region have adopted 260 constitutions: Venezuela alone had 25 of them, and Brazil – 8 [3, p. 36].

In Latin America countries the president is traditionally not only the head of state and government, but is the father of the nation, the defender of the state and society. This role in society and the state is huge, but at the same time a great responsibility to history and the

people. The actual participation of vice-presidents in decision-making has varied significantly within the individual [8; 10].

It is worth noting that Latin America is the largest linguistic, cultural and political-legal region in the world, covering almost 2/3 of the western hemisphere and including more than 30 countries. Despite the striking homogeneity (only two related state languages – Spanish and Portuguese, one religion – Catholicism), it has some features in the government and legal organization. That is, it is conditionally divided into 4 subregions: partly North American (Mexico), Central American, South American and Caribbean. Therefore, it is advisable to focus on the key countries – representatives of these conditional regions of Latin America.

Mexico. The position of vice-president of Mexico was established by the Constitution of 1824 and finally abolished by the current Constitution of 1917. Many Mexican vice-presidents served as president between the end of the First Mexican Empire (1821-1823) and the formation of the Second Mexican Empire (1863-1867). Today, the interim presidency is entrusted to the Minister of the Interior.

Argentina. The vice-president of Argentina is the second highest political position in the country and the first in line to succeed the president of Argentina. The post was established with the adoption of the Constitution of Argentina in 1853. The vice-president shall act as president in the event of the absence or temporary incapacity of the president, and may substitute the President in the event of his/her resignation, permanent incapacity or death. The longest tenure as vice-president in the history of Argentina took place between 1865 and 1868, while President B. Mitre was engaged in the war in Paraguay. Seven Argentine vice-presidents have replaced incumbent presidents at various times. The 1994 constitutional amendments gave the vice-president additional powers as President of the Senate, i.e. with an increase in legislative and executive powers, with the right to vote in the event of an equal number of votes in the Senate. The amendments also changed the term of office of the vice-president and the president, from one six-year continuous term to two four-year terms, which can be extended after the re-election of a joint candidate.

Today, lawyer and politician Christina's Elizabeth Fernandez de Kirchner has been Argentina's 37th vice-president since 2019. She was also the President of Argentina in 2007-2015 and the first lady during the presidency of her husband N. Kirchner. She was the second woman to hold the presidency of Argentina, the first woman to be elected president in a direct election, and the first woman to be re-elected. Recently, Kirchner's political weight and independence has been expressed in her open letter accusing President A. Fernandez of a «political catastrophe» caused by his economic policies (inflation of 50 % per year and foreign debt of \$ 50 billion), thus exacerbating the political crisis that engulfed the country after the governing coalition led by him lost the parliamentary by-elections in September, 2021 [9].

Brazil. The vice-president is the second highest-ranking executive in Brazil after the president. His/her main role is to substitute the president in the event of his/her death, resignation or impeachment, as well as to temporarily hold the presidency while the president is abroad or for other reasons temporarily unable to perform his/her duties. The vice-president is elected together with the president in a single team of candidates. This position has been established since the proclamation of the Republic in 1889, although it was officially introduced only by the Constitution of 1891. It has existed throughout the republican history of Brazil, except during the presidency of J. Vargas (1930-1946), when it was abolished.

Venezuela. Officially – Executive Vice-president of the Bolivarian Republic of Venezuela. This's second most important government position. According to the current Constitution, he/she is appointed and dismissed exclusively by the head of state and is under his/her direct authority. It was first founded in 1830 and repealed with the adoption of a new constitution in 1858, and in 1999 it was restored by the socialist government of U. Chavez.

In addition, the Constitution of 1999 gives the vice-president of Venezuela the following powers: interaction with the president in directing the actions of the government; coordination of the work of the National Public Administration in accordance with the instructions of the president; submitting proposals to the president on the appointment and dismissal of ministers; presidency in the Cabinet of Ministers in the absence of the President or with the prior consent of the President; coordination of relations between the National Executive and the National Assembly; chairmanship of the Federal Government Council; appointment and dismissal under the law of officials whose appointment is not assigned to another authority; substitution of the president in case of his/her temporary and final absence; exercise powers delegated to him/her by the president [17].

Colombia. The vice-president is the first in line to become Colombia's new PRESIDENT after a long absence or death, resignation or removal from office, as set out in the Colombian Constitution of 1991, which also reinstated the vice-president after more than a century of presidency R. Nunez (1880-1884). The vice-president may not hold the office of president during the president's temporary absence, such as official travel abroad or leave. In these cases, the president delegates his/her functions to a cabinet member, usually the interior minister. The head of state shares his/her powers with the vice-president, who can become a kind of guarantee against the president's arbitrariness, as he/she takes away his/her powers in the legislature and budgetary area.

In the rest of the South American continent – *Bolivia, Ecuador, Paraguay, Peru, and Uruguay* – the institute of vice-president is also organized in a similar way, with constitutions adopted at different times, being then established, then repealed, then restored. In addition, the vice-president of Uruguay performs legislative functions, chairing the House of Senators and the General Assembly [16].

In *Chile*, the post of vice-president has been abolished since 1833. As in Mexico, the interim presidency is the responsibility of the Minister of the Interior and Public Security.

Vice-presidents with similar powers have also been introduced in all Central American countries (*Guatemala, Honduras, Costa Rica, Nicaragua, Panama, El Salvador*). In Costa Rica, there are two vice-presidents who are elected for a four-year term together with the president.

In different years, as a result of liberation from colonial dependence, the position of vice-president was introduced in such Caribbean countries as *Cuba* and the *Dominican Republic*. In *Haiti*, by contrast, it is absent, where the prime minister is acting president; in *Trinidad and Tobago*, the vice-president is also chairman of the Senate.

Concluding the review of the constitutional theory and practice of this region of the world, it should be noted that in the case of Latin America, the shortcomings of the vice-president are due to the difficulties of presidential rule in general, which are closely linked to economic stagnation, inequality and sociocultural heritage. The problem is that many Latin American presidential systems are characterized by the existence of «wrong» party systems. Weak and fragmented political parties have been inherited from the authoritarian regime, and this fact often forces voters to seek salvation in the face of populist leaders who have neither the experience nor the organizational support. Characteristically, excessively inflated, innumerable state structures limit economic growth and reduce the efficiency of government. In the absence of strong legal institutions, the rule of law is often weak [1, c. 150].

Europe, E U. For the uncharacteristic of the countries of this continent of presidential republics, there is no vice-president in the mixed republics (Austria, Albania, Croatia, Czech Republic, Estonia, Finland, France, Latvia, Lithuania, Montenegro, Poland, Portugal, Romania, Serbia, Slovakia, Slovenia). Exceptions are countries such as Bulgaria, Cyprus and Switzerland.

Bulgaria is the only EU country with an active vice-presidency. Since 1992, the vice-president has been elected by popular vote, at the same time as the president. Presidential candidates and vice-presidents are nominated by the same party. According to the constitution, the vice-president must be the president's chief assistant in his or her duties.

Cyprus is an EU country where the vice-president is the second most important political figure. Under the 1960 constitution, the vice presidency is assigned to a Turkish Cypriot. However, Turkish Cypriots have not participated in the government since December 1963. Since 1974, the post of Vice-president of Cyprus has remained vacant. In addition, according to the 1960 constitution, three ministerial posts are reserved for Turkish Cypriots and are appointed by the vice-president.

In *Switzerland* the vice-president of the Federal Council assumes the presidency the year after the officeholder's tenure. The president of the Confederation is not the head of state because the entire Federal Council is the collective head of state.

Asia. Vice-presidency have been established in *Vietnam, Yemen, India* (parliamentary republic, where the vice-president presides the upper house of parliament), *Indonesia, Iran* (12 sectoral ministerial posts), *Iraq* (3, all are now vacant), *China* (Deputy Head of China, office established in 1954, abolished in 1975, restored in 1982, elected by the National People's Congress for 5 years together with the Head of China), *North Korea* (2 vice-presidents de jure and 2 – de facto), *Laos* (2 positions), *Myanmar* (3 positions), *Nepal, Syria* (2 positions, vacant), *Turkey, the Philippines*.

A f r i c a. Most countries, being nominally presidential republics, are largely characterized by authoritarianism due to the heavy colonial legacy, in which presidents often change their constitutions to expand and strengthen their powers and extend their tenure, or are sometimes interrupted by coups d'état. That is why vice-presidents often hold their positions not by election results, but by appointment of presidents. For example, five vice-presidents have been appointed in *South Sudan*, and two each in *Zimbabwe* and *Burkina Faso*.

Post-Soviet countries. With the exception of the Baltic states, which are already members of the EU, all the countries of the former Soviet Union are characterized differently by ongoing attempts to find the optimal model for organizing the form of the republic. Some of them have clearly chosen the path towards authoritarianism with a strong unlimited personal presidential power and a weak parliamentary system of checks and balances (Russia, Belarus, Central Asia countries), others – more or less balanced in a mixed republic (Ukraine, Moldova, Georgia, Armenia). Concerning the introduction of the institute of vice-presidency, in some post-Soviet states the first steps in this direction were similar to a failed experiment.

To be convincing, we should cite the example of the last years of the former *USSR* existence. On March 15, 1990, the General Secretary of the Central Committee of the Communist Party of the Soviet Union, the Chairman of the Presidium of the Supreme Soviet Mikhail Gorbachev was elected as the first President of the USSR (but not popularly, but at the Congress of People's Deputies of the USSR by votes of the Communist Party majority). Although the post was conceived as a means of strengthening the power vertical, with the deteriorating situation in the country, in particular due to the gradual loss of total control over society by the Communist Party as a result of democratic change (including alternative elections), he was powerless to remain in power becoming the first and last president of the USSR. On December 26, 1990, during the IV Congress of People's Deputies on the initiative of the President of the USSR Mikhail Gorbachev, the first and last Vice-President of the USSR were elected in the same way – this was a former trade unionist G. Yanayev, who less than a year later led the anti-Gorbachev coup. On August 19, 1991 he became the chairman (nominal, since the actual power was exercised by the heads of the KGB and the Ministry of Internal Affairs) of the self-proclaimed State Emergency Committee, which ceased to exist on August 21, 1991, and G. Yanayev and other insurgents were arrested.

According to the amendments to the Constitution of the USSR of 1977 introduced in 1990, the vice-president should be elected as the only component with the president of the USSR for a 5-year term. The Vice-President of the USSR exercised certain of his powers on behalf of the President and ігніюєрєує the President in the event of his absence or inability to perform his duties. If it was impossible to fulfill the powers of the President of the USSR as Vice-President, they passed to the Chairman of the Supreme Soviet of the USSR. The position was effectively abolished by the USSR Law of September 5, 1991 «On the Bodies of State Power and Administration of the USSR in the transition period».

Almost similar processes regarding attempts to introduce the post of vice-president have taken place in the union republics, which later became independent states in 1991.

Vice-President of *the Russian Federation* (until 25.12.1991 – Vice-President of the Russian Soviet Federal Socialist Republic (hereinafter – RSFSR)) – one of the highest officials from 24.04.1991 to 25.12.1993, and was elected as the only candidate with the president for a 5-year term. A Russian citizen not younger than 35 and not older than 65, who has the right to vote, could be elected vice-president. He could not be a people's deputy and hold other positions in state and public bodies, business structures [4]. In 1991-1993, the position of Vice-president of Russia was held by former military pilot O. Rutskey. B. Yeltsin nominated him as his co-candidate in the election in order to attract more military and other security forces men to his support. However, later O. Rutskey joined the open opposition to the president, culminating in his condemnation of Yeltsin's decree dissolving the opposition, pro-communist Russian parliament and taking in September-October 1993 over his status of acting president despite the fact that it was not recognized by the current President B. Yeltsin. After the storming of the parliament building by the troops and the complete defeat of his supporters, O. Rutskey and the Speaker of the Parliament R. Khasbulatov were arrested on charges of organizing mass riots [2].

On December 25, 1993, the Constitution of the Russian Federation, adopted by popular vote, came into force, which abolished the post of vice-president (the vote was held not on the basis of the Law of the RSFSR «On the Referendum of the RSFSR», but on the basis of the

Yeltsin's decree). Voting for the new constitution took place simultaneously with the election of deputies to both chambers of parliament, the State Duma and the Federation Council, established by the same constitution. At the same time, after the election, an amnesty was announced for the arrested insurgents. On September 19, 1996, the re-elected President of the Russian Federation Boris Yeltsin at the time of the operation on him issued a decree temporarily suspending the president powers to the Prime Minister of the Russian Federation V. Chernomyrdin. The current Constitution of the Russian Federation provides for the temporary exercise of president powers by the prime minister.

Ukraine. Given the failure of attempts to establish this constitutional and legal institution in the former USSR and Russia, Ukraine, despite some suggestions from politicians and scholars, did not experiment with this issue. In the early 1990s, along with the gradual democratization of the state power system, the problem of determining the status of the head of state became relevant again.

Regarding the failure of attempts to establish this constitutional and legal institution in the former USSR and Russia, Ukraine, despite some suggestions from politicians and scholars, did not experiment with this issue. In the early 1990s, along with the gradual democratization of the state power system, the problem of determining the status of the head became relevant again. Even at the stage of drafting, representatives of some political forces proposed an amendment according to which the vice-president, if the president is unable to lead the state, can substitute him/her only after additional approval of his/her candidacy by the parliament. It turned out that the vice-president would rule the country only a month before the election of a new president. Then a logical question arose as to what he/she would do for the other 5 years of his/her joint term with the President? While in the United States he/she heads the upper house – the Senate and carries out certain instructions of the head of state. In Ukraine, the parliament was unicameral then and now, so only «separate instructions» remain. Is it worth electing a person for such a high position, spending a lot of money on it for what ordinary assistants can do?.

The role of the institution of the head of state was no less prominent in the process of drafting the Constitution of Ukraine of 1996. In particular, one of the developers of the draft new Constitution, later – the first Head of the Constitutional Court of Ukraine L. Yuzkov, describing the constitutional and legal status of the President, noted that executive power is exercised by the President, the Vice-president, the Cabinet of Ministers and the state administration [7, p. 35]. Finally, having chosen a mixed form of the republic, the interim exercise of the powers of the President of Ukraine was entrusted by the Constitution of Ukraine to the Prime Minister of Ukraine (1996-2006, 2010-2014) and the Chairman of the Verkhovna Rada of Ukraine (2006-2010, 2014 – until now).

As for the rest of the post-Soviet countries, attempts to consolidate the institution of vice-president have also been unsuccessful. In all countries it existed only in the first years of independence: *Kazakhstan* – 1991-1996 (E. Asanbayev), *Uzbekistan* – 1990-1992 (Sh. Mirsaidov), *Kyrgyzstan* – 1990-1993 (N. Isanov, G. Kuznetsov, F. Kulov), *Tajikistan* – 1990-1992 (K. Makhkamov, R. Nabiyeu).

Azerbaijan is the only post-Soviet country to hold the post of vice-president. More precisely, a group of positions following the position of the President of Azerbaijan has been established there. There is a position of the first vice-president and positions of vice-presidents of Azerbaijan. The current First Vice-president of Azerbaijan is M. Aliyeva, the wife of President I. Aliyev; the positions of other vice-presidents are still vacant. The positions of vice-presidents of Azerbaijan were established by a series of amendments to the Constitution adopted in a constitutional referendum on September 26, 2016, which give the president the right to appoint and dismiss the first vice-president and vice-presidents.

Conclusions. Having considered the world constitutional theory and practice of the functioning of the institution of vice-presidency in the system of higher state authorities, the following generalizations can be made:

– this constitutional and legal institution is the most stable and effective in the United States – a country with a presidential form of the republic, going from the customary-traditional basis to the constitutional regulation. At the same time, it is not free from some contradictions and conflicts when, for example, the vice-president is elected according to the system of executive power, and exercises constitutionally enshrined powers in the field of legislative power;

– in Latin America, the figures of vice-presidents are mostly technical, as they are

subject to significant political personification by incumbent presidents. At the same time, there are several important democratic elements in the modern Latin American model of the presidency. First, in a number of countries on this continent, the president is elected for one term and deprived of the right to re-election, which significantly reduces the possibilities for establishing a regime of personal power. Second, in many Latin American countries, multiparty systems are becoming more active, making conditions for parliamentary and extra-parliamentary opposition to presidential power. Thirdly, the judiciary is greatly strengthening its independence, as evidenced by the removal from power by the parliaments and courts of the presidents of Brazil and Venezuela, whereas in the last century the presidents of most countries in the region were removed only by military coup d'état;

– in the rest of the world, mostly in mixed republics, the institution of vice-presidency is almost non-existent. However, the procedure for the transfer of temporary powers of the head of state has not been finally resolved, which periodically raises the issue of transition from mixed (dualism of executive power) to a specific type of republican government – presidential or parliamentary one.

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ABSTRACT

The research paper deals with analysis of the constitutional and legal status of the vice-president in the system of higher state authorities in different countries of the world. The authors have identified its advantages and disadvantages in terms of efficiency, stability and continuity of government.

They have found that the most stable and effective is this constitutional and legal institution in the United States – a country with a presidential form of the republic, going from the customary-traditional basis to the normative-constitutional regulation.

In Latin America, the figures of vice-presidents are mostly technical, as they are subject to significant political personification by incumbent presidents. At the same time, there are several important democratic elements in the modern Latin American model of the presidency. In the rest of the world, mostly in mixed republics, the institution of vice-presidency is almost non-existent.

Keywords: vice-president, constitution, powers, head of state, elections, candidate, form of government.