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SLOVAKIA: IN SEARCH OF LIMITS

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Historical traditions of the role of president

Slovak politics experienced a relatively turbulent period of development prior to the introduction of the communist regime in 1948. At this time the Slovak territory was located in various states, all with rather divergent characteristics. The tradition of a presidential post began with the creation of the First Czechoslovak Republic in 1918 and continues to this day. As the character and nature of the political societies of which Slovakia was a part during the twentieth century changed, so also did the role of the president.

The First Czechoslovak Republic originally envisaged a fairly weak formal role for its president. This notion stemmed from a negative view regarding the concentration of power in one pair of hands, a view that was informed by the direct experience of the Austro-Hungarian empire and which characterised political opinion at the time. The republic was conceived of as parliamentary with the head of state serving a symbolic function rather than that of a crucial political actor (Balík et al. 2003: 61).

However; the reality was significantly removed from the theory, largely due to the personality of the first president, T. G. Masaryk. Not only did he gain stronger competencies over other bodies of state power shortly after his election¹, he also overstepped the formal framework and regularly put himself into the role of a very active head of state. An informal network of individuals allied with Masaryk, the so-called 'Castle' (*Hrad*), was the clearest expression of this tendency. In the first years of the new republic in particular, the 'Castle' established

¹ Examples include his suspensive veto against parliament, and his power to appoint as well as dismiss government members (see the Czechoslovak Constitution of 1920 (Ústava ČSR z roku 1920)).

itself as something of a counterbalance to the relevant parliamentary political parties. Masaryk's halo of 'President-Liberator', widely recognised by the public, assisted him significantly in this transformation of the role of the president from the weak one originally intended. The specificity of Masaryk's position is illustrated by the fact that the constitutional limitation stipulating that no one may hold the presidential office for longer than two subsequent terms was not applied to him. Indeed, Masaryk held the post four times (1918–1935), occupying it throughout almost the entire duration of the First Republic (Heimann 2009: 67–68; Balík et al. 2003: 61–65).

The so-called Second Republic of 1938–1939 is largely irrelevant to this chapter, as at that time Slovakia was already autonomous and, within a few months it gained independence. The same cannot be said of subsequent developments, however. What has been described as the Wartime Slovak State (1939–1945) introduced an entirely different concept of the president's role. This was a non-democratic regime with a firmly established leading position associated with the only permitted party: Hlinka's Slovak People's Party (*Hlinkova slovenská ľudová strana*, HSLS). The president (the office was occupied by J. Tiso for the duration of the state) was also HSLS leader, thus embodying the role of central political actor, both in formal and real terms. The regime gradually transformed itself and, following an initial period, an attempt was made to shift it towards totalitarianism. This further underlined Tiso's role, as reflected in the fact that he was officially entitled Führer (*Vodca*) from October 1942 onwards (Kopeček 2006: 92)². In domestic politics, he faced no equal opponent, but this must be put into context, as the Slovak State fully conformed to the ideas of Nazi Germany.

When World War II ended Czechoslovakia was restored as the so-called Third Republic (1945–1948). Although formally this represented a continuation of pre-war developments, its realities were entirely different³. The presidential office was occupied by E. Beneš, whose mandate was viewed as a continuation of his term during the First Republic and his time in exile. There was then something of a parallel between his position and that of T. G. Masaryk, and it was widely perceived

² The description of the Slovak state as 'Tiso's regime' testifies to the key role Tiso played as its president (Cf. Heimann 2009: 115).

³ Legal acts following the Munich Agreement were declared null and void.

as such: both were personalities whose contributions to the establishment and renewal of the republic respectively were undeniable. Both approached their constitutional roles in an activist fashion. Beneš had the power to rule by decree and used this fairly extensively in political and, especially, economic spheres. As president, Beneš was a key political actor in 1945, but in later years the balance of power shifted to the gradually strengthening communist party (Balík 2002).

In summary, Slovak politics in the twentieth century was mostly marked by strong presidencies, whether the formal framework granted them wide competencies or not. The influence of these historical legacies is highly problematic, however. The non-democratic, and at times even totalitarian, nature of the wartime Slovak State precluded the possibility of this state serving as a consensually accepted model for contemporary politics. Although part of today's polity is somewhat sympathetic to this model generally speaking it is contradictory and divisive (Bútorová – Gyárfášová 2008: 246–247). Similar objections apply to the short post-1945 period, during which democracy was also strongly violated.

Although the First Republic also had its deficiencies, in comparison with what followed it can be considered a fully-fledged democratic system. Contemporary Slovak politics draws almost no inspiration from it. The idea of *Czechoslovakism* and the artificial creation of the Czechoslovak nation not only did not lead to the proclaimed unity of the common state, in fact it had almost the reverse effect. Throughout the First Republic, the Slovak polity kept its distance from the centre in Prague; it featured an independent party subsystem and gradually stepped up its demands for autonomy. Reservations about the First Republic were transferred into post-1989 Slovak politics; indeed, there is no mention whatsoever of this tradition in the preamble of the Slovak constitution⁴. Symbolically, this is apparent from the lukewarm remembrances of the First Republic on its anniversaries. Thus, while it is true that although the period preceding the communist regime (which itself lasted for more than forty years) did provide sufficient political

⁴ Whereas the preamble of the Czech constitution refers to the Czechoslovak tradition, in the Slovak constitution such reference is entirely omitted, though the document alludes to a more distant past. See the Czech and Slovak constitutions (*Ústava ČR* and *Ústava SR*).

traditions that could have determined the role of the Slovak president, its actual influence and legacy have been fairly negligible.

The formal position of the Slovak president

The transition to a democratic regime in post-1989 Czechoslovakia meant profound changes to the country's political system. Many of the mechanisms that had been employed under the communist leadership were not established to support real competition and could only operate because all power was executed using a top down approach⁵. As such, the political framework in place was incompatible with the democratic system, and various changes had to be made to support the formalising and democratisation of politics, including the removal of the clause concerning the Communist Party's leading role in society from the constitution. These changes resulted in Czechoslovakia's adoption of a parliamentary model of governance, which was preserved by both successor states when the federation was dismantled⁶.

The fundamentals of the contemporary political system in Slovakia are as follows: Legislative power is vested in the proportionally elected unicameral National Council of the Slovak Republic consisting of 150 MPs. Executive power is divided between the president and the government, and the latter clearly has the upper hand. With his competencies, the Slovak head of state is among the weaker presidents in the world. Although his role is not limited to ceremonial and representative functions, he is not a key political actor. Specific points of his remit have only gradually been enshrined in the constitution.

⁵ The so-called *zákaz majorizácie* is a typical example. This was a parliamentary mechanism that prevented the adoption of certain measures unless agreement was reached from both Czech and Slovak MPs in sufficient numbers.

⁶ As Karen Henderson (2002) implies, several of these mechanisms from the communist era played a supportive role in the process of division of Czechoslovakia. The above mentioned *zákaz majorizácie* proved its incompatibility with the post 1989 period very shortly as it led to the so called *hyphen war* where Czechs and Slovaks argued about the new official name of the federation. Apart from that, Henderson points out that similar negative consequences were connected with the differing perceptions of the role of national councils by both nations or by the fact that Czechs did not fully understand the need of Slovaks to stress their otherness. According to her, these problems contributed to the final collapse of the federation.

The Slovak president is elected for a five year term which is about the European average. Although he has various powers, what matters here in terms of the political sciences are his relationships with other branches of state power. In his relationship with the government he is limited to only matters related to personnel: he appoints the prime minister and removes him from office, and, on his suggestion, also appoints other members of the government. Originally the president was not bound by the prime minister's proposals (see below for more details), but since constitutional changes were made in 1999 he has simply become an executor of the prime minister's will in this regard. He cannot therefore significantly affect the workings of the government, although he can attend its meetings⁷. His position vis-à-vis the parliament is similarly weak. He is not among the bodies which can propose new laws; he does, however, have a suspensive veto, which the National Council can override if it has an absolute majority of all MPs. He can likewise appear in parliament with an address evaluating the running of the state. Moreover, the president can dissolve the National Council; although this only applies under strictly limited conditions. His main competency towards the judiciary consists in appointing judges (see *Ústava SR*).

The manner in which the Slovak president is elected is important. Originally he was elected indirectly by the National Council, and a constitutional majority of 90 MPs was needed. This mechanism failed in practice, as significant polarisation of the party spectrum in the second half of the 1990s made it impossible to elect the head of state in parliament⁸. The parliamentary opposition responded by proposing a constitutional law, and when that failed, initiated a referendum on the issue of the direct election of the president; this was subsequently foiled (Michalič 1997). Circumstances only changed following the 1998 election. Having achieved a constitutional majority, the government

⁷ Real developments have revealed shortcomings of the Slovak constitution in this respect. The document did not envisage the possibility that an already established government would not be given confidence by the National Council, which is precisely what happened to Radičová's cabinet in 2011. An *ad hoc* solution was adopted whereby the president obtained a certain supervisory power over such a cabinet. See below for more details.

⁸ For over a year, beginning in March 1998, Slovakia was without an elected head of state.

coalition was able to push for direct election through parliament. Today the Slovak president is elected by the citizens in a two round system combining absolute and simple majorities. If no candidate obtains an absolute majority of votes in the first round⁹, a second round is held in which the two most successful candidates from the first round compete. The candidate who wins the most votes in the second round becomes the president.

Together with the transition to the direct election, the procedure for removing a president from office was also altered. It is now possible to do so by popular vote which is set in motion by a parliamentary resolution passed by the votes of at least 90 MPs. If the absolute majority of eligible voters favour removing the president from office in the popular vote, his term ends; otherwise, he dissolves the National Council and his term starts anew. This in fact means that the Slovak constitution considers a president who has withstood his attempted removal from office by popular vote to be essentially re-elected. This is problematic, as Slovak referenda have shown that majority turnout is very unlikely except for parliamentary and local elections¹⁰. Just as the president is limited in his abilities to dissolve parliament, so there are also strong obstacles to his removal from office.

Although direct election is more typical of semi-presidential and presidential systems, its introduction in Slovakia was not followed by a substantial strengthening of the president's competencies. Indeed, precisely the opposite happened: his remit as set out in the constitution was narrowed in some areas. The original constitution did not require the countersignature of any documents, and so multiple authorities, such as the appointment of diplomats or the office of commander-in-chief of the army, were placed fully in the hands of the president. The

⁹ The unclear definition of 'absolute majority' (*nadpolovičná väčšina*) makes evaluation of the first round somewhat problematic. The constitution requires 'an absolute majority of valid votes [cast] by those eligible to vote' (*nadpolovičnú väčšinu platných hlasov oprávnených voličov*; Article 101 of the Constitution of the Slovak Republic). On the one hand, this refers to 'valid votes', i.e. actual votes cast by citizens who participated in the election; on the other, the expression 'those eligible to vote' focuses our attention on all individuals who can participate in the election.

¹⁰ The only valid referendum to date was that on acceding to the EU in 2003 (cf. Sedlár 2005). The head of state can also be removed from office by the decision of the Slovak Constitutional Court if he intentionally violates the constitution or commits high treason. This possibility is hypothetical rather than realistic.

amended constitution from 1999 significantly altered this, and many actions of the president now require countersignature of a government minister. In this way, responsibility for the implementation of his actions was shifted onto the cabinet. On the other hand, in 2001 the president obtained the power to appoint various positions, both judges at various levels and the Attorney General. In these areas his obligation to follow the will of the bodies which propose the individuals for these positions is less strict than when appointing government ministers¹¹.

Another important indicator of the position enjoyed by the head of state is the fact that he cannot directly address citizens by initiating referenda. Although it is true that he is the only authority who can call a plebiscite, a vote in parliament or a popular petition is first required. The president's role is limited to evaluating whether the motion fulfils the legal requirements and deciding whether the referendum will be called or not (Spáč 2010: 187–189). The constitution therefore does not provide the president with a direct link to society that would 'circumvent' other state authorities.

In summary, the institutional standing of the Slovak head of state has undergone some development since 1993. Following the introduction of the direct presidential election, his position was altered in several respects, but there is no clear tendency towards either the strengthening or weakening of his position. Generally speaking, the present legislation puts the holder of the highest state office in the position of a non-partisan authority, and does not explicitly consider him a primary political actor at the same level as the government or the National Council. However, following substantial amendments around the year 2000, the constitution now contains multiple vague formulations, especially concerning powers to appoint, which potentially provide the holders of the presidential office with space in which to realise

¹¹ The 1999 amendment shifted the wording concerning the appointment of ministers to the imperative: on the prime minister's suggestion, the president 'will appoint and dismiss' (*vymenuje a odvolá*) these individuals (and does not have any choice in this regard). The original wording 'appoints and dismisses' (*vymenuvára a odvoláva*) was much subtler and allowed the president the choice not to appoint. It remains in the constitution for most of the president's other powers to appoint individuals to office, including the Constitutional Court and the Attorney General (Cf. Constitutional Law No. 9/1999 (ústavný zákon 9/1999 Z.z.)).

their personal ambitions. Moreover, actual developments have indeed shown that they do not hesitate to do so.

Informal position of the Slovak president

Since the establishment of independent Slovakia, the country has had three presidents. In 1993 Michal Kováč was elected to the post – this was done indirectly as was the practice at that time. When his term concluded, Slovakia was without a president for more than a year as polarisation of the party spectrum blocked the National Council. When the direct election system was adopted, Rudolf Schuster was elected in 1999, having beaten the HZDS¹² chairman Vladimír Mečiar in the second round. In the next election he was replaced by Ivan Gašparovič, the only president so far to secure re-election. Today (2012), Gašparovič is in the third year of his mandate and, due to constitutional constraints, he cannot stand in the next election. All three presidents have displayed some activist tendencies vis-à-vis the Slovak political scene.

M. Kováč stood for election as a member and a nominee of HZDS. This party was dominant at the time and its parliamentary group consisted of 74 MPs, which effectively precluded the possibility of a president being elected against its will. Kováč was also supported by other parties, namely the Slovak National Party (*Slovenská národná strana*, SNS) and the Party of Democratic Left (*Strana demokratickej ľavice*, SDL). Having successfully campaigned to win the support of other parliamentary parties, Kováč obtained 106 votes and became Slovakia's first head of state (cf. Horváth 2005: 3–4).

Given Kováč's party affiliation, a degree of loyalty towards his mother party could be expected. This did not occur, however, and only a few months into his term Kováč's relations with Mečiar worsened significantly, and matters only became further aggravated in later years. This resulted from Kováč's disagreement with HZDS's principles of semi-democratic governance; between 1993–1994 and 1998, it overshadowed all other existing animosities and, to use Mesežnikov's

¹² HZDS is the abbreviation of the Movement for a Democratic Slovakia (*Hnutie za demokratické Slovensko*).

(1997: 19) fitting expression, '*had become a constant of Slovak politics at the time*'. In the initial years of the new political system, a foundation was thus laid for institutional conflict between the president and the government, whereby the real power held by both components of the executive could be demonstrated.

Kováč became the main target of the attacks mounted by Mečiar's governments, especially by the third Mečiar cabinet (in office 1994–1998). The head of state was gradually stripped of the powers granted to him by law (not by the constitution) and repeatedly had the budget of his office reduced. Several measures clearly overstepped the boundaries of liberal democracy¹³. As HZDS and its partners did not have a constitutional majority at their disposal, they were unable to remove Kováč from office. In 1995, the National Council passed a vote of no confidence in the president. This was a somewhat absurd measure, as the parliament had no authority in the constitution to do so, and therefore this act was without any legal consequence whatsoever (Leško 1996: 200–201).

What is significant here is how the president responded to the conflict. The problematic nature of HZDS governance, which was difficult to reconcile with democracy, propelled him from the position of a neutral actor, and Kováč became a powerful critic of the Mečiar set. His activism covered two areas in particular. Firstly, he made good use of his right to present reports in the National Council evaluating the country's situation. His spring 1994 address, in which he subjected the second, now minority, Mečiar government to scathing criticism proved especially important¹⁴. Kováč's speech was instrumental in the parliamentary opposition's subsequent motion of no confidence in the government, which ended the latter's term (Kopeček 2007: 152–153). When HZDS was re-elected to government, Kováč repeatedly made use of this competency, but given the distribution of power in the parliament at the time, its effect was limited.

¹³ One might mention here the repeated accusations made by HZDS that the president had links with the criminal underground or that he had committed high treason. The most severe case of intimidation was the kidnapping of the president's son, allegedly committed by the Slovak secret services controlled by the government (Mesežnikov 1997; Hloušek and Kopeček 2003).

¹⁴ Several MPs gradually left HZDS after the 1992 election. This also affected Mečiar's later coalition partner, SNS (Kopeček 2006: 177–178).

The president's approach to personal matters displayed intervention in real politics of an altogether different kind. As described above, the constitution originally did not oblige the president to respect the suggestions of the prime minister in terms of appointing government ministers, and the president's proposals of individuals to occupy diplomatic posts did not require countersigning. In theory, the president could intervene in the composition of government, according to his own will, thus potentially obtaining significant control over its function. Despite the strongly adversarial environment, Kováč only used this option sporadically. In 1993, for instance, he refused to appoint Ivan Lexa to the position of minister for privatisation (Lexa was later made the head of the secret service, and during his term the service was at its most problematic). Similarly, in 1996 he repeatedly blocked the appointment of HZDS vice-chairwoman, Oľga Keltošová, the country's Permanent Representative to the United Nations (Mesežnikov 1997: 19). It is true that in doing this, President Kováč overstepped his role as simple executor of the prime minister's will, and directly interfered with the latter's idea of who should be in the government, how it should operate, and what the wider scope of its functions should be. But the extent of these interventions was in fact minimal, and the prime minister retained overall control over the make-up of the executive.

Despite claims made by government politicians¹⁵, the head of state was not creating an alternative centre of power to act as a counterweight to Mečiar's governments. A counter-argument could be made by pointing towards the so-called letters which Kováč regularly published in countrywide and regional media in which he was critical of the executive (Mesežnikov 1998: 23–24). Whilst it might seem that this was an attempt to circumvent the established institutions and create a direct link with the public, the true rationale for Kováč's actions lay in the problematic, but at the time essentially normal, situation, in which the public media controlled by the government largely ignored the president, who used the private media to compensate for this.

In summary: Kováč's term was strongly marked by the conflict that flared up between himself and the HZDS chairman and prime min-

¹⁵ Keltošová herself described Kováč's discharge of duty as monarchist and absolutist (Cf. Mesežnikov 1997: 19).

ister, Mečiar. Among other things, their dispute was a test of Slovak democracy and its institutional framework. Whereas the government used almost every opportunity to weaken the head of state and exerted pressure in an attempt to make him stand down, he, in contrast, acted with considerable restraint. Although the constitution at the time would in fact have allowed the president to strengthen his position to some degree, Michal Kováč did not make use of these opportunities. On the contrary, he publicly supported parliamentarianism and its central mechanisms¹⁶.

The era of Kováč's presidency could be framed in a wider process of destabilization of horizontal accountability in Slovakia under the rule of HZDS in the 90s. The party of Vladimír Mečiar made a great effort to minimize all potential mechanisms which could control or limit the governments which it formed. This trend became stronger after the 1994 general elections and it was symbolically boosted during the infamous parliamentary night in November 1994 when the coalition of HZDS, SNS and ZRS occupied a sum of positions ranging from public broadcasting to parliamentary commissions. As the coalition had no power to remove Kováč from his post, it aimed at weakening him even by using unlawful methods until his last days in office (cf. Deegan-Krause 2000).

The second Slovak president, Rudolf Schuster, was directly elected in 1999, and was the candidate of most parties in Dzurinda's government. He was the leader of the Party of Civic Understanding (*Strana občianskeho porozumenia*, SOP), which he established before the 1998 parliamentary elections. Although the main proclaimed aim of this project was to bridge the divide in the then polarized Slovak party system, further development proved that Schuster used SOP mainly for his own purposes to become the head of the state. This became quite clear after his election, as SOP lost its original purpose and started to fade and disintegrate. In the 2002 general elections, the party did not

¹⁶ It cannot be said, however, that the space afforded to the president in the original wording of the constitution would allow him to introduce semi-presidentialism. Other elements would be needed for the emergence of this system, including public tolerance of such a model of governance. Kováč never questioned parliamentarism, and in evaluating the problematic state of democracy in 1990s Slovakia, he proposed a parliamentary election as the only solution. He did not entertain the idea of changing the position of the head of state (Cf. Mesežnikov 1997: 21).

cross the threshold¹⁷ and in 2003 it ceased to exist by merging into the Smer party (Kopeček 2007: 272–279).

When Schuster took office, some presidential competencies were already weakened by the amendment described above¹⁸. In particular, this concerned his relationships with the government and the prime minister. On the other hand, the direct election endowed Schuster with a stronger legitimacy, and one that was essentially independent of the government. As subsequent events were to show, the new head of state was well aware of this fact¹⁹.

The pivotal moment of the Schuster presidency was his attempt to devise a doctrine of state that would overcome the existing polarisation of the party spectrum. Schuster's intention was to hold round-table talks with the leaders of the parliamentary parties (Mesežnikov 2000: 28–29). One might wonder how successful this endeavour would be in creating an alternative arena – effectively a substitute for the parliament under the patronage of the president – but it is doubtful that it could play a major role. Indeed, the president's initiative was not endorsed by the political parties and Schuster had no means of making them submit to his will. The president's attempt to become a mediator was thus substantially relative and, objectively speaking, can be deemed unsuccessful.

Rudolf Schuster's somewhat activist approach was also apparent in his relationship with his contemporary government, or rather, governments, which were all led by Mikuláš Dzurinda during Schuster's term. Given that this was the environment from which Schuster himself arose, he initially maintained a positive stance towards it, gradually emancipating himself from the cabinet. He used multiple measures to this end, of which the most important was his suspensive veto. Although the constitution does not set any specific limits on its use, under the logic of parliamentarianism it is arguably a correction mecha-

¹⁷ SOP did not compete in the election as an independent subject, but nominated its candidates on the list of SDL. This common list got only 1.36 percent votes.

¹⁸ However it has to be noted that this modification was done in a democratic and peaceful way unlike the changes made by Mečiar's government before 1998 which were leading to further destabilization of the system's horizontal accountability.

¹⁹ In 2000, Schuster criticized the public media for not affording him enough space. In this context, he rejected comparisons with the prime minister and speaker of the parliament, whom he described as '*politicians*', but considered himself '*a directly elected independent individual*' (Mesežnikov 2000: 32).

nism allowing the head of state to respond to significant shortcoming in the legislative process²⁰. Whilst Michal Kováč acted in accordance with this view (even when faced with conflict, he used this option only sparingly), Schuster grasped the possibilities afforded by his right to suspensive veto, using it widely as a way of opposing the government²¹. In 1999, he returned only three laws to the parliament, although the number increased significantly in later years, reaching up to twenty per year. This trend continued after the 2002 parliamentary election when the new Dzurinda government, now made up of only the centre-right parties, began a large scale economic reform, often at odds with the stance of the head of state. In addition to the veto, Schuster frequently appeared in parliament presenting evaluative reports which, generally, were strongly critical of the government.

The 1999 amendment to the constitution prevented the president's interference in the personal make-up of the government, leaving only one avenue open for his influence during the formation of the government. Over and above the legal framework, a practice was established in which, before appointing the prime minister proper, the president entrusted a specific politician with a mandate to form the government. This mandate has no legal standing, however. The head of state can thus enter into the process of government formation and, to a certain degree, complicate the position of parties whom (s)he views unfavourably. The 2002 election provided Rudolf Schuster with such an opportunity. Although the president let it be known in advance that in making his choice he would favour an individual able to secure a majority in the National Council, he broke his promise and the mandate went to the victorious, yet isolated, HZDS (Mesežnikov 2002: 32–33). The tradition of granting the mandate to form the government to the victor, which was later preserved by Ivan Gašparovič can, it is true, delay the formation of a government. But this step also exhausts the president's possibilities, since if he were to assert his will any further he would be ignoring the results of the parliamentary election – an absurd consequence, most certainly. There is no doubt that Schuster was aware

²⁰ According to Petr Kresák, one of the authors of the substantial amendment to the constitution, the intention was not to involve the president significantly in the legislative process (SME 2002).

²¹ During his tenure, Kováč returned 38 laws to the parliament, while Schuster returned 103 (Horváth 2005: 20).

of this, as HZDS's mandate only lasted for five days, after which the former prime minister Dzurinda was entrusted with the task.

Schuster's most noticeable intervention in his country's politics came in 2004, towards the end of his term. In that year, the trade unions in conjunction with the opposition party Smer, led by Robert Fico, sought to call a referendum to decide whether an early parliamentary election would be held. A presidential election for which Schuster intended to stand was also scheduled for the same year. After submitting their petition, the trade unionists asked Schuster to hold both elections on the same date, which was tantamount to them supporting his candidacy. The head of state responded positively to this appeal, thus effectively abandoning his non-partisanship and directly entering into political affairs. Holding both elections on the same date would be damaging to the government parties: by mobilising the electorate to vote for their candidates they might also ensure the validity of a referendum which for them was undesirable²². Nevertheless, Schuster's calculation failed, as Smer supported another candidate before the election and the trade unions simply asked the citizens to vote without citing a preference. Rudolf Schuster eventually failed to defend his post, placing fourth in the election (Spáč 2010: 235–237).

In comparison with his predecessor, Rudolf Schuster's legitimacy was of a different character, and the scope of his competencies was also different. Schuster ultimately adhered to the formal framework, yet he also strove to emancipate himself, as was apparent from his attempts to establish for himself the role of mediator, or even patron, of national politics. He also sought to influence specific political issues by criticising the Dzurinda cabinets. As the events of 2004 were to show, these activities were not intended to strengthen his institutional standing, but rather to help secure his re-election.

Ivan Gašparovič is the current Slovak president. Supported by a group of nationalist parties and Smer, he emerged victorious from the 2004 election. This result was quite surprising because Gašparovič finished second after Vladimír Mečiar in the first round, and he finished just ahead of the main favourite Eduard Kukan. In fact, all

²² In Slovakia a referendum is only valid if more than half of those eligible to vote participate. If it is held concurrently with an election, this condition is more likely to be met, as the referendum held on the same date as the 1998 parliamentary election has demonstrated.

candidates of the centre-right parties, including one independent candidate of similar ideological background, failed. For their voters, the run-off represented a tough choice, because if they wanted to prevent Mečiar from becoming president, they had to support his former party vice-chairman. As a result, Gašparovič was hugely supported by centre-right voters including the ethnic Hungarians. This completely modified the character of his electoral support and helped him to win (Pink and Spáč 2012: 190–193). Gašparovič managed to defend his post in 2009 with the support of the then-dominant Smer. Iveta Radičová, whom he defeated in this election, went on to become prime minister (Krivý 2009). Gašparovič's tenure has been the most controversial of the three presidents.

Gašparovič's terms have differed from those of his predecessors in that there have been full government alternations, and this has undoubtedly influenced him. His affiliation with the centre-left Smer in particular has been apparent from his highly loyal stance towards the Fico governments – a loyalty that has sometimes bordered on subordination. Gašparovič has been much more critical of, and active in his relationship with, the centre right cabinets. A reliable indicator of this is the rate at which he has been vetoing laws. With the outgoing minority Dzurinda government, this tendency was not so marked, but when comparing Fico's cabinets with the period when Radičová was prime minister, it is very noticeable. Whereas during the years 2006–2010 Gašparovič returned approximately five percent of laws to the Smer government, during Radičová's tenure the rate was almost three times higher (see Table 8).

Table 8: President Gašparovič's use of suspensive veto

Government (prime minister)	Term	Laws passed	Returned by president	Returned by president (in %)
Fico	2006–2010	530	28	5.28
Radičová	2010–2012	208	29	13.94
Fico	2012–	61	0	0

Source: The National Council of the Slovak Republic.

The president's different approach has been apparent throughout his incumbency. During Smer's government, Gašparovič was passive and

avoided all conflict with the government and prime minister. This was consistent with the closeness of their programmes; indeed, prior to the 2009 presidential election (SME 2009), the president likened himself to a Smer member. In exchange for this loyalty, he has received repeated support from Fico's party which helped him to secure his re-election. However, towards the centre-right parties, the head of state has assumed a much more vigorous stance, actively entering into political affairs. An instance of this was the liberal party's Freedom and Solidarity (*Sloboda a solidarita*, SaS) attempt to link a referendum initiated by the party with the 2010 parliamentary election, by which SaS hoped to improve its electoral chances, among other things. The president made full use of the manoeuvring space granted to him by the legal framework and, by using obstructions open to him, he efficiently eliminated the attempt (Spáč 2010: 245–247).

Perhaps the most controversial case of the current president's activism concerned the choice of the Attorney General during the term of Radičová's government. The constitution stipulates that the Attorney General is appointed by the president on the basis of a proposal passed through parliament. The parliament initially voted in a secret ballot, but the centre-right government coalition's inability to secure the necessary majority for its common candidate led to the subsequent adoption of an open ballot. The coalition then managed to get its nominee elected (Smer's candidate failed), but Gašparovič remained passive and, pointing out the problematic procedure of the voting, refused to appoint the new Attorney General, thus supporting the status quo convenient to Smer. To some degree, this situation was analogous to 1993, when Michal Kováč did not respond to Prime Minister Mečiar's nomination proposal. Gašparovič's actions (or rather, his passivity) were contested by the centre-right parties at the Constitutional Court and the nominee himself also filed a petition. The Court issued a fairly controversial ruling in October 2012, asking the president to act, but also allowing him to retain his stance as long as he provided an acceptable rationale for it (cf. *Nález Ústavného súdu PL. ÚS 4/2012-77*). Finally, in January 2013, Gašparovič officially refused to appoint the candidate selected by the parliament²³. This situation once again pointed

²³ President Gašparovič thus waited more than a year and half to make a decision regarding the whole situation. After his refusal to appoint the candidate selected by

to the lacunae existing in the Slovak constitution, which in a range of areas allows the head of state to intervene substantially in political developments.

The motion of no-confidence in I. Radičová's cabinet in 2011 was something of a test of the Slovak political system's institutional setting²⁴. The constitution did not anticipate this situation and a swift solution had to be sought. Together with Smer, the government parties pushed through a constitutional amendment which allowed the Radičová government to remain in office until the early election, but only under the president's patronage, without whose assent no important step could be taken²⁵. Although it might seem that in formal terms the president's position was substantially strengthened by this, actual practice did not confirm this assumption. Although, for several months, Ivan Gašparovič held something of a supervisory position over the government, after the 2012 early election which returned Smer's chairman Fico to the prime minister's office, the aforementioned 'passive' model of presidential behaviour was restored.

Why not a strong president?

The Slovak presidents thus far have not been limited to discharging symbolic roles – there are examples of them having directly entered into real politics. As the preceding section has shown, this activism has typically manifested itself in the use of presidential suspensive veto as a tool to block, or at least delay, government policy in parliament. The occasional personal conflicts provoked by the head of state's unwillingness to appoint the ministers and senior civil servants proposed by the government, and the evaluative reports on the state of the country

the parties which formed the previous government under I. Radičová, huge protests emerged. The SaS party officially made a proposal to the parliament to accuse the president of violating the constitution.

²⁴ This was a vote on Slovakia's accession to the European stability mechanism. The prime minister connected the voting with a vote of confidence in her government, as SaS, one of the parties in the coalition, rejected the idea of the Eurozone's firewall.

²⁵ The government could not negotiate international treaties, or appoint the occupants of multiple state offices. In the Smer chairman's description of the situation, the government's task until the early election would be limited to 'keeping the heating and lights on' (Constitutional Law No. 356/2011; *Webnoviny* 2011).

presented by presidents are similar in this respect. The intensity of these interventions has varied over time; although the formal framework laid down by the constitution was never significantly overstepped. Despite occasional interference by the head of state, the government keeps its prominent position within the executive branch of power.

A fundamental question is why the basic logic of parliamentary democracy has not been violated. The most likely explanation is that none of the Slovak presidents had behind them a strong enough political party of which he would concurrently be the leader²⁶. There was not a single case in which a political organisation was aligned with the head of state, providing him with significant political influence. Michal Kováč and Ivan Gašparovič (in the case of the latter, this was especially true in 2009) were nominated by parties in which the dominant roles were played by their chairmen, i.e. Vladimír Mečiar and Robert Fico respectively. Although Rudolf Schuster was elected as leader of the SOP, the party was weak and fairly rapidly became marginal. It cannot be said that Slovak presidents were weak or bland personalities, but that the most motivated political leaders so far have sought the post of prime minister and not that of president.

This supposition was also apparent in the activities of the individual presidents. No president has effectively aimed to create an alternative locus of power to the government. In fact, the only such attempt consisted of the proposal of regular round-table talks suggested by Schuster; an idea that foundered in its infancy as the political parties rejected it outright. Normally, Slovak presidents have not sought to act in an overarching position 'above the parties', and repeatedly they have become involved in party competition. There was a gradual rapprochement between President Kováč and the anti-Mečiar opposition at the time he was in office, and Kováč's successor Schuster took a similar step, albeit under a different political party constellation. Ivan Gašparovič was a case in point: his political activities changed profoundly depending on whether Smer, the party close to him, was in government or in opposition.

This last point significantly reveals why Slovak heads of state did not even have the potential to accrue much power during their stays

²⁶ Here we disregard the established tradition of non-partisanship in which the elected president typically suspends or even formally ends his party membership. Such steps can be purely declamatory and without real consequence.

in office. Often involved in party conflicts, they were never in the position of actor standing against all, but were always standing against a limited section of the party spectrum. Thus, disputes of the type *president vs. political parties* or *president vs. government and parliament as a whole*, envisaged by the model of delegative democracy proposed by O'Donnell, have never emerged in Slovakia. In other words, the multiple disputes between president and government that we have recorded were not primarily conflicts between institutions, but rather involved concrete office holders at a specific time. Michal Kováč and Ivan Gašparovič did not argue against the government as a body of state, but against the policies carried out under the leadership of Vladimír Mečiar and Iveta Radičová respectively²⁷.

On this account we must therefore clarify and ask: what were the real motives for the activism exhibited by Slovak presidents if, as indicated above, they were not seeking the emancipation of their position? The political developments thus far indicate that the primary reason lay in their personal ambitions; namely, in their working towards re-election. The presidential elections that have been held to date make it abundantly clear that party support for candidates is crucial, and the latter are obviously aware of this fact. This explains both the long-term loyalty of Ivan Gašparovič towards Fico's Smer, and the steps Rudolf Schuster took in 2004 to combine the parliamentary election and the referendum initiated by trade unions on the same date. Such a rationale does not apply to Michal Kováč, however, and his active approach can be explained by the strongly problematic governance of the Mečiar cabinets during the 1990s, which required correction from Kováč's side.

What remains to be considered are the perspectives of the Slovak presidency. In the past there have been discussions about formally strengthening the post, but they were without consequence. Ivan Gašparovič, for instance, proposed to extend the president's term from five to seven years, and Rudolf Schuster entertained similar notions (Mesežnikov 2009: 35). Such discussions have recently (2012) re-arisen

²⁷ As for the conflict between Michal Kováč and Vladimír Mečiar, if we had to label it from the latter's point of view, it would have some institutional background, because HZDS, the ruling party of the 90s, wanted to destabilize the horizontal accountability of the system in its own favor. This included the weakening of an uncooperative president.

in the Smer party, and the information available does not allow us to rule out the possibility that in 2014 the Smer chairman and current prime minister Robert Fico will seek the highest office of state. This is a point of fundamental importance, as Fico's election would break with the trend hitherto, in which the presidents were not backed up by a strong political organisation of which they might be leader.

Currently there is no need to suppose that the combination of these two issues, the strengthening the competencies of the head of state and the election of a strong political leader such as Robert Fico into this office, would lead to the gradual abandonment of the parliamentary model and a transition towards a (semi-) presidential system. However, this possibility must be taken into consideration. In order to realise this model, the individual in question would have to accumulate the majority of 90 votes in the National Council, which Smer does not have despite its excellent election result. S/he would also have to deal with the possible public resistance to the concentration of power into one pair of hands²⁸. And it is here that the historical tradition described at the beginning of this chapter could play a role: the only previous regime that was not overwhelmingly ignored by Slovak politicians and the public, and which had a powerful head of state, was fully non-democratic in character. And such a legacy hardly serves as a strong foundation and inspiration for an extensive strengthening of the role of the Slovak president.

Conclusion

After the demise of the Czechoslovak Federation in 1992, the position of the Slovak president was largely formulated afresh. One of the reasons for this was that the Slovak polity and public lacked a shared vision of a steady historic democratic tradition upon which they might draw. The competencies of the head of state were adjusted several times following the establishment of independent Slovakia, and this gradu-

²⁸ Although public approval of Smer is currently high (at around 40%) and its chairman is very popular, such strengthening of his position might be seen as excessive by the public. There is no empirical ground for such speculations, however, as there has been no discussion of (semi-) presidentialism in Slovakia thus far, and to venture further at this stage would be absurd.

ally defined his position within the political system. As this chapter has demonstrated, the basic idea of a relatively weak president has remained a constant, however.

This remains true even when we take the president's informal position into account. Three politicians have served in this office thus far. In all cases there were attempts to overstep the competencies as formally defined, but this never resulted in a comprehensive strengthening of the president's role. The activism displayed by the individual presidents was not caused by their attempts to seize more power, but was largely determined by the existing political situation. Ultimately, the presidents were not arbiters and independent political actors standing above the parties, but formed part of the existing party rivalry.

The future of the role of Slovak president is not entirely clear. Developments to date suggest that it will continue to be a comparatively weak position. But the recently opened discussions regarding the possible strengthening of his competencies might indicate a potential for other trends to emerge as well. Ultimately the question remains open, partly due to the fact that none of the presidents to date have had solid political party backing. The election of a politician with such backing might be something of a 'litmus test' for identifying the true potential of the position of highest state representative in Slovakia.