

## **HUNDRED YEARS SINCE THE FIRST CONSTITUTION OF THE ESTONIAN REPUBLIC (1920–1933)**

Although the Estonian Republic had already been declared independent on February 24<sup>th</sup>, 1918, it was only possible to begin the development of statehood once the German occupation ended in November of the same year. That is when the Provisional Government began operations, as well as when the Provincial Assembly regathered as representatives of the people. Not long after that, however, the Provincial Assembly decided to disband and give their powers to the Constituent Assembly, which was to be elected in early February of 1919.

For the intermediate time, then, full power was given to the Provisional Government. They passed laws and appointed officials with special authorities, among other things. As this happened during the Estonian War of Independence (Nov. 28<sup>th</sup>, 1918–Feb. 2<sup>nd</sup>, 1920), such a system of governance was certainly reasonable. Yet the lack of supervision over the government raised questions in various political circles. As such, the Provincial Assembly had to reconvene under these special circumstances in February and the elections of the Constituent Assembly (which had been postponed) were decided to be held in April.

The first session of the Constituent Assembly took place on April 23<sup>rd</sup>, where it was given two important tasks: the development of a land law for the upcoming land reform and the preparation and adoption of a constitution. As the creation of the constitution was time-consuming, on June 4<sup>th</sup> the Constituent Assembly adopted a provisional constitution. The provisional constitution included several surprising details – for example, the principles of parliamentarism, which had so far been considered self-explanatory in governing the country, were abandoned. And although the principle of the separation of powers was clearly set out, the parliament was in a dominating position in relation to the government and its powers were more extensive than usual.

June also saw the formation of a 15-member commission for the constitution. After listening to the positions of the parties and discussing questions of principle, the commission finally started processing the draft of the constitution in October. It soon became apparent that establishing one specific system of governance was not going to appease everyone – in the case of presidentialism some were afraid of an overly independent executive power, while the control mechanisms of a parliamentary system were considered too weak. As such, there was increasing support for a Swiss-style arrangement, where in addition to the parliament having the central role, the people would also be heavily involved in governing.

However, after the members of the commission had a chance to be introduced to the modern constitutions of Finland and Germany, a major shift took place in their approach. The commission moved away from the principles of the parliament in power, as well as from participatory democracy and fixed-term government. In the end it was decided that a parliamentary system was in fact quite suitable for Estonia. Since the only remaining question was regarding the balance of power between the parliament and government, in December the position of president was added to the draft of the constitution.

Including the institution of the head of state in the draft, however, created controversy outside of the commission. As such, the question of having the position of president was discussed, on the initiative of the left, on February 18th at the plenary session of the Constituent Assembly. As a result of the discussions, the institution of the presidency was erased from the draft of the constitution, and the balancing role between the parliament and government was to be performed by the people. With these changes, the larger issues of the draft were solved and the Constituent Assembly adopted the constitution on June 15<sup>th</sup>, 1920. It came into effect in December of the same year.

The first constitution of the Estonian Republic has often been considered one of the most democratic and progressive ones in the world for its time – citizens were given extensive rights, and for example, ethnic minorities were guaranteed education in their own language, as well as the right to use their mother tongue in official institutions and the right to a national cultural autonomy. In terms of governance, the constitution attempted to combine the Swiss system (people having direct control over the parliament) and the parliamentary system (the separation of powers, the government having political responsibility in front of the parliament). In the end, aspects of both systems were „watered down“ – for example, the people’s initiative and voting only applied to certain laws, and the government relied heavily on the parliament, with a balancing force between the two lacking. In terms of economic policy, it was emphasized that organizing economic life needed to meet the principles of justice, with the goal of securing citizens a humane livelihood through laws regarding obtaining education, working, pensions for both the inability to work and for retirement, and more.

In retrospect, doubt has been cast upon whether such a mixed system would ever be able to exist for an extensive period of time, yet in the Estonian Republic it did last fairly long. The needs to change the constitution in the beginning of the 1930’s were due to domestic political issues arising from the Great Depression rather than due to a constitutional crisis.

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