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The President in the State Machinery of the Russian Federation (Constitutional and Legal Analysis)

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Abstract. *Based on an analysis of the updated version of our State Constitution, the author comes to the unequivocal conclusion that the powers of the President of Russia have now significantly increased as his prerogatives have expanded.*

Keywords: *Constitution, form of government, presidential republic, executive branch, branches of government, State Duma, President, government, Constitutional Court.*

A thorough study of the updated version of the Basic Law, which underwent significant changes in 2020, has concluded that the long-standing disputes regarding the qualifications of the forms of government in Russia (mixed, semi-presidential, presidential–parliamentary, presidential, super-presidential) are likely to cease.[1] Evidently, Russia is considered a presidential republic[2] (with distinct elements of super-presidential republic). The fact that our country is a republic (**Part 1, Art. 1 of the Constitution of the Russian Federation**[3]) is, surely, undoubted. As for its definition as a presidential one, it requires explanations, specifically clear legal justifications. State power is exercised in our country on the basis of a division into the legislative, executive, and judicial branches. However, the fact that the bodies of these branches of government are independent (**Art. 10 of the Constitution**) does not serve as evidence of their equality and equivalence. At the present stage of historical development, the primary, dominant role in the political systems of almost all countries, including our own, certainly belongs to the executive and administrative structures, at the top of which is the government. A great deal of evidence has been presented to prove this.

Legally speaking, they possess a colossal and most significant power potential along with immeasurably greater resources, such as administrative, financial, material, technical, technological, organizational and mobilization, communication, and human resources, among others, compared to the legislative and judicial state bodies. Furthermore, it is the executive power that currently has the most detailed and voluminous, if not exhaustive (as far as it is possible), information about the processes taking place in all areas in the life of the social organism and in the international arena. This calls to mind the popular catch phrase, "He who owns information, owns the world."

In addition, the government now has, at its disposal, extremely broad opportunities (including those enshrined in regulatory documents) to influence all other state bodies, primarily the Parliament. The executive power intrudes in the most active and extremely persistent way into the sphere that has been traditionally considered the exclusive competence of the highest representative institution, i.e., the legislative process. In most countries, it has become one of the main sources of legislative initiative, if not the main one. It has a huge arsenal of funds to carry out "its own" or approved draft regulations through the Parliament. In fact, it controls — if not completely, then to the maximum extent — not only the initial, but also the subsequent stages of lawmaking, ultimately exerting a decisive influence on it.

[1] Among the publications devoted to this problem, one should highlight the work of Prof. V. E. Chirkin entitled, "What form of government exists in modern Russia?" [1, pp. 32–40].

[2] Vladimir Putin, clarifying the meaning of constitutional innovations in his speech to the senators of the Russian Federation in September 2020, described our country as a strong presidential republic. https://news.mail.ru/politics/43476683/?frommail=1 (accessed 15.09.2020). T.Y. Khabrieva and A.A. Klishas also note that Russia is still a presidential republic [2, p. 132].

[3] Further in the text, items, parts of articles and the articles of the Constitution of the Russian Federation themselves will be indicated in accordance with the accepted abbreviations: «i.», «par.», «Art.», «C. R.F.» or just «C.».

Note that this state of affairs is justified in principle. After all, the government has everything necessary for the preparation of high-quality texts, both in form and content, at the proper professional level. In addition, it is well known that the vast majority of regulations applied in any state do not come from the highest representative institution but are issued instead by the government. In other words, society, citizens, and institutions live (especially with regard to everyday life) not so much by laws as by executive orders.

Given the above, it becomes quite clear that the person at the head of the government is the central, most powerful political figure in the country, accumulating the greatest range of managerial powers. In fact, to come to power and to win it means to head the executive and administrative departments in a state-organized society. The form of government is determined depending on who exactly is at the helm, what kind of official directs the government, to whom the latter is responsible, and to whom it is accountable and then controlled. In Russia, this person is the President, and such a conclusion is attributed to the following reasons.

First, he provides overall leadership of this body (**Item "b" of Art. 83, Part 1, Art. 110 of the Constitution**) and shall be entitled to preside at its meetings (**Par. "b" of Art. 83 of the Constitution**). As no one and nothing can stop him from using the granted right strictly for his own discretion, i.e., including completely, continuously, and meticulously delving into all the particular details, the Chairman of the Government acts as no more than his assistant. Moreover, according to **Art. 113 of the Constitution**, the function of the Chairman is that he, in accordance with the Constitution, federal laws, decrees, orders, and instructions of the President, only organizes the work of the Government.

Considering the fact that it exercises the executive power of the Russian Federation (**Part 1, Art. 110 of the Constitution**), directs the activities of the federal bodies of the government (excluding those subordinated directly to the President under **Part 3 of the same article of the Constitution**), and it is directed by the head of state (**Par. "b" of Art. 83, Part 1, Art. 110 of the Constitution**), it is not difficult to come to a completely unambiguous conclusion: the latter controls, directly or indirectly, all of the central executive power (and given his other huge powers, all executive power in the country). This is true a fortiori, because the President can cancel the government's resolutions and orders in case they contradict the Basic and Federal laws as well as his decrees and orders (**Part 3, Art. 115 of the Constitution**), i.e., cancel any directive of the government.

Second, the Head of State, on the proposal of the Prime Minister, approves the structure of federal executive bodies and makes changes to it (**Par. "b. 1" of Art. 83 of the Constitution**). This establishment allows him to radically reconstruct the proposed structure to develop and authorize his own. Within its framework, the Prime Minister independently decides which bodies are subordinate exclusively to him alone, and which are led by the Government (**Par. "b. 1" of Art. 83 of the Constitution**), which in turn, is led by himself.

Third, the President forms the supreme executive power, almost single-handedly determining its personal composition. He presents to the State Duma the candidacy of the Government Chairman for approval and if the deputies show approval by voting, he proceeds to make an assignment (**Par. "i" of Art. 83 and Par. "a" of Part 1, Art. 103 of the Constitution**). He appoints the Deputy Prime Minister and the Federal Ministers on the basis of nominations approved by the State Duma (**Par. "d" of Art. 83 and Par. "a. 1" of Part 1, Art. 103 of the Constitution**), as well as all those who are responsible for the so-called power and foreign policy blocs, i.e., heads of Federal Executive bodies (including ministers) responsible for defense, state security, internal affairs, justice, foreign affairs, public security, and the prevention of emergency situations and elimination of consequences of natural disasters (**Par. "d.1" of Art. 83 of the Constitution**). Here, the State Duma's sanction is not required, and only the preliminary consultations with the Federation Council are sufficient (**Par. "k" of Part 1, Art. 102 of the Constitution**).

Moreover, the President after the triple rejection by the State Duma of the presented candidates for Chairman of the Government shall make the appointment to this position (**Part 4, Art. 111 of the Constitution**). Similarly, after the triple rejection by the State Duma submitted by the Chairman of the Government of the candidacies of his deputies and Federal Ministers (with the exception of the Federal Ministers referred to in **Par. "1" of Art. 83 of the Constitution**), the President has the right to make appointments from among those candidates (**Part 4, Art. 112 of the Constitution**). According to **Part 5, Art. 112 of the Constitution**, in the case provided for in **Part 4, Art. 111 of the Constitution**, and in the event of dissolution of the State Duma, the President appoints, on the proposal of the Prime Minister, his deputies and Federal Ministers (with the exception of the Federal Ministers referred to in **Par. "d. 1" of Art. 83 of the Constitution**).

Fourth, the President is free to dismiss absolutely any Federal Minister whose candidacy has been approved by the State Duma without any participation of the chambers of the Parliament,

let alone other institutions and officials (**Par. "d" of Art. 83 of the Constitution**); any of the heads of Federal Executive authorities (including Ministers), appointed by him after consultation with the Council of the Federation; those dealing with defense, state security, internal affairs, justice, foreign affairs, public safety, and the prevention of emergencies and elimination of consequences of natural disasters (**Par. "d. 1" of Art. 83 of the Constitution**; any of the heads of the Federal bodies of Executive power, the activities of which he himself leads (**Par. "b. 1" of Art. 83 of the Constitution**), the Chairman of the Government (**Par. "a" and "b. 1" of Art. 83 of the Constitution**), and the Deputies (**Par. "v. 1" of Art. 83 of the Constitution**). He is also free to make a decision on the resignation of the entire Government (**Par. "b" of Art. 83 of the Constitution**).

Fifth, from now on, its Chairman is personally responsible to the President for the exercise of the powers assigned to the Central institution of the Executive power (**Art. 113 of the Constitution**).

Sixth, the already barely perceptible role of the State Duma in the formation of this branch of government (it makes no sense to even mention the influence of the Federation Council here, because consultations with it do not oblige the highest official to anything at all), as well as the insignificant and illusory accountability and control of the Government chamber are finally leveled and nullified by the very broad prerogatives of the President. We are talking about the possibility of dissolving the Duma by the head of state, which undoubtedly puts it in a dependent, largely subordinate, and vulnerable position.

The President may exercise this right in cases and order stipulated by the Constitution (the acting Chief Executive Officer has no such right) (**Part 3, Art. 92 of the Constitution**). These cases, in accordance with P**art 1, Art. 109**, are clearly stated in **Art.s 111, 112, and 117 of the Constitution**.

The head of state has the right to dissolve the said chamber of Parliament and call new elections after thrice rejecting the submitted candidates of the Prime Minister (**Part 4, Art. 111 of the Constitution**).

The President has this prerogative, if after triple rejection by the Duma submitted by the Chairman of the Government of the candidatures of his deputies and Federal Ministers, over one third of the members of the Government (with the exception of posts of Federal Ministers specified in **Par. "d. 1" of Art. 83 of the Constitution**) are vacant (**Part 4, Art. 112 of the Constitution**).

The President may dissolve the chamber and call new elections if it does so again within three months after expressing no confidence in the Government (this is under its jurisdiction; **Par. "b" of Part 1, Art. 103 of the Constitution**). If the President does not exercise his right, he is obliged to announce the resignation of the Government (**Part 3, Art. 117 of the Constitution**).

Finally, he has the right to dissolve the Duma and call new elections if the question of confidence in the Government, raised by its Chairman, is decided negatively by the Chamber. In the event of a repeat of the situation within three months, the Head of State can also resort to the right to dissolve the chamber and call new elections. If the President considers it inappropriate, he must again dismiss the Government (**Part 4, Art. 117 of the Constitution**).

In fact, the described constitutional powers of a person holding the highest state post are more than enough to ensure that the thesis formulated at the beginning of the article is justified: Russia is a presidential republic with elements of a super-presidential one. At the same time, the validity of such a conclusion is confirmed by other extremely important power prerogatives at its disposal.

An analysis of the place and role of the President in the political system of our country will be incomplete if we do not address the issues related to his election. Let us, therefore, turn to **Art. 81 of the Constitution**, which sets out the basic provisions relating to the procedure for electing the head of state, the term of the presidential mandate, and the criteria that must be met by a candidate vying for this position.

The most important thing here is that elections are carried out on the basis of universal, equal, and direct suffrage by secret ballot (**Part 1, Art. 81 of the Constitution**). Despite all the familiarity, a kind of routine nature of this constitutional institution, it has a deep historical and legal meaning.

First, not all presidential elections are held in this way. They can be carried out not by the citizens, but by the Parliament or electorate. The method established by our Constitution is the most democratic one, because the President of Russia receives his mandate directly from its multinational people.

Second, this constitutional provision demonstrates that the creators of the Basic Law are guided primarily by the need to ensure the primary interests, rights, and freedoms of the individual (it is also indicated in the content of **Art. 2 of the Constitution**). The fact is that one of the most important inalienable rights of a self-valuable and independent subject is his/her right to take a positive and active part in the political process, in solving issues of the general social level, and in ordering the life of the entire social organism. It is assumed that by voting and nominating himself as a candidate for the highest state post, for deputies and for other positions, he realizes

this immanently inherent and natural privilege of a free member of society. Thus, proceeding from the task of providing effective guarantees of the full rights of each individual, the constitutional consolidation of universal equal and direct suffrage seems to be an absolutely mandatory and adequate measure — one that is natural and logical.

At the same time, it is impossible not to pay attention to the following circumstance. Some of the creators of the current Constitution, being zealous defenders of the electoral system fixed in it, insist that the universal or the widest possible participation of citizens in politics in general, and in presidential and parliamentary elections in particular, not only contributes to ensuring the full rights of the individual, but also steadily guarantees the best result. Yet, if the first statement is unquestionably true, the second one is profoundly wrong. The adoption of decisions by the majority does not guarantee either their reasonableness or their moral validity; nor does it contribute — to use the expression of Leo Tolstoy — to the "cumulative improvement of life." In power, following the results of general and free elections, there are not always characters who are genuinely concerned not with self-serving, but with national interests. These are people whose outstanding intellectual talents and exceptional moral qualities cannot be doubted. This is irrefutably proven by the dramatic vicissitudes of world history. Fortunately, the authors and, relatively speaking, co-authors (those who prepared the amendments, including those approved in a nationwide vote in July 2020) of the Basic Laws of our country had the wisdom and knowledge to consider the global political and legal experiences. They also provided the order in which a sizable part of the establishment took their positions not due to the election (i.e., not in a democratic way) by designating a person in authority or support from his side. This is primarily about the President. Such an order is, of course, quite relevant and reasonable.

The Constitution establishes a six-year term of the mandate of the Head of State (**Part 1, Art. 81 of the Constitution**), which is calculated from the date of his assumption of office, i.e., from the time the oath is taken (**Part 1, Art. 92 of the Constitution; Art. 82**). Such a significant length of the presidential mandate (although not the largest one known to foreign constitutional legislation and practice) is due to and fully justified by the vastness of the territory, the multi-ethnic and multi-religious composition of the population of our Fatherland, and especially by the truly gigantic tasks it has to face in terms of scale and significance as well as the huge role that belongs to the President in his successful implementation.

Only a Russian citizen can apply for this post (otherwise, it would be absurd), and one should not be younger than 35 years (**Part 2, Art. 81 of the Constitution**). A high age limit in this case is absolutely necessary. After all, it is extremely difficult to lead a state with dignity, especially one as great and original, strong and independent, civilized, and enlightened as ours. To do this, you need a person who has finally formed, is sober-minded and reasonable, is quite mature in civil relations, a rich life experience, and an appropriate level of political culture. Do we have solid grounds to be certain that a relatively young person (and this is exactly what a 35-year-old individual is in the conditions of modern reality), after winning the election, will be able to deeply understand the full responsibility of the mission entrusted to him? We believe that we have. As such, it is obvious that the age limit prescribed by the Constitution is clearly insufficient. It is advisable to increase it, following the example of a number of foreign countries, to at least 40 or, preferably, to 45 years.

From now on, a presidential candidate must live in Russia for at least 25 years. In addition, he may not have the citizenship of a foreign state or a residence permit or other document confirming his right to permanent residence of a citizen of the Russian Federation on the territory of a foreign state. The President is prohibited from opening and holding accounts (deposits) and storing cash and valuables in foreign banks located outside the territory of Russia (**Part 2, Art. 81 of the Constitution**). The same requirements, or, more exactly, restrictions (concerning citizenship and invoices) apply to the Prime Minister, his deputies, Federal Ministers (**Part 4, Art. 110 of the Constitution**), deputies of the State Duma (**Part 1, Art. 97 of the Constitution**), senators of the Russian Federation (**Part 4, Art. 95 of the Constitution**), and many other officials.

All these constitutional provisions must be considered and perceived exclusively in a complex way, i.e., in their immanent interrelation and genetic interdependence. This is because they are initially united by an important and noble strategic goal: to completely expel from the ranks of the political elite of our Fatherland numerous representatives of the fifth column — acting against the will and good of the people — in the foreseeable future. Their presence and extremely vigorous destructive activities can still, unfortunately, be easily detected in the camp of the ruling class.

It is impossible not to notice that, at present, the situation is changing steadily and continuously for the better. One gets the impression, and the impression is stable and justified as it is supported by concrete facts of practical policy and official documents (particularly the constitutional amendments that came into force in July 2020),

that a significant segment of the domestic ruling elite is inspired by the task of ensuring the primary protection of people's needs. Meanwhile it is absolutely obvious that all the elites are subject to intense purification and must necessarily be subjected to a thorough restructuration, in which it is converted to the corporation of like-minded people, inspired by the idea of absolute priority of state interests over any other, as well as by the prosperity and welfare of their own country. This is what the innovations in the Basic Law aim at. They will undoubtedly enable the ruling class to get rid of those to whom foreign citizenship and foreign bank accounts are much preferable to serving the Fatherland, thus making this class truly patriotic and nationally responsible.

According to P**art 3, Art. 81 of the Constitution**, the same person may not hold the office of President of the Russian Federation for more than two terms. From now on, there is no "consecutive" specification. Consequently, the same person holds the right to be elected to the highest state post only twice during the years of his life and the right to exercise the corresponding powers for a total of no more than 12 years, i.e., twice for six years, both continuously and with a certain time interval. The restriction is stipulated in **Part 3, Art. 81 of the Constitution**, and is designed to prevent the establishment of a rigid authoritarianism (or even totalitarianism) led by an invariably re-elected President.

Part 3.1, Art. 81 states that the position of **Part 3, Art. 81** of the Constitution limiting the number of terms during which one and the same person may hold the post of President of Russia, applies to a person who was and (or) is the Head of State, without regard to the number of periods during which it is held, and (or) took this position at the time of entry into force of the amendments to the Constitution introducing the appropriate restriction (i.e., 4 Jul 2020). Moreover, this does not exclude for him the possibility to hold the office of President within the time limits deemed permissible in the specified position.

It means that Vladimir Putin and Dmitry Medvedev can now run twice for the post of Head of State on an equal basis with all other citizens of the country who meet the appropriate criteria. The question arises rather not in connection with the content of this constitutional novel, but about the expediency of its introduction into the text of the Basic Law.

A legal norm is fairly interpreted as a mandatory rule (a certain standard, formally recognized measure, etc.) of behavior that regulates a typical social attitude as well as its separate part or side. Abstractness, or the general nature of the rule of law by its very nature, categorically rejects the striking utilitarian concreteness (the personification of the addressee) and naturally assumes the multiplicity of its use and compliance. The regulation evaluated from these positions is **Part 3.1, Art. 81 of the Constitution**, and it does not even stand up to condescending, not at all demanding criticism. This is seen as a bizarre and ridiculous legal nonsense (God knows how it ended up in the Constitution). Rather, it is much closer to a non-normative, individually directed, once-implemented legal decision (akin to a court verdict, a decree on awarding an award, etc.). The permission contained in **Part 3.1, Art. 81 of the Constitution** actually covers only two of our citizens, and it will be very short in the scale of one lifetime. After it expires, it then becomes invalid or "dead."

Therefore, it was a mistake to raise the norm in question to the rank of constitutional. From the formal legal point of view — to put it mildly, not quite correctly, and with the ethic-political rashly — for no added authority to the Supreme power. Instead, it would be quite enough to enlist the support of the constitutional Court, which, in fact, is called upon (including at the request of the President) to interpret the Basic Law (P**art 5, Art. 125 of the Constitution**). If it would be necessary to interpret the meaning of other relevant normative provisions, then it would be possible to resort to **Part 6, Art. 125**, according to which, acts or their individual provisions recognized as constitutional in the interpretation proposed by the Court are not subject to application under a different interpretation.

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***Аннотация**. На основе анализа обновленной версии Конституции нашего государства автор приходит к однозначному выводу о том, что властные полномочия Президента России отныне существенно усилились, а прерогативы расширились.*

***Ключевые слова**: Конституция, форма правления, президентская республика, исполнительная власть, ветви власти, Государственная Дума, Президент, правительство, Конституционный Суд.*

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