РАЗДЕЛ II. ЮРИСПРУДЕНЦИЯ

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Form of Government in Russia

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Abstract

The article analyses theoretical patterns of super-presidents governance. The features of power in Russia are related to historical features of adoption of the Constitution of the Russian Federation in 1993, in which the first President of the Russian Federation B. Yeltsin legitimized his monist authoritarian power. This article analyses features of the government form in the Russian Federation against the background of its comparison with both traditional and the newest forms of government in the world, especially with De Gaulle model of presidential power under the French Constitution of 1958. The author names the Russian form of government as constitutional presidential monarchy, analyzes advantages of this situational model, through which President Putin managed to become the leader of Russia for a long time, to keep its integrity and ensure stability of the constitutional system.

Key words: form of government, mixed republic, super-president institution, constitutional presidential monokratija.

Aristotle classified the states by "three correct ways of government" - the kingship, aristocracy and polity. During the Middle Ages, the term "monarchy", borrowed from the Greek language, was used to characterize monarchy. In the XVI century N. Machiavelli for designation of the state, which is the antithesis of monarchy, first used the term "republic"[13].

Division of the government forms in to monarchy and republic depended on whether head of state is hereditary or elected. But from the point of view of organization of the executive power, such a division recedes to the past: electable monarchies have appeared, and the presidents of some republics, due to the peculiarities of the institution of the presidency and their own charisma, are turning into actual and life-long leaders, concentrating even more power in their hands than monarchs of dualistic monarchies.

In some CIS countries, presidents have special privileged status, which is expressed in hypertrophied powers in all branches of state power, especially the executive, and they are not the heads of the executive branch.

The republican form of government is traditionally divided to the parliamentary (FRG), the presidential (USA) and the mixed (France) republics, with many modifications among hybrid (hybrid) republics, and the issue of their classification is the most controversial[2, 3, 5, 7, 8, 11].

With the expansion of the form of government criteria, when the form of organization of executive power is linked with the relations of power and population, i.e. with the political regime, discussions are even stronger.

In the USA and Western Europe, the opinion is being cultivated that there is no democracy in Russia[4, 10, 12], and without democracy there is no real republic[6, 14]. Undoubtedly, Western scientists and journalists in their research on Russia also pursue ideological and political goals.

Russian constitutional presidential monarchy (that is how the author of these lines defines the form of government in Russia) is connected with the name of the first Russian president, Boris Yeltsin, who in his turn took the French hybrid republic of Charles De Gaulle, as a model.

In Russian constitutionalism, the monarchical institution of succession was de facto formed, beginning with the Decree of B. Yeltsin of 30.12.1999 on the appointment of V. Putin as the acting president of Russia. There are other elements of the monarchy: return of the monarchical coat of arms, the presidential veto, de facto turned into an absolute, 10% presidential quota in the upper house of parliament - the Federation Council, introduced in 2014[15], the presidential decrees powers, including role the arbitrator of federal and regional public authorities, guarantor of national unity and state security.

From the De Gaulle model formulas are taken, according to which the president alone determines the main directions of domestic and foreign policy, is the guarantor of the Constitution of the Russian Federation, human and civil rights and freedoms (Article 80 of the Constitution of the Russian Federation).

The Russian presidential monocacy appeared from the formula: everything that strengthens the president (the government's answerability to the president) is taken from the presidential republic, and from the parliamentary form of government everything was taken that weakens the parliament (possibility of the parliament dissolving, including as a result of the government's putting on vote of confidence with the aim of the parliament dissolution, the president's right to legislative initiative).

In addition, Russian constitutionalism proceeds from the principle of constant expansion of the President powers, without violating the Constitution, which provided the President with truly boundless powers.

Current Russian legislation avoids detailed regulation of public relations, based on the recognition of the so-called "implied powers" of the President of the Russian Federation legalized by the Constitutional Court of the Russian Federation.

As a result, many spheres of public relations, for example, the authority of the President for resignation of the Government of the Russian Federation (Part 2, Article 117 of the Constitution of the Russian Federation), relations between the President and the Chairman of the Government in forming the Government are closed.

However, criticism of the Russian form of government for the lack or underdevelopment of democracy is incorrect because of the limited criteria taken as the basis. The Russian form of government was designed for Boris Yeltsin, who in the autumn of 1993 spifflicated legislative power, constitutionally formalizing its degradation.

Foreign journalists often ask President Vladimir Putin, a tricky question: "Do you know that you are called a czar?". Putin knows everything, including the fact that he uses power granted to him under the Constitution legally.

The President's infinitely broad powers correspond to the mechanism of power invented by the French general de Gaulle, who did not need to return the monarchy or call himself a monarch for this purposes. The nation-wide elected president is not weaker, and under certain conditions is even stronger than the monarch. De Gaulle insisted on the referendum on the adoption of the 1958 Constitution in order to legalize his unlimited powers by public will.

In super-presidential republics, the power mechanism is designed more subtly than in the dualistic monarchies, allowing to rule on behalf of the people proclaimed to be the source of power.

In monocratic (super-presidential) republics, the entire set of competencies of the head of state and parliament, constitutionally established relations between them, are such that the constitutions of these republics, starting from French Constitution of 1958, were correctly characterized as anti-parliamentary, anti-democratic, anti-republican. They are anti-parliamentary because the powers of the parliament are limited from "a" to "z," the parliament does not control the executive branch (the government's annual report to the parliament is extremely regulated and plays a decorative role). The Constitution of France is anti-republic because the president actually became elected monarch. The French Constitution was considered antidemocratic because it did not contain a section on the rights and freedoms of the individual, but in this respect there was a reference to the 1946 Constitution and a separate declaration. De

Gaulle, somewhat said, referring to the founders of the constitution of 1946: you formalized extensive list of individual rights, and I recognize them, but I will do more for their implementation than you, because the new mechanism of power is more effective than the power of vast parliamentarism. This fact of the constitutional history of France confirms the conclusion that essence of the constitution lies in the mechanism of power that it formalizes.

Nice principles about importance of a person, his/her rights and freedoms are the essence of declarations, while in constitutions they fulfil speculative goals, allowing to decorate the power mechanism by imitation of democracy.

In the monocratic (authoritarian) mechanism of power, there are not only disadvantages, but also undoubted advantages, especially when authoritarianism, like de Gaulle's one, is frank, that is, does not adorn the power canvas with patterns of human rights. By the way, in France, democratic changes subsequently took place (for example, in 1962 the term of the presidency's legislature was shortened from 7 to 5 years). As for the Constitution of the Russian Federation, the de Gaulle's mechanism of power copied in it continued to increase authoritarian muscles in full compliance with Part 3 of Article 80 of the Constitution of the Russian Federation.

The advantages of Russian authoritarianism are in the following seemingly paradoxical circumstances: first, the Russian presidency largely expresses the social order of the society itself, which suffered from the lightning-like change in the socio-economic formation as a result of the parliamentary revolution of the Gorbachev period; the older and middle generations are still in a state of political anabiosis and distrust of parliamentarism; secondly, these changes, which are often carried out under the slogan of "democracy," have turned the very word into abusive word for a long time; Thirdly, the Russian president, in the person of Putin, acted as a powerful barrier to further fragmentation of the country by oligarchic and political groups. For this purpose, in particular, at the beginning of Putin's second presidential term it was necessary to take such an "undemocratic" measure as abolishing direct elections of the heads of constituent entities of the Russian Federation that turned under Yeltsin into a contest of "money bags" and national clans (direct elections were returned on 2012).

The integrity of Russia was under threat, in many regions up to 1/3 of the laws contradicted federal legislation. Without powerful authorities, no president could cope with the task of restoring the integrity of the state. V. Putin prevented the disintegration of Russia and restored its power, which explains its high authority among the people.

The vertical of power was built in different ways, but there were consequences that are not approved even by those representatives of the electorate who invariably vote for Putin, because the social order of society for a "strong hand" is limited.

The negative consequences of authoritarianism are the following:

- 1) the excessive redundancy of the apparatus and the absolute power of the bureaucracy. In fact, two governments were formed, often overlapping each other (the Government and the Presidential Administration); as the Russians say, "the people can't cope with two nobilities";

- 2) control over the bureaucracy is illusory, as well as, in fact, the fight against corruption, because the controlling bodies are also created by the president (his office). At one time, former Prime Minister Yevgeny Primakov was surprised that in the economic crisis of 2008, 3 billion rubles were allocated for the rehabilitation of banks. without any conditions for intended expenditure: such conditions become meaningless due to lack of the necessary number of supervisors, especially honest ones[9];

- 3) the regime of "manual control" finally corrupts the bureaucracy and the Russian parliamentarians integrated in it, which are not only equal in terms of salaries and pensions to ministers, but also in terms of legal status. However, the level of responsibility of deputies is incommensurable with the responsibility of ministers. High indemnity of deputies is purchase of their loyalty, one of the ways to "tame" them, as a result, even factions of the parliamentary minority become decorative opposition;

4) To a significant extent parliaments are made up of businessmen, who need the status of deputy to promote their own business and weaken their competitors. And this represents claim to the electoral system, including the system of state funding of parliamentary parties. Budgetary feeding for every vote in the elections to the State Duma of the Russian Federation is a powerful way to create a "stable" party system. But why at the expense of taxpayers? At one time, the CPSU, which existed on the basis of party fees, was criticized for its becoming associated with the state apparatus, the term "governmentalization" appeared. State funding of parties is a sign of their governmentalization;

5) High level of deviation from the constitutional principles, especially in terms of inadmissibility of adopting laws that abolish or diminish the rights and freedoms of a person and a citizen (art. 2, art. 18, art. 55, part 2), and also in terms of principle of powers separation (art. 10 of the Constitution of the Russian Federation);

6) Absence of strategic national development plan of the country does not contribute to the stability of the system, which itself becomes situational. People are frightened by horror stories about return of state ideology. But a state without ideology, as a man without brains, and so-called Yeltsin de-ideologization was a sophisticated kind of ideology, a kind of social anesthesia, through which all former values were debunked and spiritual disarmament of the people was ensured[1];

7) The unprecedented social stratification of Russian society, which arose in the "wild" 90s, does not decrease, and by all criteria (class, branch, official, regional);

8) the limit of failed expectations is exhausted. Thus, during the election campaign in 2018 presidential election and the night after summarizing the results of the elections, Putin talked about the need for a breakthrough. The people believed that progressive tax would be introduced, and the government would be substantially updated. And what happened in the end? During television call-in show with the people on the question about progressive tax, Putin answered with the same version that Prime Minister Medvedev had repeatedly voiced: introduction of progressive tax would bring the taxable base of large scale business into the shadow. But why other countries are able to control the taxable base with progressive tax, reaching 60-80%? Why in Russia 13% for superprofits are uttermost? Does the President recognize by it the weakness of his own state? If the state is not able to "bring to life" the oligarchs, who own 90% of national wealth, is it strong? In the name of what the Russian nation agrees with the institution of super-strong president and expects incomprehensible "breakthroughs" still with the same prime minister and with the same "indistinct" economic policy?

Such political system has no real opposition, because it requires not only ideological platform, but also economic basis. And only oligarchs criminalizing power have this basis.

Russia is not the only country in which the society, realizing the unsightliness of the political underside, agrees to a social compromise in the form of super-president institution to ensure the society's stability, its self-defense against various kinds of color revolutions and other cataclysms. As a result, even those who prefer more balanced political system vote for a strong and charismatic president many times. The system, based only on the high rating of the president, makes the whole society hostage, and the only thing which is left for them is: 1) hope that the institution of a super-strong president will not be used to harm the people, 2) to believe that the real power in the country will be picked up by decent hands.

This generates either the institution of the president's successor (the Russian establishment constantly wonders who can become it), or the cardinal reform of the Constitution, or both. One does not exclude the other.

Russia belongs to that model of the political system, which is based on expediency and is situational in nature, flexible from ideological and organizational points of view, maximally convenient for the president-leader as it allows to combine the incombinate: conservatism and liberalism, democracy and authoritarianism, system stability and mobility of electoral legislation, legality and expediency.

No president will ever agree with changes of the Constitution, limiting his own power. By the initiative of the president, such changes were made when the last term of presidential powers expired and power could be retained only at the price of its transfer to the prime minister, but for this purpose the party led by the reformer should win in the parliamentary elections. This was the case of reform in Georgia at the end of his presidential powers held and failed by M. Saakashvili.

To the credit of President V. Putin, before the end of his second presidential term, he did not go in for reform of the government either in the Georgian or the Belarusian variant (abolition of the constitutional norm on the limitation of presidential powers by two consecutive terms). Putin took a rather risky variant of "switching jobs" of the president and prime minister, while retaining the actual leadership, and he was the only one who managed it in the world practice. But first Putin took care of the stability of the status of the prime minister, by leading the list of "United Russia" in 2007 before the elections to the State Duma. This was a delicate move, underappreciated by scientists: Putin in 2008 actually combined in one person the post of prime minister and the first person in the electoral list of the party of the parliamentary majority. Then this approach was repeated with D. Medvedev. In fact, this is already a political tradition that largely explains Medvedev's next appointment to the post of the Prime Minister in May 2018. The Russians took this appointment rather with disappointment, not realizing that Medvedev's dismissal from the post of prime minister would presuppose the replacement of the chairman of United Russia.

However, it is not necessary to consider the emerged political tradition as institution sufficient for transition to parliamentary form of government, for the very fate of this tradition depends only on the President V. Putin, as well as the fate of the constitutional reform.

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