

Analysis of the Institutions of the Presidency in Russia and Abroad

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Abstract: *The article is devoted to a comprehensive study of the constitutional regulation of the institution of presidency in the Russian Federation and other countries, conducted in the form of comparative legal analysis. There have been established common traits and differences between the constitutional regulation of the institution of presidency in the Russian Federation, the French Republic and the United States of America. The purpose of this article is the consideration of the constitutional regulation of the institution of presidency in the Russian Federation and other countries. As a result, it was concluded that each head of state has its own constitutional status, as well as individual peculiarities in the constitutional legal position in the country due to the specifics of their constitutional regulation. The manifestation of individual constitutional peculiarities in the structural elements of the constitutional status of the President has been established. The causal link between the historical, constitutional and cultural development of countries and individual peculiarities in the constitutional status of the heads of state has been discovered.*

Index Terms: *Constitution, constitutional regulation, constitutional status, guarantor of the Constitution, head of Government, head of state.*

I. INTRODUCTION

Currently in the world there is a large number of states with a republican form of government. The institution of presidency has been introduced in many of these countries. Heads of state can occupy a central place in the political system of a country or not have so much influence. As a rule, the constitutional status of these leaders is legislatively enshrined in the constitutions of their states. Conducting a comprehensive comparative legal analysis of the constitutional regulation of the institution of presidency in the Russian Federation and other countries is of great importance for understanding the role of this institution both in Russia and in the world as a whole. Due to the existence of many states with a republican form of government, there can be a causal link between the historical, constitutional and cultural

development of countries and individual characteristics in the constitutional position of heads of state. At the moment, the concept of "president" is interpreted as the head of state who was elected by citizens of a country in the presidential election. This is a civil servant who occupies the highest position in the hierarchy of state institutions and implements the supreme representation of the state in domestic life and the highest representation of the country in international relations. Despite the obvious urgency of conducting a comprehensive comparative legal analysis of the constitutional regulation of the institution of the presidency in the Russian Federation and foreign countries, this issue has not received the necessary attention in the scientific literature. Nevertheless, various authors have carried out studies of certain aspects of the problem of studying the constitutional regulation of the institution of presidency in the Russian Federation, the United States of America or the French Republic. Some ways to solve this problem were disclosed in fundamental research: Dobrynin [1], Maklakov [2]. Some aspects of the constitutional regulation of the institution of presidency in the Russian Federation or other countries were investigated in scientific articles: Gaman and Zueva [3], Grishaeva [4], Ignatieva [5], Kolotilin [6], Kurilenko [7], Mirakulov [8], Romanovsky [9], Spiridonova [10], Travkina [11], Filimonova [12], Fokina [13], Yakimov and Myshenko [14], Yatsenko and Nizinkovskaya [15].

II. PROPOSED METHODOLOGY

In the process of writing this scientific article, both general scientific and specific scientific methods of cognition were used. The analytical method of cognition allowed to conduct a comparative legal analysis of the constitutional regulation of the institution of presidency in the Russian Federation and other countries, initially in its individual aspects, then in the form of one and integral phenomenon. With the help of the statistical method, various statistical data were analyzed that had a connection with the constitutional status of the President. By applying the systemic structural method of cognition, structural links were established between the legal and cultural development of countries and individual characteristics of the constitutional status of the heads of state. With the help of the formal legal method, the constitutional regulations of the Russian Federation, the United States of America and the French Republic were investigated and analyzed.

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With the help of the historical legal method, the specificity of the influence of certain historical conditions on the constitutional regulation of the institution of presidency in the Russian Federation, the United States of America and the French Republic was discovered.

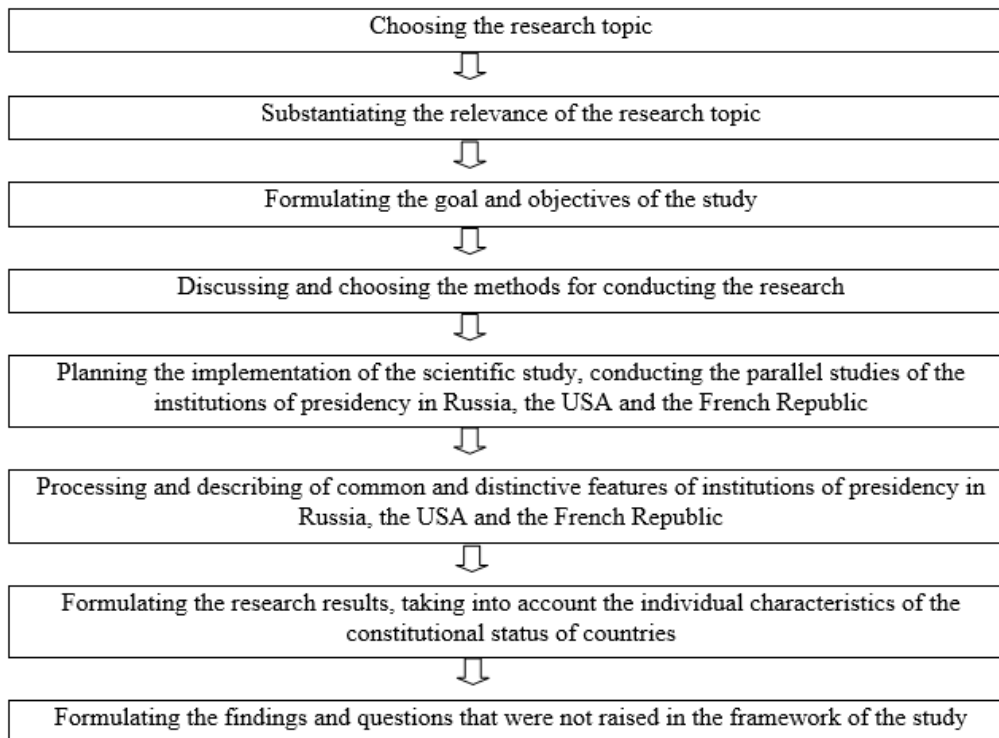
A. Algorithm

The study of the institutions of presidency in Russia and abroad was carried out following a parallel algorithm.

In the course of the work, the authors conducted a comprehensive study and systematized the constitutional

regulation of the institution of presidency in Russia and in foreign countries. The conditions for acquiring the status of president, president's rights, duties and authorities are summarized, their responsibility is discussed separately. Systemic analysis allowed us to establish causal relationships between the historical, constitutional and cultural development of the institutions of presidency in Russia and abroad.

B. Flow Chart



III. RESULTS

The study found that over the twenty-eight years of the existence of the post of the President of the Russian Federation in the state, the country's political system has stabilized and is currently developing. There is no increase in tension in society. The stability of the power of the head of state, the stable continuity of the main traditions are the prerequisites for a steady and peaceful prosperity of the Russian state.

It has been determined that although the systems of constitutional regulation of the institution of presidency in the Russian Federation, the United States of America and the French Republic have much in common, there are also specific traits that are due to differences in the cultural and constitutional development of these countries.

It is revealed that the Presidents of the Russian Federation, the United States of America, the French Republic have their own, individually defined constitutional and legal statuses. The institution of the presidency is constantly in development and these heads of state have different, individual characteristics in the constitutional and legal situation in the country due to the specifics of their constitutional and legal

regulation.

It is determined that the features of the constitutional status of the President of the Russian Federation, the United States of America and the French Republic are manifested in the structural elements of his or her constitutional status, namely:

- in the functional and value assignment of the post of the head of state in the country;
- in his or her rights, duties and powers, the order of their implementation;
- in the responsibility that a state leader bears to the people of the country or legislatively defined state bodies;
- in the guarantees that ensure him or her proper exercise of his or her official authority.

The necessity of recognizing a causal link between the historical, constitutional and cultural development of the Russian Federation, the United States of America and the French Republic, and individual features in the constitutional position of the heads of these states is established. A concrete example of a causal relationship is the constitutional consolidation of the provision according to which the state leaders of the Russian Federation, the United States of America and the French

Republic are the head of state.

IV. DISCUSSION

The President of the Russian Federation is an individual who was elected by citizens of the Russian Federation for the highest public office. The constitutional status of the President of the Russian Federation is enshrined in Chapter 4, Articles 80-93, of the Constitution of the Russian Federation. According to these articles, the Russian leader is the head of state. Giving him this status was caused by a combination of some objective reasons: the need for a personified representation of the country, both in the domestic political arena and on the international level [5]. Many modern countries along with Russia recognize their presidents as heads of state and enshrine it in their Constitutions. The President of the Russian Federation is the guarantor of the Constitution of the Russian Federation, the rights and freedoms of man and citizen. He is personally responsible for ensuring the direct operation of the Constitution of the Russian Federation on the territory of the entire state, for organizing the permanent work of the mechanisms for the protection of the Constitution of the Russian Federation, human and civil rights and freedoms.

According to I.V. Spiridonova, owning extensive powers in this field, the President of the Russian Federation practically exercises the status of a guarantor, governs the state bodies of various branches of government, ensures their prompt and well-coordinated interaction and functioning in the field of protecting the rights and freedoms of individual and citizen [10]. The status of the guarantor is enshrined not only in the Constitution of the Russian Federation, but also in the oath, which the head of state takes before the people during the inauguration. E.M. Yakimova, S.A. Myshenko believes that the President of the Russian Federation has the right of legislative initiative on the protection of human and civil rights and freedoms. The annual messages of the head of state to the Federal Assembly affect these issues [14]. The President of the Russian Federation may suspend the legal acts of the executive authorities of the constituent entities of the Russian Federation if they contain legal norms that violate the rights and freedoms of individual and citizen.

The annual final press conferences of the President of the Russian Federation are fairly well-known in the Russian Federation. At these press conferences there is a free dialogue between the head of state and citizens of the Russian Federation, violations of human and civil rights and freedoms are identified. As L.Yu. Fokina, the Russian leader, in accordance with Article 88 of the Constitution of the Russian Federation, has the right to introduce a state of emergency throughout the country or in its particular area if there is a need to protect the interests of society or the state [13], [16]. O.A. Gaman, Yu.A. Zueva noted that the President of the Russian Federation is the guarantor of state sovereignty and implements all permissible measures to protect it [3], [17], [18]. In view of this, the head of state determines the basic directions of state military policy, establishes the concept of

military doctrine and national security, directs the Armed Forces of the Russian Federation, troops and military units, various bodies and forces that ensure the national security of the state, negotiates with foreign states and signs international treaties to ensure the sovereignty of the Russian Federation [19]. It is worth noting that the position of the President of the Russian Federation as the head of state, the guarantor of the Constitution of the Russian Federation, of the rights and freedoms of individual and citizen forms the basis of his or her constitutional and legal status. The functions of the President of the Russian Federation are formed on this basis. Functions are understood as the main directions of his or her activity. In accordance with the legal regulations of the Constitution of the Russian Federation, the functions of the President of the Russian Federation are:

- implementation of all permissible measures to protect the sovereignty of the Russian Federation, its state integrity and independence;
- ensuring coordinated activities and interaction of state bodies. The head of state coordinates the activities of legislative, executive and judicial authorities in the country. The President of the Russian Federation has the right to use conciliation procedures in the event that disagreements arise between the federal authorities and the authorities of the subjects of the Russian Federation;
- the establishment of the main directions of domestic and foreign policy of the Russian Federation. According to A.V. Kurilenko, the head of state, participating in the legislative process, sets out their content in his annual message to the Federal Assembly of the Russian Federation. These directions should not contradict the general democratic principles enshrined in the Constitution of the Russian Federation [7];
- directing state foreign policy;
- representation of the Russian Federation within the country and on the international level;
- the formation of the Russian Government, participation in its activities. The Russian leader is actually in charge of the executive branch. O.V. Yatsenko, V.V. Nizinkovskaya believe that this fact is visible in his or her relations with the Government of the Russian Federation, in the right of the head of state to form the Presidential Administration of the Russian Federation, the Security Council, to appoint its authorized representatives and the top leadership of the Armed Forces of the Russian Federation [15];
- the formation of other public authorities and the appointment of officials;
- organizing and conducting referendums in the Russian Federation; participation in the legislative process. The President of the Russian Federation is authorized by the Constitution of the Russian Federation to adopt legal acts - decrees and orders;
- implementation of the functions of the Supreme Commander-in-Chief of the Armed Forces of the Russian Federation;
- ensuring the proper implementation of the activities of the head of state.



Analysis of the Institutions of the Presidency in Russia and Abroad

Also part of the constitutional and legal status of the President of the Russian Federation are the conditions imposed on his personality, personal guarantees, which are provided to the head of state.

Thus, an individual who has the citizenship of the Russian Federation at the age of at least 35 years old, permanently residing in the Russian Federation for at least 10 years, can be elected President of the Russian Federation. A person declared incapacitated or incarcerated by a court sentence may not be elected as the head of state. These restrictions are enshrined in Part 4 of Article 32 of the Constitution of the Russian Federation, and the prohibitions are also spelled out in the Federal Law of 10 January 2003 No. 19-FZ "On the Election of the President of the Russian Federation".

N.M. Dobrynin notes that these prohibitions are related either to citizens possessing citizenship or residence permit of a foreign state, the presence of other documents confirming the right to permanent residence in the territory of another country or to this person's crimes, administrative and other offenses, in particular those related to extremism [1].

A.V. Kolotilin notes that a serious guarantee of independence and constancy of the constitutional status of the head of state is his or her inviolability, enshrined in the Constitution of the Russian Federation [6]. Due to this guarantee, it is impossible to initiate a criminal case against the President of the Russian Federation before the expiration of his or her term, forcibly brought to judicial bodies as a witness, subjected to other measures of coercive influence. However, it is quite possible to file civil claims against the head of state during his tenure as the highest state official.

In the Russian Federation, the presidency institute appeared relatively recently, unlike in some other foreign countries (USA, France), where it has existed for a long time and has an extensive history of practical activities [12].

According to D.M. Travkina, modern France has extensive practical experience in building its own state, and exploring its history, we can see the emergence of different types of republics and a different number of functions that the President of France had [11].

According to the Constitution of the French Republic of 1958, the French leader is the head of state, occupies a separate place in the political arena and effectively is the head of government, the guarantor of national independence. In this aspect, its legal status is similar to that of the President of the Russian Federation. In the Constitution of the French Republic there are no restrictions on the number of re-elections of the President of France for a new term. V.V. Maklakov notes that in the period since 1958, the same person was not re-elected as head of state more than two times in a row and therefore the principles of democracy were never violated, there were no authoritarian rulers [2].

It is worth noting that the Government of France is responsible for its actions before the head of state and Parliament since the establishment of the Fifth Republic. The President and this state body have at their disposal special legal mechanisms with the help of which they can influence the activity of the Government. The French model of the

institution of the presidency has much in common with the Russian model; in view of this, the latter is often called the "French" model of presidency.

The head of the French state has a stronger bond with the executive branch, rather than the Russian leader. This is manifested in the duty of the President of France to preside at meetings of the Government. After the establishment of the Fifth Republic, the post of Chair of the Government received the new name - the Prime Minister. The French President cannot independently dismiss the Government of France, unlike the Russian head of state. To do this, he or she needs, in the form prescribed by French law, the request of the Prime Minister for his or her release from the performance of his official duties.

V.V. Romanovsky believes that the President of France has the right to dissolve the lower house of Parliament - the National Assembly. The Constitution of the French Republic of 1958 did not explicitly provide for special rules for the implementation of this function, and the head of state may dissolve it for any reason [9]. He will only need to coordinate this issue with the Prime Minister and the chairmen of both chambers of the highest legislative authority. These legal provisions have some similarities with the Russian legal norms, according to which the Russian leader has the right to dissolve the lower house of the Russian parliament.

The French leader, unlike the Russian, does not have the right of legislative initiative, but if he or she has the support of a parliamentary majority and actually controls the Government, then the President of France can use the right of legislative initiative with the help of the Government.

According to O.N. Grishaeva, the head of the French state defines the main directions of domestic and foreign policy of the country, he or she is granted by the Constitution of the French Republic with the right of pardon, extensive military authority, and is the supreme commander in chief [4]. During the exercise of his official duties, the President of France has the right not to interrupt his membership in a political party. In the United States, the head of state is elected indirectly, with the help of the electoral college, unlike in the Russian Federation, where the Russian leader is elected by the electorate. Candidates for the presidency of the United States are nominated by political parties in the primary selection, which is called the primaries. A presidential candidate must be a citizen of the United States, over the age of 35 years old and must reside permanently in the state for at least 14 years. The president of the United States is elected for a four-year term. The head of the American state, unlike the Russian one, has no right to dissolve the parliament, and the parliament cannot dismiss the US government. In this country, there is the post of vice-president of the United States, he or she is the second most important official in the system of executive branches [8]. The President of the United States is not controlled by Parliament, he or she is responsible for his or her actions only before the American voters and has at his or her disposal a rather lengthy list of functions that can increase over time. Also, the US Congress has the right in certain emergency situations to delegate its functions to it.

In accordance with the US

Constitution, the head of state directs the country's foreign policy, is the commander in chief of the US Army and Navy, but the right to declare war belongs to parliament. Like the head of the Russian state, the President of the United States can postpone the execution of court sentences and pardon for crimes committed against the state.

He is authorized, having previously agreed everything with the Senate and having received its permission, to conclude international treaties with other countries, to appoint consuls, ambassadors and other plenipotentiaries of the United States in foreign countries, judges of the Supreme Court of the United States, and other officials whose posts are legally fixed.

V. CONCLUSION

The presidents of the Russian Federation, the United States of America, the French Republic have their own, individually defined constitutional statuses - a stable system of elements, which is enshrined in the norms of the Constitutions and other legal acts. The constitutional legal status of the President determines his or her legal status in the country, society, in relation to other subjects of law.

Based on the comparative legal analysis of the constitutional legal regulation of the presidency institution in the Russian Federation, the United States of America and the French Republic, we have identified universal elements of the constitutional status of the head of state that exist in these countries:

- functional and valuable purpose of the post of President in the country;
- rights, duties and powers of the head of state, the order of their implementation;
- President's responsibility;
- guarantees to ensure the proper implementation of the activities of the head of state.

Based on the results of the research, it becomes possible to update the current Russian constitutional legislation, eliminate many legal gaps in the constitutional status of the President of the Russian Federation, create a system of public bodies [20] ensuring the practical implementation of these changes and the organization of legal institutions, ensuring the most effective activities of the head of the Russian state.

Although these questions were not raised in the framework of the study, they may become the ground for further research.

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