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DEPRIVING THE PARLIAMENT OF POLITICAL SIGNIFICANCE. CASE STUDY OF THE FEDERAL ASSEMBLY OF THE RUSSIAN FEDERATION

Abstract: The political position of the Federal Assembly of the Russian Federation is influenced by a wide range of powers of the head of state. The purpose of the article was to analyse the political position of the Federal Assembly in Russia. The main research problem concerns the question: to what extent the strong political position of the head of state in Russian Federation deprives the parliament of political significance? The main hypothesis is that a wide range of powers of the president in Russia contributes to the large reduction of political position of the parliament depriving it of political significance in the system of the highest state authorities. A theoretical approach to the category of depriving parliament of the political significance and analysis of the interactions between the head of state and the parliament allow us to resolve a research problem. It is worth mentioning that the issue of the political system of the Russian Federation and the constitutional principles of state functioning has been repeatedly raised by Polish and foreign researchers. Within the framework of a short article, it is impossible to name all the researchers and refer to the presented findings. However, to mention only a few, among others, these were Aslund (2007), Bartnicki (2007), Bäcker (2007), Czajowski (2001), Holzer & Balik (2009), Szewcowa (1999), Stelmach (2003), Skrzypek (2014), Słowikowski (2018), Zieliński (1995, 2005), and Zaleśny (2010, 2012). Taking into account the research problem posed and the fact that the subject of the research was the systemic position of the Russian parliament and to determine whether and to what extent measures have been taken in Russia to deprive it of its political significance by operationalizing a new category, this translated into the process of narrowing the scope and making a selection of sources. Therefore, the authors, using the method of content analysis, focused mainly on primary sources.

Keywords: depriving the parliament of political significance, Federal Assembly of the Russian Federation, principle of separation of powers, political system

1. Introduction

Harmonious operation of the political system requires clearly defined principles concerning governance of the highest state authorities and determination of their political position. Increase of powers and the ability to exert influence on the state bodies creates danger of disproportion between the bodies when one of them has a strong position while the other is deprived of the political significance. The political system of the Russian Federation is described as a semi-presidential system, because the head of state has a significant range of powers compared to government and parliament that creates disproportion in the perception of political position. The aim of the article is to analyse and clarify the ongoing dispute over the political position of the Federal Assembly in Russia. The main research problem concerns the question: to what extent the strong political position of the head of state in Russian Federation deprives the parliament of political significance? The main hypothesis is that a wide range of powers of the president in Russia contributes to the large reduction of political position of the parliament depriving it of political significance in the system of the highest state authorities.

2. An attempt to determine a category of depriving the parliament of political significance

Scientific discourse in the matter of depriving the parliament of political significance doesn't clearly reveal theoretical background. However, the essence of a given category can be distinguished on the basis of legislature under authoritarian regimes which are characterized by dominance of the executive power through questioning parliamentary procedures. Executive power determines state policy. While the parliament really exists, it does not come from democratic elections and fails to comply with assigned functions, but becomes a body legitimizing decisions taken by other authorities (Antoszewski | Herbut 2001, 28; Żebrowski 2005, 45). However, Nolte pointed out that any form of government in which a higher position has a body of supreme authority other than the parliament can be called authoritarian (Nolte 1966; Kitchen 1974)[1]. Critical analysis regarding the role of the parliament in authoritarian regimes enables to determine the category of depriving the parliament of political significance. To meet the aim of the research, we would

[1] Authoritarianism should be defined not only in terms of the position of parliament, but also within the framework of analysis of other factors mentioned by J. J. Linz & A. Stepan: "Political systems with limited, not responsible, political pluralism, without elaborate and guiding ideology, but with distinctive mentalities, without extensive nor intensive political mobilization, except at some points in their development, and in which a leader or occasionally a small group exercises power within formally ill-defined limits but actually quite predictable ones" (1996, 38).

like to use a method of content analysis and a technique of critical analysis of the sources (for more see: Robson 2011; Krippendorff 2004; Neuendorf 2002).

In our opinion, the approach of Nolte seems to be appropriate to a large extent, although it needs to be clarified. Considering the typology of political systems according to the essence of interactions between the highest state powers, we can distinguish the following systems: presidential-parliamentary, parliamentary-cabinet, cabinet-parliamentary, parliamentary-presidential, a system of chancellor government etc. (Żebrowski 2009, 79ff.). Therefore, less significant role of the parliament (i.e. presidential system, system of chancellor government), compared to the other state bodies, does not indicate that the political regime is undemocratic. In many cases, presidential system with a strong position of the head of state is successful in democratic states (e.g. USA, France) as well as system of chancellor government (Germany). The main feature of the presidential system in the USA is the principle of separation of powers, which should be applied to management and operation. Therefore, the interactions between the highest state powers are much more important than the fact of the parliament's domination (Żebrowski 2005, 49). Consequently, it seems appropriate to consider whether the strong position of the executive power (the head of state), by taking into account extensive competences and mutual balances, may lead to the state monopolies. Can the lack of mechanisms of mutual checks and balances enable a possibility of interference in the operation of the state body and in terms of the legislative power lead to depriving it of the political significance? Additionally, the equality of mechanisms could lead to increased subordination of the parliament to other authorities, losing its significance. Thus, a consideration of Nolte may be appropriate in case of weak position of the parliament due to the broad range of competences of the executive power in common with lack of separation of state bodies through balancing of powers. In this case, the executive power has huge influence on the legislature, while the parliament does not have a power to reduce the pressures.

One of the fundamental principles of the democratic system is to ensure the separation of powers in the political system by their mutual checks and balances. The constitutional guarantee of these postulates is a condition necessary for shaping a democratic tradition. On the other hand, with regard to undemocratic (authoritarian and totalitarian) regimes, the principle of separation of powers is undermined in favour of dominance of the executive power by depriving legislature of the political significance in the system of the highest state powers. It undermines the implementation of the principle of separation of powers, which is a feature of democracy. By taking into account the concept of antinomy, monopoly of the particular state body is realized in terms of the principle of separation of powers, which is a constitutive feature of the authoritarian regime. A broad range of competences and the possibility of interference in the policy of powers lead to the dominant position of one pillar in the system of state bodies. Since the theoretical analysis

of the principle of separation of powers is not a purpose of the article, the authors just briefly focused on an overview of the issue (Prokop 2020, 62ff.) to show how a given concept is useful in determining the category of depriving the parliament of political significance. The principle of the separation of powers in political practice is inspired by the political thoughts of Locke (1992) and Montesquieu (1957). Locke held the position of entrusting executive power to the king and distributing of the legislative power between the aristocracy, the bourgeoisie and the new nobility from the middle class. He believed that well-conceived regimes of the state function in terms of three areas: legislative, executive and federal. Locke did not separate the judicial power, considering it within the executive power, because it also concerns the implementation of laws. Talking about the doctrine of Locke, equality of the powers is not a fundamental constitutional requirement, because in his opinion the legislative power should be privileged (Kuca 2014, 34-35). However, Montesquieu distinguished three branches of power: legislative, executive and judicial. Legislative power should belong to the representative body, representing the nobility and the people; the executive power ought to be in the hands of a monarch; and the power of judgment should be exercised by persons chosen by people. Montesquieu also pointed out that in the state, with fully guaranteed political freedom, a separation of powers and mechanisms of mutual checks and balances should exist (Montesquieu 1957, 150-155).

The analysis of constitutional law allows for presenting the principle in several theses: a separation of powers is based on differentiation of the three basic functions of the state, i.e. law-making (legislative function), applying law (executive function) and settling disputes according to the law (jurisdictional function). Each of them corresponds to the activity of a separate state body; these bodies cannot be merged, i.e. each function has to be exercised by a separate state body; mechanisms regulating relations between state powers ensure their mutual interaction and balances. The interaction between powers may have a different scope, however, their complete separation is unacceptable. Complete separation of tasks and competences between state bodies may disrupt the functioning of the state as a unified whole (Banaszak 2012, 280; Kuciński | Wołpiuk 2012, 283; Kuca 2014, 34ff.; Prokop 2020, 64ff.). The use of mechanisms of mutual checks and balances means that branches have the constitutional tools to defend their own legitimate powers from the encroachments of the other branches as well as they can limit each other, avoiding the abuse of power (Małajny 1985, 231). Therefore, the lack of implementation of the above-mentioned assumptions for the principle of separation of powers constitutes a violation of this principle, and therefore leads to the monopoly of one of the state bodies. In turn, depriving the parliament of the political significance may occur not only due to the strong political position of another state body, but also thanks to the use of a number of tools by it, that to a large extent determines and impedes the functioning of a given body. Additionally, implementation of the above assumptions in legal

order is also important. It is also noteworthy that executive power has the real possibility of contesting or to abandon the resolutions adopted by parliament that leads to depriving it of its decision-making position.

3. Interactions between the President and the Federal Assembly of the Russian Federation[2]

An analysis of the research problem, regarding the extent to which the strong political position of the head of state in Russian Federation implies depriving the parliament of political significance, requires the study of mechanisms of interactions between the executive and legislative powers in Russia under the Constitution of the Russian Federation of December 12, 1993 (No. 237). Moreover, disturbance of the principle of the separation of powers by extending monopoly of one of the state bodies requires the study to what extent these conditions could determine the deprivation of the parliament of political significance[3].

Amendments to the Constitution of the Russian Federation have been made several times. Most of them were made according to the decree of the President of the Russian Federation in terms of the inclusion of new entities into the Russian Federation. In 2008 significant changes were made that extend the presidential term to six years and the term of State Duma deputies to five years (No. 6-FKZ). Further amendment to the Constitution concerned the control powers of the State Duma in respect to the Government of the Russian Federation (No. 7-FKZ). The amendments of 2014 concerned the functioning of the Supreme Court, the Procurator's Office of the Russian Federation (No. 2-FKZ) and the Federation Council (No. 11-FKZ).

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2 A separate analysis of the relations between the parliament and the government was not undertaken here for the simple reason that many aspects of this interaction are highlighted in the presented relations between the head of state and the parliament (as a consequence of the State Duma's failure to pass a vote of confidence in the government or exercising the vote of no confidence). It clearly shows that the main entity impacting the parliament in Russia is the president.

3 It is worth mentioning that the issue of the political system of the Russian Federation and the constitutional principles of state functioning has been repeatedly raised by Polish and foreign researchers. Within the framework of a short article it is impossible to name all the researchers and refer to the presented findings. However, to mention only a few, among others, these were Aslund (2007), Bartnicki (2007), Bäcker (2007), Czajowski (2001), Holzer | Balik (2009), Szewcowa (1999), Słowikowski (2018), Stelmach (2003), Skrzypek (2014), Zieliński (1995; 2005,), and Zaleśny (2010; 2012). Taking into account the research problem posed and the fact that the subject of the research was the systemic position of the Russian parliament, and to determine whether, and to what extent, measures have been taken in Russia to deprive it of its political significance by operationalizing a new category. This translated into the process of narrowing the scope and making a selection of sources. Therefore, the authors, using the method of content analysis, focused mainly on primary sources.

According to the provisions of the Constitution, "state power in the Russian Federation shall be exercised on the basis of its division into legislative, executive and judicial powers" (No. 237, art. 10). Article 11 contains a provision that state power in the Russian Federation shall be exercised by the President of the Russian Federation, the Federal Assembly (Council of the Federation and the State Duma), the Government of the Russian Federation, and the courts of the Russian Federation. Russia's political system is generally considered as hyper-presidentialism, with broad competences of the head of state (Szymanek 2014, 85). Therefore, the main research problem requires an analysis of the influence of the head of state on other state bodies in order to determine whether a given position implies depriving the parliament of political significance in the system of supreme state powers.

The possibility of dissolving the State Duma by the President is one of the most important tools of influence of the head of state on the Federal Assembly (No. 237, art. 109). The President has such a right when the State Duma rejects the candidate for the post of the Chairman of the Government of the Russian Federation three times in a row. Meanwhile, there is no mention in the Constitution that in each case when the State Duma rejects the candidacy, the President has to propose a new one. Comparing to the procedure for appointing the Prime Minister in Poland, the President shall nominate a Prime Minister. In the event that a Council of Ministers has not been appointed or has failed to obtain a vote of confidence the Sejm shall choose the Prime Minister. Then, in the event that the Prime Minister has not been appointed, this function again belongs to the President. In the event that a vote of confidence has not been granted to the Council of Ministers, the President of the Republic shall shorten the term of office of the Sejm and order elections to be held (Dz.U. 1997 No. 78, item 483, art. 154-155). Thus, according to the Constitution of the Republic of Poland, the head of state does not have a possibility to appoint the candidate three times, but the second attempt belongs to the parliamentary majority in order to prevent the abuse of power. Considering the Constitution of the United States, there is no such provision enabling the President to dissolve the Congress. The lack of such provision can be explained due to the strong political position of the head of state, or because members of the House of Representatives serve two-year terms and are considered for re-election every year, while a senator's term of office is six years and approximately one-third of the total membership of the Senate is elected every two years (The Constitution of the United States, art. 1). In this case, the absence of the possibility of shortening the parliamentary term is a guarantee for stability of the legislative power.

According to the decision of the Constitutional Court of the Russian Federation dated December 11, 1998 on the interpretation of Article 111 of the Constitution, the President has the right to submit the same candidate to the post of Chairman of the Government three times, and after the rejection three times by the State Duma, the latter is to be dissolved by the President (N 237, art. 111, para. 4).

In April 1998, the former Russian President, Boris Yeltsin, proposed the candidacy of Sergey Kiriyenko three times and obtained an approval of the State Duma in the third vote. In August 1998, he proposed the candidacy of Viktor Chernomyrdin twice, and the State Duma rejected it twice. In the event of a third attempt, the lower house of the Federal Assembly had to make a decision on whether to accept the candidacy or to bear the consequences of dissolving. In case of the increasing conflict between the President and the Parliament, a distribution of seats in the Parliament was important, because the Parliament had an opportunity to consider the procedure for dismissing the President that would block his ability to dissolve the State Duma. Therefore, formation of pro-presidential majority in the Parliament became significant for subsequent Presidents that greatly facilitated acceptance of particular candidates to the post of Chairman of the Government (Zaleśny 2010, 91-93; Prokop 2020, 173 et al.). Undoubtedly, the provision mentioned before, creates prerequisites for the President's influence on the decision of the Parliament by the possibility of its dissolution if the State Duma expresses a lack of confidence in the candidate proposed by the President. The amendments to the provisions of constitutional reform in the Russian Federation were approved by the Parliament, but the last step of implementation was the referendum that took place in summer 2020 – new constitutional rules were voted in a nationwide referendum (from 25 June to 1 July 2020). The proposed amendments would contribute to strengthening the President's position and weakening the position of the Parliament. It is noteworthy that already before the reform of 2020, the State Duma accepted the candidate for the post of Chairman of the Government, who then just needs to be approved. According to M. Domańska, the difference between these assumptions is unclear, moreover, the State Duma has to approve not only the Chairman of the Government, but also the Cabinet members[4]. The State Duma may be dissolved by the President when it is rejected three times by the minimum of one-third of the total membership of the Government (No. 1-FKZ, art. 112). The reform also guarantees immunity for the former Presidents, who receive the lifetime right to act as senators in the Federation Council.

Another example of the president's domination is the provision for a vote of confidence expressed in the lower house of the Russian parliament towards the Government. The Chairman of the Government of the Russian Federation may raise before the State Duma the issue of confidence in the Government of the Russian Federation. If the State Duma votes no-confidence, the President shall adopt within seven days a decision on the resignation of the Government of the Russian Federation or dissolve the State Duma and announce new elections (N 237, art. 117, para. 4). Therefore, the State Duma may be forced to express a confidence

[4] https://www.osw.waw.pl/pl/publikacje/komentarze-osw/2020-03-13/wieczny-putin-i-reforma-rosyjskiej-konstytucji (access 20.06.2021).

in the Government to avoid dissolving. According to the German political system, if the motion of the Federal Chancellor for a vote of confidence is not assented to by the majority of the members of the Bundestag, the Federal President may, upon the proposal of the Federal Chancellor, dissolve the Bundestag. However, in this situation, the Bundestag has the right to avoid dissolving by using a constructive vote of confidence, i.e. to elect another Federal Chancellor within twenty-one days (the German Constitution 2008, art. 68). In turn, the amendments of 2020 to the Constitution of the Russian contain a note that if the State Duma again expresses no-confidence in the Government within three months, the President shall announce the resignation of the Government or to dissolve the State Duma (No. 1, art. 117, para. 2) .

In turn, if the lower house expresses no-confidence in the Government, then the final decision also belongs to the President, who can support the request and take a decision on the resignation of the Government or reject the decision of the State Duma. However, if the State Duma within three months again expresses no-confidence in the Government, then the President shall announce the resignation of the Government or to dissolve the State Duma (N 237, art. 117 para. 3)[5]. According to the Polish constitutional system, if the Sejm passes a vote of no-confidence by a majority of votes, the President shall accept the resignation of the Council of Ministers (Dz.U. 1997 No. 78, item 483, art. 158). Consequently, the head of state does not have the power to overturn the decision of the legislative authority.

The president of the Russian Federation also has a legislative veto power to influence parliamentary actions. “The adopted federal law shall be submitted within five days to the President of the Russian Federation for signing and making it public. The President of the Russian Federation shall sign the federal law and make it public within fourteen days. If within fourteen days from the moment of receiving the federal law the President rejects it, the State Duma and the Council of the Federation shall reconsider the present law according to the rules established by the Constitution of the Russian Federation. If during the second vote the law is approved in the earlier adopted wording by not less than two thirds of the total number of the members of the Council of the Federation and of the deputies of the State Duma, it shall be signed by the President within seven days and made public” (N 237, art. 107). Additionally, the President also has an absolute veto power, which enables him to return unsigned law without consideration. In this case, the parliament is deprived of the possibility to reconsider the given act. However, according to the Resolution of the Constitutional Court of April 22, 1996, the use of the presidential absolute veto is permissible only in the case of violation of the principles of the

[5] However, the State Duma cannot be dissolved within a year after it was elected and from the moment it advances charges against the President of the Russian Federation until the Council of the Federation adopts a decision on the issue (No. 237, Art. 109 (3); 109 (4); 117 (4)).

legislative procedure[6], i.e., the president considers that a given text does not meet the conditions of the federal law (Madej 2009, 110; Jagła et al. 2010, 5).

Another tool of the presidential power in the Russian Federation is the fact that, despite representative function regarding the executive power, the head of state just like the parliament has the law-making power (Lesnikov 1997, 53-55). This privilege deepens the asymmetry between the legislature and the executive, because the legal acts of the President applied throughout Russia do not require parliamentary approval. Meanwhile, the laws made by Parliament require the signature of the President, who also has the power to veto them. Consequently, we can observe a large disproportion between the presidential power and the Parliament in the case of law-making process. The President received a largely autonomous power of legislation, which excludes the legal interference of the Parliament or Government (Gardocki 2008, 97-98). It is worth noting that the Constitutional Court of the Russian Federation upon requests of the President of the Russian Federation, the Federation Council or the State Duma shall adjudicate based on the conformity to the Constitution of the Russian Federation of federal laws, normative acts of the President of the Russian Federation, the Federation Council, the State Duma, the Government of the Russian Federation (No. 237, art. 125, para. 2, point a; Avak'yan 1999, 87ff.). A. Czajowski (2001) emphasizes that such kind of control is ineffective due to the fact that filing a complaint to the Constitutional Court requires no less than one fifth of the number of the members of the particular body of the legislative and executive power. Despite the inconsistencies in the presidential legal acts, the requests were rarely addressed to the courts, and after 1993, the Constitutional Court did not challenge any of the contested decrees.

The constitutional reform, announced in January 2020, weakens the position of the Federation Council. The changes concerned the composition of the Federation Council. Until 2000, the upper chamber was composed of 178 representatives of Russia's constituent entities, who were the heads of legislative (representative) and executive authority of the regions. All members of the Federation Council combined their federal parliamentary mandate with responsibilities in their respective

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[6] The President, Boris Yeltsin, in 1997 was accused for the use of such a practice. The president received 277 legal laws to sign: 86 of them were rejected, while 11 – were returned without consideration due to the shortcomings in the procedures (e.g. lack of quorum, too low number of deputies, who had to vote according to the protocol). During 1996-1998, the Federation Council supported these procedures – among 311 laws which were blocked, only 131 were rejected by the President, while 105 of them by the Federation Council, and 75 laws were rejected jointly. Meanwhile, when the President rejected laws, he rarely proposed his own version of the law. In the case of Vladimir Putin, the number of vetoes significantly decreased (during 2000–2003, the President received 781 federal laws to sign, among which 31 were rejected, while 19 of them were approved during the second vote by the Parliament). Such state of matter could be explained by the formation of a strong position of the United Russia Party in the Parliament (Gardocki 2008, 97-98; Jagła et al. 2010, 5).

constituent entities of the Russian Federation (N 192-FZ, art. 1). According to the reform, members of the upper chamber of the Russian Parliament may be persons chosen by the legislative and executive bodies of the Russia's constituent entities. In this way, the Federation Council may not include the heads of executive bodies of state power and the chairmen of local authorities.

The Federal Assembly has a limited range of tools regarding the influence on the head of state. Apart from this, the Russian President has a so-called "irresponsibility" to a large extent, that is, the President does not bear political responsibility towards the Parliament, while the policy of the head of state is not a subject to evaluation. The President of the Russian Federation shall cease to exercise the powers vested in him before the end of the term of office in the case of his resignation, consistent inability to govern due to health reasons or in the case of impeachment. The President of the Russian Federation may be impeached by the Council of the Federation only on the basis of charges of high treason or another grave crime, advanced by the State Duma and confirmed by the conclusion of the Supreme Court of the Russian Federation on the presence of the elements of a crime in the actions of the President of the Russian Federation, and by the conclusion of the Constitutional Court of the Russian Federation confirming that the rules for advancing the charges were observed (N 237, art. 93).

The above-mentioned considerations provide grounds for stating that the President has a strong political position and powerful tools of influence in respect to the highest state authorities. The interactions of the President and the Federal Assembly don't lead to mutual balances and harmonious functioning of the highest state powers in the Russian Federation (Czachor 2015, 92-93).

Conclusion

The powers of the head of state in the Russian Federation, as well as his competences and mechanisms regarding the Federal Assembly studied in the article, enable us to resolve the research problem presented in the introduction. Based on the assumptions of Nolte, who pointed out that any political form in which a higher position is given to a different component of the supreme power than the parliament can be called authoritarian, the authors undertook the task of operationalizing the theoretical category of depriving the parliament of its political significance as an alternative to the position of the legislative body in the presidential system. In the latter, we are dealing with the separation of the legislature and the executive, in which case the executive cannot impinge on the functioning of the legislature and/or the parliament has been equipped, according to the principle of separation of powers, with instruments to inhibit the influence of other bodies. Hence Nolte's

assertion was reduced, for the purposes of the article, to illustrate the category of depriving the parliament of political significance by assigning broad powers to the executive with the simultaneous lack of separation of state organs through their balancing and mutual inhibition. Thus, the executive branch has instruments of impacting the legislature, while the parliament has not been given the power to offset these pressures.

Constitutional provisions regarding the formation of the government grant the President the power to appoint the Chairman of the Government. Despite the fact that the Chairman of the Government needs to be approved by the State Duma, in the case of rejection of the candidate nominated by the President three times in row, the head of state shall appoint the Chairman of the Government and dissolve the State Duma. Furthermore, the controlling power of lower house through a vote of no-confidence, in fact, is ineffective, because the President has a decisive role in accepting or rejecting the expressed veto. The possibility to override the presidential veto is also not fully implemented, as the President has the power of absolute veto under the Constitution, which cannot be rejected by two thirds majority vote of the total number of members of the National Assembly. Based on the considerations mentioned above, it can be concluded that the Federal Assembly (and in particular the State Duma) is heavily influenced by the head of state and deprived of political significance. The changes taking place in the Russian Federation within the framework of constitutional reform, approved by the State Duma on March 2020, will lead to the introduction of undemocratic policies implemented by law.

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