

What hinders the development of democracy in Russia?

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After manifestations of authoritarianism became apparent in the Russian political system in the beginning of the 2000s, many researchers engaged in questing for the reasons why democracy does not take root in Russia. The range of opinions thereon is rather wide but all of them, generally, focus on the sociocultural part of the problem: experts turn towards the history of the country, its traditions, culture, stereotypes, the prevailing religion and other. They reckon that Russia finds itself in a certain matrix from where it is nearly impossible to "jump out";¹ others think that a trauma, from which Russia is suffering as a result of the collapse of the Soviet empire, the radical newness of social relations and inertia have an impact on the present-day condition of society but that all that is surmountable in course of time.²

Without doubt, the sociocultural factor influences new institutions' mode of operation. If the Russian society was politically mature it would hardly react calmly to, for example, the constitutional amendments that extend the presidential term of office (besides, if real parliamentarism existed these amendments would probably not have been ratified, since nothing would have motivated them) or to public statements unimaginable in a democratic society about two known persons arranging who of them will become President in 2012. Data of sociological surveys also indicate insufficient maturity of civil society, contradictoriness and mythologisation of a collective consciousness of Russians.

Thus, according to the data from the respected independent sociological institute "Levada Centre"³ in 2009 57% of Russian citizens held the view that "Russia is in need of democracy" (in 2007 the percentage came up to 67%). However, on the question "Some people believe that in solving problems, the state is facing we have to rely on a democratic form of government, others depend on a strong leader who solves all our problems. Which of these opinions is more appealing to you?" only 30% answered "The democratic form of government"

¹ cf. for example: Kidrina S. *Institutionalnaya struktura sovremennoy Rossii: evolyutsionnaya modernizatsiya // Voprosy ekonomiki*. 2004. No.10. pp.89-98; Pastukhov V. *Vtoroe dykhanie russkogo konstitutsionalizma // Sravnitelnoe konstitutsionnoe obozrenie*. 2008. No.2(63). p.6.

² cf. for example: Auzan A.A. *Obshchestvennyy dogovor i grazhdanskiye svobody // Mir Rossii*. 2005. No.3; idem. *Natsionalnye tsennosti i konstitutsionnyy stroy. Publichnaya lektsiya // proekt "Publichnye lektsii 'polit.ru'"* (<http://www.polit.ru/lectures/2007/12/06/auzan.html>); Mamut L.S. *Konstitutsionnyye osnovy sovremennoy rossiysskoy gosudarstvennosti // Obshchestvennyye nauki i sovremennost*. 2008. No.4. pp.52-54; Pain E.A. *Istoricheskiy „beg po krugu“ (Popytka obyasneniya prichin tsiklicheskiykh sryvov modernizatsionnykh protsessov v Rossii) // Obshchestvennyye nauki i sovremennost*. 2008. No.4. pp.5-20.

³ All data in the article originate from: *Obshchestvennoe mnenie - 2009*. Ezhegodnik. Moscow: Levada Centre, 2009.

and 51% "A strong leader".⁴

On the question "What do you think, do the interests of the authorities and the interests of society coincide in Russia today?" 26% answered in the affirmative and 65% in the negative. In addition, on the question "By what are the accusations of the West regarding violations of democracy in Russia brought about?" only 8% answered "By a concern about the situation of the citizens of Russia" while 65% thought that these accusations "are made in order to discredit Russia and gain certain advantages in relation to it".

This data, it seems, confirms the version of a sociocultural predetermination of authoritarian manifestations in Russia, in as far as the perceptions of a "right" system of power as a pyramid, headed by a "leader" (in literature this phenomenon is sometimes called "tsaretsentrizm")⁵ and of the world as whole being hostile to Russia are rather widespread in society. This however, it is my belief, is an erroneous belief. Yes, one cannot deny the influence of entrenched stereotypes and of what is called "path dependency" (to which the concept of the QWERTY-effect is akin). But then we have the right to ask the question: by which means are changes of stereotypes possible? If a social stereotype is defined as a wide-spread over-simplified image of a social object, then stereotypes can change if the social object itself changes. We observe that over a period of 20 years after the failure of the Soviet statehood stereotypes of an individual-related perception of authority do not only not die out, but, quite the opposite, intensify. As a result, the secret does not lie in the conservatism of public consciousness but in the conservatism of the very social object. And such an object is the system of public authority, fixed, oddly enough, by the Constitution of the RF itself.

Therefore it is impossible to explain the ongoing processes in Russia by the sociocultural factor only, ignoring the institutional factor (institutions are understood here as the formal rules of the organisation, functioning and cooperation of bodies of public power). Not considering how public-authoritative institutions are built and work and which influence they exert on the public consciousness, conclusions are not only incomplete but also distort reality.

Even Russian pro-opposition experts and politicians are in thrall to old concepts of power, involuntarily

⁴ Normally a strong leader is not at all an obstacle for a democratic system. But in the given case everybody understood the context of the question. With "strong leader" an authoritarian leader was meant.

⁵ cf. for example: Stefanenko T.G. *Etnopsikhologiya: Uchebnik dlya vuzov*. 3. izdanie, ispr. i dop. Moscow, 2003. p.147.

repudiating the conclusion that was stated by the great political thinker of the 20th century Karl Popper who wrote that "instead of the question "Who ought to rule?" it is necessary to pose another question: "How shall we organise political institutions so that bad or incompetent rulers do not cause too much harm?"⁶. In different oppositional programs there are, of course, provisions that stipulate the "repair" of institutions. But thereby they don't encroach upon the main obstacle for democracy – the constitutional construction of power, reproducing the individual-related regime. And this is the fundamental mistake, because even if a leader who avows himself to values of a pluralistic society appears on top of the state, the regime remains individual-related although within its bounds liberal policies will be temporarily pursued.

The quality of institutions may not be judged by their work under a liberal leader but by the extent to which they can restrain the leader (president), inclined to authoritarianism. As K. Popper confirmed, we have to "prepare for the worst ruler, hoping for the best".⁷

In what way is the construct of power able to act as an obstacle to the development of democracy in Russia?

2

In the "minimalistic" concept democracy is defined as a system in which rulers are elected on basis of competition in the course of ballots (Y. Shumpeter) or as a bloodless change of the government by means of elections (K. Popper, A. Przeworski). Consequently, the main element in this formula proves to be political competition (even in the theoretical hypothesis made by Przeworski on the change of government through drawing by lot⁸ the existence of, at least, two organised political forces is necessary). It is the competition that serves as the basic instrument of modern democracy and at the same time acts as the latter's most distinct indicator.

I would, however, specify: the great importance of political competition further lies in the fact that it is also a contest of ideas and reputations. Only this way society is able to develop dynamically and to wisely select an elite. It goes without saying that this is an ideal, since the actual political life even in developed democracies shows that sometimes also there a setback of leaders is possible. But still, in the long run political competition allows to hope for a peaceful overcoming of crises and a way out of difficulties. I will again quote Popper: "... Even bad policies, pursued in the context of democracy (in as far as we can further their peaceful change to the better) shall be preferred over a tyrant's policies – even policies of the wisest and the most benevolent one".⁹

⁶ Popper Karl Raimund. Otkrytoe obshchestvo i ego vragi. V 2 t. T.1: Chary Platona / Per. s angl. Pod red. V.N. Sadovskiy. Moscow, 1992. p.161.

⁷ Ibid.

⁸ cf. Przeworski Adam. Zashchita minimalistskoy kontseptsii demokratii // Teoriya i praktika demokratii. Izbrannye teksty / Per. s angl. pod V.L. Inozemtsev, B.G. Kapustin. Moscow, 2006. p.11.

⁹ Ibid. p.165.

Political competition is based on rational behaviour of the political players which, for example, Adam Przeworski¹⁰ showed very well. In plain terms, every single one of these players can also choose not to avow himself to democratic values. But, understanding that the retention of authority that was legally earned will bring forth a power struggle with other players, the winner cedes power either at the end of the term of office or after losing the elections, otherwise his losses turn out to be higher than his gains. However, this model does not quite take into account the sociocultural factor. The retention of power is possible if a society for various reasons quietly acquiesce into that and even more so if until then no changes of elites took place, i.e. no real political competition existed. Of course, sooner or later this sort of power is brought down (which one could observe in some post-Soviet countries or in the Arab East in 2011) but this happens outside the realm of institutionalised political competition.

Political scientists and historians can confine the understanding of "accepting and holding power" but for jurists this is little. The jurist inevitably asks: into which state body one has to be elected (or appointed to¹¹) in order to wield power? After all both the parliament and the president, both the government as such (Cabinet of Ministers) and the ministries and even the courts are bodies of state power. But it is clear that the objective of political competition is the possibility to follow a certain line of policy. This implies the necessity to take over institutions that have administrative competences, including competences regarding the expenditure of budgetary means. And this kind of competency, depending on the form of government, has the head of the State or the Cabinet of Ministers (or one and the other).

The said does not mean, of course, that parliamentary elections play a secondary role. Quite the opposite! With the exception of the presidential form of government (which is not common in European countries) the composition of the government (Cabinet of Ministers) depends on the very results of the parliamentary elections, i.e. from the distribution of party forces in the parliament (its lower chamber). This shows very clearly in parliamentary states, but it is also characteristic for mixed (semi-presidential) forms of government where the government depends both on the president, elected at general elections and on the parliament at the same time. Even in those countries where there is an institutionally strong president like, for example, in France, the results of parliamentary elections play a significant role. Because there it happens (for example, under F. Mitterrand or under the early J. Chirac) that the Council of Ministers and the President represent different parties, although according to the Constitution

¹⁰ cf. Przeworski, Adam. "Minimalist Conception of Democracy: A Defense" in: Democracy's Value, edited by Ian Shapiro and Casiano Hacker-Cordón. Cambridge Univ. Press, 1999.

¹¹ It is completely in order to speak about the appointment in the context of political competition since practically nowhere the governments as such (Councils of Ministers, Cabinets of Ministers) are voted directly by the people.

the President forms the government independently. If, however, the National Assembly (lower chamber) will not support the government or, in particular, adopts a motion of censure (motion of no-confidence) the President is obliged to dismiss this government. Parliamentary elections play an even bigger role in those states with a mixed government where governments depend more on the parliament than on the head of the State (for example, in Slovenia, Poland and elsewhere), which actually gives some researchers cause to refer to these states as parliamentary states.¹² Yet the gain of parliamentary seats is not the ultimate but only an intermediate goal of political party competition.

Russia belongs exactly to those republics with a mixed government (semi-presidential). I will point out that this form of government is particularly popular in post-totalitarian countries since, as noted in literature, "at times the head of the government who is entrusted with the current administration acts as a "whipping boy": if something does not work out, the reason for that does not lie in the political course of the President but in the poor realisation of this course by the government".¹³ Such an arrangement actually gives the charismatic leader-reformer more space for the political manoeuvre that is necessary for the implementation of painful reforms.. But there danger lurks in wait for a young democracy: under the influence of great popularity of a leader, becoming president and in the absence of competitors, equalling him in political importance such a leader can be constitutionally vested with exceedingly high power when the party system is underdeveloped. And then either he himself changes into the "favourite leader" as it was the case in a couple of former Soviet-states, or the "authoritarian mine" goes off later as it happened in Russia.

I lay emphasis on the fact that this is only a potential danger. Russia could escape it but the Constitution of 1993 was worked out and reworked in conditions of a severe conflict between reformative and anti-reformative forces in 1992 to 1993, and therefore bears clear traces of those days understanding of the role of the President, i.e. strengthens the very individual-related regime.

The bottom line regarding this regime is that in no way the results of the parliamentary elections (elections in the "lower" chamber of the Parliament, the State Duma), even if these elections were absolutely fair, exert influence on the process of forming the Government of the RF and accordingly on the pursued domestic and foreign policy. In addition, the Parliament virtually lacks substantial levers of control over the executive power. As a result, there is no institution of political responsibility in the country for there is simply no

¹² cf., for example: Pietrzak Jerzy. Sejm RP: Tradycja i współczesność. Kompetencje, procedury, zwyczaje. Warszawa, 2000. p.177; Chruściak Ryszard. Sejm i Senat w Konstytucji RP z 1997 r. Powstawanie przepisów. Warszawa, 2002. p.5.

¹³ Konstitutsionnoe (gosudarstvennoe) pravo zarubezhnykh stran: v 4 t. Toma 1-2. Chast obshchaya / Otv. red. B.A. Strashun. 3. izd., obnovl. i dorab. Moscow, 1999. p.351.

understanding of "a ruling party" (which journalists still falsely call parties that hold a majority in the State Duma, not understanding that not the party leads the President and the Government to power but, the other way around, it itself depends on the President or is even formed by him, i.e. most of the times it is a party of bureaucracy). Under these circumstances there is nothing left to do for the people than to appeal solely to the President of the country which sustains the patriarchal "individual-related" perception of power.

In as far as actual parties are practically barred from the possibility to institutionalise their political commitment, they gradually dissolve, they themselves transforming into a party with a strong leader, but, above all, in the eyes of the population they appear to be not more than a demagogic formation, not capable of governance. And this aggravates the aversion of society which is not used to the cross-party power struggle, i.e. it maintains the stereotype of the accumulation of personal power.

These institutional conditions also exert direct influence on the political conduct of the President himself who not necessarily due megalomania but by virtue of his constitutional position feels like the only real ruler (at the beginning of his presidency V. Putin accurately expressed this perception with the words: "I am responsible for everything"). Such a conception of his own role incites the President to assure himself the most favourable conditions for government, which means, first and foremost, the reduction of the possibilities for organised opposition to him to a minimum. Politicians in every country secretly dream about this probably. But understanding that this – neither institutionally nor by virtue of values of pluralism engrained in society – is not possible in a constitutional state, they keep such dreams to themselves. In Russia there is thus far neither a general appreciation for such values nor are there institutional barriers against authoritarian manifestations, therefore the nature of the political regime remains dependent on the personality and world-view of the person who holds the office of head of the State and on the extent of his popularity in society. The difference between the regime in the 1990ies and the regime in the 2000s stems from these circumstances.

Then, the Constitution does not pose an obstruction regarding the constriction of the extent of political freedom to the President because it is the Constitution itself that guarantees him political predominance. In this case with a high rating of trust (here I will not examine due to what the popularity increases) the head of the State, if desired, can very quickly get all public-authoritative institutions, first and foremost the parliament, under control. Although, as I already mentioned, the Russian parliament practically lacks the capability to control the President and his government, it nonetheless becomes an undesired stage for criticism on the President as well as it is able to somewhat disturb the pursuing of his policies and to retard the making of

some decisions if there is a considerable number of deputies oppositionally spirited in it (one could observe this under B. Yeltsin). And here lies the answer to a possible question, for what the already almighty President needs a servile Parliament, too: it is needed for the purpose of finally removing all impediments to the realisation of his own policy and to easily implement laws, relevant for the head of the State.

My analysis showed that these laws do not only make the life of oppositional forces substantially difficult and abridge political freedoms but they also significantly extend the competences of the President of the RF. Thus, at the present time 117 federal laws are in force, containing 494 different powers of the President that endow him with constitutional powers. 168 of these powers were legislatively delegated to President B. Yeltsin, 234 to V. Putin and 92 to D. Medvedev. However, the point here is not the amount of powers but that, beginning with the presidency of Putin powers began to emerge that clearly go beyond the scope of the constitutional duties of the head of the State (for example, the right to effectively¹⁴ appoint to and dismiss heads of federal subjects, heads and auditors of the Accounts Chamber – a body of parliamentary financial control, heads of higher courts, executives of government corporations and even rectors of the two largest Russian universities and so on from office).

This kind of control over institutions of power, including the judiciary, makes it possible for the President to „regulate“ the political sphere as he thinks best. One hardly has to find proof for the fact that such a regulation finally eliminates even the merest hint at political competition.

In the Russian law „On the protection of competition“ (2006) there is the concept of „dominant position“ which means that the economic entity possesses a share of more than 50 percent on the market and has not only „the possibility to exercise decisive impact on the general conditions of commodity circulation“ but also „to remove other business entities from this commodity market and (or) to impede access for other economic entities to this commodity market“ (article 5).

This concept was introduced so that the state could apply special rules of control to and impose special sanctions on the dominant subject. Here the analogy with political competition suggests itself quite legitimately. For we often forget that the latter is not only the struggle for the legal possession of power but also the restraint of the capability of any single political subject to exert influence on the „general conditions for the circulation of political commodities“ (party programs, reputation, governance experience and so on), to

¹⁴ I italicised „effectively“ because from a legal viewpoint in the majority of the described cases the President only presents candidacies for the appointment to office and for the motion of dismissal. But the corresponding regulations are designed in such a way that it is nearly impossible not to adopt a proposal of the President. Besides, today nobody even thinks about some legal resistance in the system of power.

eliminate other political players and to inhibit their access to the political market.

In the Russian political sphere the President of the RF holds the dominant position in full accordance with the Constitution. But why do we find the President here if the parties are supposed to be the political players? That's just it, that although Russian presidents prefer not to belong to any party and position themselves as „presidents of all Russians“, insinuating their party neutrality, every one of them however pursued and is obliged (why, see below) to pursue specifically party policies, i.e. very certain policies. This way the political scene is even more tangled: as a matter of fact the parties are actually barred from the struggle for power and turned into marionettes of the presidential administration. At that some of them are „homunculi“ of the very President and therefore completely dependent of him, others are destined to depict a certain oppositionality and to demonstrate pluralism. The other parties that refuse to be loyal to the presidential course or don't please the presidential bureaucracy due to some other reasons are forced to remain, basically, parties of the underground. In this manner namely the President by himself covers the whole legal political space and allows controlled parties to fake competition. However, some competition can be observed between them but the struggle goes only on within the sphere of apparatus (bureaucratic) influence. Under these circumstances one may not be astounded that state propaganda, first and foremost on TV channels that are directly or indirectly (by means of moguls) controlled by higher bureaucracy, actually presents oppositional agents („extra-systemic opposition“) as public enemies – not least because they dare to criticise the President who in an individual-related system is identified with the state. Thus, we could speak of a fatal in-adaptability of Russia to democracy. But only provided that under the conditions of fair political competition the society voluntarily refused control over public authority, that it itself called for an irremovable leader and demonstrated that it was a homogeneous society.

3

The country exists in conditions of an institutionally defective system since the Constitution itself lacks an equilibrium in the system of checks and balances. Without doubt, such an imbalance also existed under B. Yeltsin. It was, however, less apparent. Firstly, because after 1993 the head of the State's popularity began to dramatically decrease, which inevitably influenced the federal and regional elites, given the opportunity for opposition, and evoked a sense of reality for the division of power. Secondly, because of the very worldview of Yeltsin and his entourage: coming to power in the forefront of the Russian society's leap towards freedom, he did not wish to betray this leap and sacrifice freedom to his own power. But this is exactly the tragedy Russia finds itself in, that the very Constitution makes the country a hostage of the head of the State's peculiarities. Why this happens I would like

to present in a nutshell.

But before that I will explain that the current situation in which an unofficial diarchy exists (President – Chairman of the Government), resembling the Byzantine institution of the emperor and his co-regent (sometimes there were several co-regents) does not at all contradict the thesis on the dominant position of the President. When a figure is elected as head of the State which until then did not have any political importance and is entirely obliged to his patron, it is perfectly clear that such a President is deprived of any independence. It is understood that between the having resigned and the acting president some non-public pact was made. Only this is not an institutional dependence anymore, but an interpersonal. The very construction of such a „change of presidents“, however, only confirms the existing anomaly. For whatever reasons there might be for the constant rating of trust in V. Putin (and amidst political scientist different versions came forward) the effective use of the dominant position by the latter is evident in any case. Effective means here that on the peak of popularity he employed his constitutional status as head of the State to a maximum in order to get control of all government institutions and to put an end to or minimise the political capabilities of opponents. Society stopped to receive other, aside from the presidential (under the pretence of governmental) standpoints, opinions and points of view in a necessary amount and therefore either the head of the State himself or the one (ones) he designates appear to be possible claimants upon the presidential chair in their eyes. And that situation persists to this day.

Now I will try to show due to which constitutional provisions the dominant position of the President is set up.

4

At first I will briefly depict the general position of the President of the RF in the system of state power. The Constitution does not attribute him to neither one of the three branches of government – legislative, executive or judicial. He is the head of the State (however, in global practice the head of the State can be ascribed to one or several branches of power).¹⁵ Indeed, among the main functions of the Russian President there are functions, peculiar to the very head of the State: he is the guarantor of the Constitution and the rights of man, the guardian of state sovereignty, independence and state integrity (article 80). It's logical to assume that in such a capacity the President should be a politically neutral institution. However, for a mixed government this is not characteristic and rather an ideal. Usually the heads of such states are both „players“ and „field judges“ at the same time. Intrinsicly this kind of contradiction is potentially dangerous for the constitutional system. There is a good

¹⁵ For example, in presidential republics (USA, Mexico and others) the presidents, being chiefs of the executive power, are considered to be heads of the state. In the Constitution (article 28) of the parliamentary republic of Greece it is said that „legislative functions are fulfilled by the parliament and the President of the Republic“ and „executive functions are fulfilled by the President of the Republic and the Government“.

reason why the well-known American political scientist Juan Linz wrote: „The President's confidence in the fact that he wields independent power and enjoys the support of the people, can evoke in him a sensation of own power and a mission even if the amount of those, having given vote for him as a whole is rather small. Imbued with similar notions about his position and his role he begins to take the inevitable opposition to his politics for an aggravating and demoralising factor, unlike the premier-minister (in the parliamentary model – M.K.) who sees himself as just a representative of a temporarily governing coalition and not as a spokesman of a nation's interests or of a people's tribune“.¹⁶

Yet, the peril of the president's transformation into a leader diminishes, first and foremost, due to a system of checks and balances. On the contrary, if the balance of power prerogatives is missing, this contradiction jeopardises the democratic development of a country. Unfortunately, exactly this can be observed in the Russian system of power.

Most notably this happens due to the securing of two strange functions of the President in the same article 80 of the Constitution of the RF.

The first one is the determination of the guidelines of home and foreign policy. It is not difficult to understand that in as far as the directions of the policy are not determined as a compromise between different political forces, but as the will of one person, the Parliament and the Government turn out to face the necessity to only follow this will (I'm not even saying that in this case one can not speak of the political neutrality of the President, too). Of course such a function could be interpreted simply as a statement of the President about his own priorities and not as a statement about their imperative quality for other bodies of power. However, first of all, the analysis of certain powers of the President refutes this kind of optimistic assumption and, secondly, in 1998 the Constitutional Court of the RF came to the decision that the presidential policy guidelines are binding upon the Government, and in 2006 that they are even binding for all (!) bodies of state power.

The second function is phrased as the guarantee of a coherent functioning and cooperation of the bodies of state power. Justifying its existence it is often regarded as a function of political arbitrage (in the Constitution of France the President is directly called an arbitrator). However political arbitrage presupposes political (party) neutrality which the President does not have in a mixed form of government. Another matter are deadlocks or emergencies. But this, it seems, is still no arbitrage. And therefore it is even less understood why (or how?), given the constitutionally stipulated competencies of bodies of state power it is necessary and possible to guarantee their „coherent functioning“ and

¹⁶Linz Juan. Opasnosti prezidentskoy formy pravleniya // Teoriya i praktika demokratii... p.217.

„cooperation“. In other words, the autocratic relevance of the head of the State who does not belong to neither one of the branches of power and quasi stands above them is already laid down in the Constitution of the RF itself.

The presidential duties, stated in this manner become the reason for a substantial enlargement of the presidential competence. The fact is that from the practice of the Supreme Court of the United States the doctrine of „tacit or hidden powers of the President“ came to the Russian constitutional practice. The gist of it is the acknowledgement of the fact that the head of the State has the right to exert authority which is not specifically assigned to him but results from his constitutional functions and general powers. In Russian practice this doctrine was first applied by the Constitutional Court (1995) when examining the constitutionality of presidential acts on bringing troops into the Chechen Republic. The Court then acknowledged that if the President exercises powers missing in the Constitution their general scope is determined by the principle of separation of powers and by the requirement in compliance with which acts of the President may not contradict the Constitution and the laws.

The application of the said doctrine is natural with regard to the head of the State who bears responsibility for the constitutional system and the external security of a country. No constitution is able to make provisions for all circumstances threatening the stable exercise of state power and therefore the head of the State has the right to implement adequate actions, averting these kinds of danger.¹⁷ However, the „tacit powers“ become dangerous when a system of checks and balances is missing. Exactly therein lies the danger of the duty to „guarantee a coherent functioning“. Phrased in a too vague manner and virtually not substantiated by constitutional powers the duty can become a justification (during a possible consideration of the case in court) for practically any interference in the activity of any other body of power – both federal and regional.

Nonetheless, these provisions as such would not play a significant role if the Russian President would not actually have leverage on other authorities.

One of the crucial levers becomes apparent in the procedure of appointing the Chairman of the Government of the RF to office. At first glance, the Constitution of the RF stipulates the „rule of two keys“ in as far as the President appoints the Chairman of the Government (premier) with consent of the lower chamber of Parliament – the State Duma. However, the process of agreeing on a presidential candidate has

turned into a mockery by the Constitution: after the third rejection the President is obliged to dissolve the State Duma (article 111). But what's the most interesting, is that together with the dissolution of the Duma the Premier is regarded as appointed and can take up the formation of the Cabinet. Thereby a dissent from the President's premier is the „hour of death“ of the Duma and the „hour of birth“ of the Government. No wonder, even under B. Yeltsin who did no longer enjoy the powerful public support practically all his candidates obtained the Duma's¹⁸ consent although the latter comprised many opponents of the President. Let's assume, however, that the deputies attend early parliamentary elections for the sake of personal principles. Their „sacrifice“ turns out to be in vain since the Constitution states in article 116 that the Government shall resign before a newly-elected President. This way, albeit the opposition gains even more votes, the deputies are forced to work with an already formed Government.

Although the appointment of the premier is the most important step, it is still not the only one. Furthermore the Government is formed (apart from the Chairman, it comprises its deputy chairmen and federal ministers). Once again the President appoints all members of the Government, but on the premier's proposal. There is no point, though, in actually considering a situation in which the premier will insist on one or the other candidacy because without party support in the Duma he is not an independent political figure (I repeat, the said does not relate to the present situation due to the „Putin factor“ and the artificiality of his „party“ itself which breaks up without the Kremlin support as did the it preceding party of bureaucracy „Our house – Russia“).

There is one more important step that is not only connected with the fate of the Government but also with the executive power as a whole – the determination of the structure of the federal bodies of executive power by the President on the proposal of the premier. In the Russian constitutional law structure is usually understood as the enumeration of ministries and other bodies of executive power (federal services and agencies). This is an important juncture for the state apparatus since quite often new bodies are formed including the division of larger ones, and existing ones are abolished including some bodies' takeover. Therefore the determination of the structure also means the determination of the career opportunities of many functionaries. Here one can also dismiss the regulation on the determination of the structure on the premier's proposal. In practice the President determines not only the structure but also the system of the federal bodies of executive power – the system that is regarded as the types of these bodies and their functions (in 2004 the President undertook an administrative reform, leaving three types of these bodies instead of the existing seven).

¹⁷ By the way, article 16 of the Constitution of the French Republic reads: „When the institutions of the Republic, the independence of the Nation, the integrity of its territory are under serious and immediate threat, and the proper functioning of the constitutional public authorities is interrupted, the President of the Republic shall take measures required by these circumstances after formally consulting the Prime Minister, the Presidents of the Houses of Parliament as well as the Constitutional Council“.

¹⁸ The only time when the first President made a concession, was the attempt to appoint V.S. Chernomyrdin a second time in September, 1998. But this was a time of a severe economic and political crisis, caused by a default.

Thus, the Government is formed. Let's assume that this party happens to have the majority of seats in the State Duma which is in opposition to the course the president steers by the medium of the Government. Can this majority overthrow the Cabinet? Theoretically, yes. The Constitution provides for a possible motion of no-confidence. But this institution is fiction. Firstly, the Constitution stipulates that the deputies are obliged to repeatedly express no-confidence to the Government during three months if the President does not agree with them the first time. But, most importantly, even after repeatedly expressing no-confidence the Constitution gives the President the right to choose between the resignation of the Government or the dissolution of the Duma. Doesn't the dissolution of the latter come naturally for him as the Government is entirely presidential and the President does not have to face any political consequences? For references: within 18 years of the Constitution of the RF being in force a single motion of no-confidence is documented, to a repeated action, however, it did never come.

Only the head of the State can determine the fate of the Government. And there the Constitution supports a completely unimaginable (or if anything only imaginable for an absolute monarchy) power of the President. He can dismiss the Government at any time without any external cause. The majority of dismissals of the Government under Yeltsin and Putin happened exactly this way, with presidents who appear on TV with a resignation nearly always saying that altogether they are content with the work of the Cabinet ... Furthermore the president has the right to dismiss any minister or deputy chairman of the Government (vice-premier). Although formally a proposal of the premier is needed for that too, the President can in effect only inform him.

The President's broad scope to exert control over the Government is amplified by the fact that the head of the State has the right to abolish any act of the Government (order or directive) if he considers it not only conflicting with the Constitution of the RF or the federal legislation but also with decrees of the President himself.

I hope, of course, that in all circumstances the Government is obliged to follow only the presidential course. It can not be a politically independent body but an instrument in the hands of the head of the State alone. The Parliament (its lower chamber – the State Duma) does not have any constitutional capabilities to participate in controlling the Government and the executive power in general. Not even the constitutional amendment which was introduced in 2009 and according to which the Government shall give an account to the State Duma on annual basis brings any relief to the situation. This is a pseudo-amendment since, as readers could observe, in the case of an unsatisfactory outcome of the evaluation of governmental activities the Duma has no capabilities to displace the Government as a whole or let alone single ministers.

Nonetheless, many Russian analysts can by no means get rid of the illusion of the possibility to form a Politically reliable majority Government in Parliament. The last demonstrative example is the very good lecture of two well-known experts, S. Belanovskiy's and M. Dmitriev's „The political crisis in Russia and possible mechanisms for its development“ where the authors very accurately talk about the necessity to form a coalition government and are certain in this respect that: „Although it would be advisable to introduce the according regulations into legislation (what perhaps will be done later), it is important to mention that the existing legislation does not contain any interdictions for to de-facto realise this model“.¹⁹ But therein lies the problem that, even if the President formally agrees to take into account an alignment of forces in the State Duma when forming a new Government, the latter inevitably remains entirely dependent on the head of the State alone since such a dependence is predetermined by the very Constitution, which is what I tried to show.

In theory the Parliament can adjust the presidential course by the adoption of according laws. But its possibilities are exceedingly small. Firstly, the President holds the right to decline federal laws (veto).

And in order to override a presidential veto it is necessary to poll not less than 2/3 of votes of members of every chamber, which is very unlikely (within a whole period, starting from 1993 only in respect to one single Law – on the restitution of cultural properties – chambers succeeded in polling the necessary majority in 1997). Secondly, the „upper“ chamber – the Council of the Federation which represents regional interests – objectively appears as an ally of the President. Even when this chamber consisted of the elected leaders of the region's executive and legislative branches of power, it either blocked clearly populist laws itself, enacted by the State Duma or did not support the overcoming of a presidential veto (besides, in the Duma itself the necessary 2/3 of votes were won very rarely). And today, as the regions came entirely under control of the President, the Council of the Federation does not at all raise concerns in the Kremlin. The following table can serve as an example of the dynamics regarding the denial of laws.²⁰

Convocation of the State Duma	Total number of federal laws (FL), enacted by the State Duma	Total number of denied FL	Number of FL, denied by the Council of the Federation	Number of FL, denied by the President of the Rfs	Number of FL, denied by the Council if the Federation and the President of the RF
1996-1999	1045	442	141	180	113
2000-2003	781	102	61	31	10
2004-2007	1087	37	27	7	3
2008	332	2	1	1	0
2009	394	8	7	1	0

¹⁹ http://www.gazeta.ru/comments/2011/03/29_a_3569513.shtml

²⁰ The table was taken from: Shablinskiy I. Vyklyochennyy mekhanizm: sderzhki i protivovesy v rossiyskoy konstitutsionnoy praktike // Sravnitelnoe

I named only the main constitutional levers, bringing about the dominant position of the President and the non-existence of political competition, although within the last decade slightly different methods evolved, including methods in legislation by virtue of which the President tightened control over the Parliament, regional authorities and even over the judiciary.

Thus, I summarise: it is foolish to deny the role of socio-cultural peculiarities. Even in traditional European democracies the general political conduct is completely different.²¹ However, it would be not less foolish to deny the role of institutional peculiarities, formal „rules of political games“. The interrelation of these factors is

well phrased by K. Popper: „Democratic institutions cannot improve by themselves“, he wrote, „their improvement depends on us. The problem of the democratic institution's improvement is always a problem individuals have to face and not institutions. However, if we want improvements we need to determine which institutions we wish to improve“. ²² But for „improvements“ it is necessary to either get an order of society or a person has to become the head of the State who understands that the fate of democracy depends to a large extent on the institutional conditions in which it will develop and on the question if these conditions can influence the change of wide-spread stereotypes.

²¹ cf. about this, for example: Siedentop Larry. *Demokratiya v Evrope* / Per. s angl. pod red. V.L.Inozemtsev. 2001.

²²Popper Karl Raimund. op.cit. p.167.