

The value identification of the Institute of President through the prism of constitutional reforms in the Republic of Kazakhstan and Russia

1. Dear colleagues, I would like to make points about the value identification of the institution of the President through the prism of constitutional reforms in the Republic of Kazakhstan and in Russia. The institute of the President appeared in the Republic of Kazakhstan and Russia simultaneously, based on common political and legal traditions and historical roots. This thirty-year experience requires consideration in the global constitutional context.

There is a tendency to transform the most popular model so-called «social constitution» in the world's constitutional development. The study shows that the content of the constitutions of a number of countries, both new and old democracies, is increasingly filled with values and guidelines. In my opinion, there is reason to believe that the modern model of the social constitution is evolving into a social-value (or even a value) model. These changes also affect the institution of the President.

The institution of the President initially includes a complex combination of legal and social roles of the President, that changes with time. This is particularly noticeable in relation to some countries. The status of the President is not yet dominated by moral elements, but they are becoming more and more visible.

Along with such roles as the guarantor of the constitution, human rights and freedoms, the person who ensures the coordinated functioning of various branches of government, and other constitutional status receive such roles as:

- a national leader who ensures the unity and cohesion of the people, civil peace and harmony in society, protects and ensures the preservation of national values;
- citizen and patriot of the country;
- a person who represents the country, its cultural and constitutional identity.

The evolution of the institution of the President is reflected in political practice in countries with long traditions. Kazakhstan and Russia are following the path of detailing the provisions of the Constitution in order to ensure full legal certainty of constitutional institutions and their stability.

*Furthermore, the Constitution of the Republic of Kazakhstan expressly states that the President is **a symbol and guarantor** of the unity of the people and state power, the inviolability of the Constitution, human and civil rights and freedoms (art. 40, para. 2 of the Constitution). Similar provisions are contained in the Basic Law of Russia, which are now reinforced by the reference to the role of the President in maintaining civil peace and harmony in the country (art. 80, para. 2 of the Constitution amendment law 2020).*

Therefore, the status of the President is a new combination of political, legal and moral elements.

2. The experience of constitutional reforms in Kazakhstan and Russia demonstrates that the institution of the President is undergoing modernization in terms of its place in the mechanism of the state. Both Kazakhstan and Russia are characterized by the redistribution of powers between the country's President and various state authorities.

However, there are differences in the ways of carrying out this modernization and the content of the current changes.

1) Thus, the Republic of Kazakhstan follows the path of «continuing constitutional reform». Russia has taken the tactic of simultaneous constitutional changes, the latter of which are close to constitutional reform in their significance.

2) Part of the powers of the President in Kazakhstan are redistributed between the Government and the Parliament of the Republic, and in Russia – transferred to the Federal Assembly. However, the government expands a substantive competence as a result of the amendments to the Constitution.

3) Constitutional reform in the Republic of Kazakhstan is implemented in the system of concepts and categories established in the Basic Law. The Law on amendments to the Constitution of the Russian Federation 2020, in the context of

the functioning of authorities, introduces a new constitutional and legal category «public authority» and proclaims the principle of unity of system. Therefore, the «constitutional framework» for coordinated interaction between state authorities and local self-government is being specified.

These constitutional changes return the doctrine to the question of identifying the forms of government which can be implemented through an assessment of the institution of the President. It is quite possible that the characteristics of our republics' specifics (super-presidential, semi-presidential, unique) that were previously given (including the Venice Commission) already need to be clarified.

3. The Pandemic crisis tests the strength of the state mechanism. Effective management and special modes of public authorities' functioning are in demand in these conditions. Their experience is confirmed not only by political and legal, but also by the social significance of the institution of the President. This is updated by scientific research on the axiology of state institutions and the development of future forecast scenarios for the activities of state bodies in similar extraordinary situations and the corresponding recommendations. They are likely to be more or less «president-centric» for some countries. The developing constructive potential of the presidential institute should be taken into account in the planning process.

The topic of the conference is a great opportunity to step up the efforts of legal scholars in the development of this complex subject.