

Post-Soviet Presidentialized Republics: Factors for Choosing the Form of Government and Difficulties of Its Classification

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Abstract: In the post-Soviet states of Eastern Europe and Asia, a special presidential form of government was formed, which, in fact, cannot be classified within the trichotomous division of republican forms of government established in modern political science. Attempts by researchers to clearly define this form of government generate real classification chaos. Many scientists tend to see the studied form of government as a presidential version of a mixed republic. Another group of scientists, given the hypertrophy of the constitutional status of the president, perceives it as a certain variant of the presidential republic. In fact, the form of government adopted in many post-Soviet states eclectically combines elements of presidential and mixed republics and at the same time fundamentally does not meet the criteria of both of these forms of government. It is not a presidential republic, since it does not reveal a “hard” division of power and contains certain elements of parliamentarism, and it is not a mixed republic, since it does not have its minimum necessary set of features. Therefore, this form of government cannot be identified with presidential or mixed republics, nor can it be considered as a partial deviation from one of them. The idea of a mixed republic had a significant impact on the latest state-building practice of the post-Soviet states. At the same time, in most of them, the difficult conditions of the initial stage of state formation caused a significant strengthening of the power of the president. The consequence of this was the dominance of the president not only in relation to the system of executive bodies, but also in relation to the state mechanism in general. The transformation of the president into the real head of the executive power distorted the nature of the mixed republic and gave birth to a new hybrid form of government, which combined certain formal and legal features of the mixed republic with the hypertrophied constitutional status of the president.

Keywords: Mixed Republic, Presidential Republic, Transitional Presidentialized Republic, Dualism of Executive Power, Classification of Forms of Government, Parliamentary Responsibility of Government, Countersignature

1. Introduction

In modern political science, a generally recognized trichotomous classification of republican forms of government has developed. According to this classification, classic presidential and parliamentary republics are distinguished, as well as a mixed republic, which combines the features of presidential and parliamentary republics, and at the same time reveals its own distinctive constitutional features. Within the framework of a mixed republic, it is

usually distinguished between its presidential-parliamentary and parliamentary-presidential varieties. Although to this day many researchers do not recognize the mixed republic as an independent form of government and interpret it as an unstable mechanical mixing of elements of presidential and parliamentary republics, such a view of the mixed republican form of government for the modern stage of the development of state-legal theory is more of an anachronism than an established paradigm.

Currently, the trend of spreading the mixed republican

form of government has become stable. This form of government has become, in particular, typical for states that have appeared on the political map of the world in recent decades.

The emergence of a mixed republic and its rapid spread among modern democratic states prove that the classical republican forms of government have to some extent exhausted themselves. Although the organization of state power in presidential and parliamentary republics testifies to a different, essentially, alternative perception of the principle of separation of powers, it implies the dominance of a certain element of it in the state mechanism. This dominance conditions the content of the form of government and causes its corresponding functional defects. The mixed republic embodies the intention to maximally balance the possibilities of mutual influence of the highest state bodies. In this sense, it is an ideal form of government [1]. In a mixed republic, the distribution of power between the president, the parliament and the government is the most balanced.

The mixed republican form of government is designed to organically combine the effectiveness, efficiency and dynamism of the power of the head of state, elected by universal suffrage, with the government's responsibility to the parliament, the possibility of the latter to initiate changes in the composition and directions of the activity of the highest executive body while balancing this possibility with the right of the president to dissolve the parliament for ensuring government stability. The essential role of the president in the process of forming the government while preserving its parliamentary model of formation ensures the combination of the stability of the executive power with its parliamentary responsibility. The role of the president in the organization and activities of the executive power, characteristic of a mixed republic, enables the cooperation of factions of any coalition of parties in the parliament. At the same time, in a mixed republic under conditions of dualism of the executive power, it is impossible to transform the government into a *de facto* addition to the president's office. So, in its idea, a mixed republic is a form of government that maximally balances the influence of the president and parliament on the organization and activities of the government.

The special features of a mixed republic create the best conditions for the democratic development of statehood, the achievement of efficiency and legitimacy of government. One of the valuable features of a mixed republic is its resistance to the influence of many adverse factors, which highlight the flaws of classical republics. A mixed republic, compared to presidential and parliamentary forms of government, is less dependent on such destructive factors as the underdevelopment of civil society and democratic political institutions, the absence of democratic traditions of state formation, etc.

The main advantage of the mixed republic over the classical types of the republican form of government lies in its lower vulnerability to such a fundamentally destructive factor as the weakness of parliamentarism, which is, in fact,

an inevitable feature of all transitional societies. However, in a mixed republic, the weakness of parliamentarism does not lead to such threatening consequences as in parliamentary and presidential forms of government – the impossibility of forming a stable and effective coalition government (parliamentary republic) and the impossibility of the legislative body to effectively restrain the actions of the president (presidential republic). It is not surprising that the experience of the French state, which in the republican period of its history learned the defects of both a highly centralized and excessively decentralized organization of power, was taken into account by the drafters of many constitutions of the post-Soviet states.

Despite the fact that each type of republican form of government has its own, unique set of constitutional features, the analysis of many constitutions proves a certain convention in the classification of the form of government established in them. In many cases, the form of government reveals more or less significant deviations from the norm. Any deviation in the organization of state power is insignificant, if it fundamentally does not violate its logic [2]. If atypical deviations do not cause the emergence of a new logic of the organization of state power, they do not give grounds for concluding that a new form of government is being formed. However, deviations from the norm can reach a critical level, which causes a significant distortion of the essence of the form of government. This situation characterizes the organization of state power in a number of post-Soviet republics. The form of government adopted in Azerbaijan, Belarus, Russia, Kazakhstan, Tajikistan, and Turkmenistan has so eclectically combined features of presidential and mixed republics that within the trichotomous classification of republican forms of government, its adequate definition is essentially impossible.

2. Factors of Presidentialization of the Form of Government in the States of the Post-Soviet Space

The idea of a mixed republic was adopted, in particular, by the latest state-building practices of the countries of Eastern Europe and Asia. For many newly formed states of the post-Soviet space, the choice in favor of a mixed republican form of government was the most justified: the lack of deep and established traditions of democracy made it too dangerous to count on the effectiveness of the presidential republic, and the lack of a developed civil society and its attributes such as a large middle class and large centrist parties, left vain hope for the minimum viability of classical parliamentarism. A. Arutyunyan, an Armenian researcher points out that “...in the absence of clearly expressed social and political interests as well as a normal party system in society, a semi-presidential republic seems more desirable, if not the only possible form of a post-totalitarian state” [3].

In most of the post-Soviet republics, at the same time, there were similar unfavorable socio-political conditions and

trends in their development, which objectively encouraged giving the president a special and decisive role in the state mechanism. All the newly formed post-Soviet republics faced the need to gain real sovereignty and independence, strengthen statehood, guarantee national security, create an effective national economy, ensure social and political stability, social and cultural development of the population, integrate into the world community or receive international recognition as its full member. Solving these tasks required a concentrated state will based on organized executive power. The president became the personification of that will. The concentration of power in his hands was strengthened by the frequent occurrence of crisis situations in the field of domestic and foreign policy, the overcoming of which required immediate and decisive actions using the full range of state power resources [4]. The successful solution of serious social, economic, and political problems required a state mechanism capable of ensuring clear and dynamic coordination of actions of all its elements. This explains why the concentration of power in the hands of the president often had a positive impact on the state, political, social and economic life of the country and thus strengthened the stability and legitimacy of the political system in general [5].

A significant factor that contributed to the presidentialization of the form of government in the post-Soviet states was the underdevelopment of the party system. In many countries of Eastern Europe and Asia, the underdevelopment of the party system, which is still here, in fact, in an “embryonic” state, caused the inability of the parliament to exert a significant influence on the executive power. The parliaments of the post-Soviet states turned out to be too weak, and usually decorative, and therefore were unable to oppose the president and the executive power headed by him [6].

For many countries of Eastern Europe and Asia, building an effective coalition government has become an insoluble problem. If parliamentary elections cannot lead to the emergence of a consolidated coalition majority capable of forming an efficient and stable government, only the president can ensure its emergence. S. Holmes, an American researcher states: “It is possible to predict with certainty that strong presidential power will appear where the society is not organized enough to elect a parliament monolithic enough to create and support a coherent government capable of tough measures” [7]. Where civil society is not organized enough to ensure the formation of a government on a parliamentary basis, strong presidential power inevitably emerges.

The inability of the parliament to ensure the emergence of a stable government led to the establishment of a form of government in which the president became the guarantor of the effectiveness of the executive power. The desire to ensure government stability explains why in many states that emerged after the collapse of the Soviet Union, the center of political weight was significantly shifted in the direction of presidentialism. However, the intention to strengthen the effectiveness of the executive power by increasing the influence of the president on it was in many cases carried out

extremely carelessly and fundamentally distorted the nature of the mixed republic. A new transitional form of government appeared, which, given its constitutional features, cannot be identified with any of the “pure” types of the republic.

In the post-Soviet presidential republics, the constitutionally established dominance of the president in the state mechanism is strengthened by social and political factors. The power of the president turned out to be unlimited, since not only other links of the state mechanism, but also the political institutions of civil society are too weak. Here, as everywhere, the development of the institution of the head of state became a consequence and a reflection of the results of the development of democracy itself.

3. Differences Between Post-Soviet Presidential Republics and a “Full-Fledged” Mixed Republic

The defining characteristic of the post-Soviet presidential republics is the combination of certain formal and legal features of the mixed republican form of government with the hypertrophied constitutional status of the president. In most post-Soviet republics, the strengthening of the president's status has reached a critical point, causing his obvious dominance in the state machinery. Therefore, the form of government adopted in a number of states that arose on the territory of the former Soviet Union can be defined as a mixed republic with great convention. V. Shapoval, a Ukrainian constitutionalist points out that “the form of government established in Ukraine (during the period of validity of the original version of the Constitution of Ukraine – *author*) and in most other post-Soviet countries, can be recognized as mixed republican only with significant reservations. An essential feature of the adopted form of government is the concentration of powers and, in general, the power of the president, who dominates the sphere of state power, as well as a certain conditionality of the distribution of powers” [8]. The researcher believes that “this form of government imitates a mixed republican form” [9].

The constitutionally fixed disproportion of the elements of presidentialism and parliamentarism determines the gravitation of the mixed republic to one of its “mother” types. The aforementioned attraction reflects the established distinction between presidential-parliamentary and parliamentary-presidential republics. The inclination of a mixed republic in the direction of presidentialism or parliamentarism is permissible as long as it does not nullify its distinctive features. However, if the executive dualism is eliminated in favor of a president or prime minister, a transitional form of government emerges. Therefore, it is impossible to agree with the statement that the post-Soviet presidential republics are “semi-presidential systems with elements of presidentialism” [1]. The inherent elements of presidentialism fundamentally distort the nature of a mixed republic. Analyzing the organization of state power in

presidential republics, the Italian-American scientist J. Sartori points out that “in this case, we are somewhere on the border between presidential and semi-presidential forms of government” [2]. The hybrid nature of the considered form of government explains why it is often identified with both presidential and mixed republican forms of government.

The hypertrophy of the constitutional status of the president and the administrative dependence of the prime minister and other members of the government on him, the weakened means of influence of the parliament on the executive power, which are precisely the features of the post-Soviet presidential republics, are not characteristic of a mixed republic.

The organization of state power typical of post-Soviet presidential republics reflects the rejection of some of the most important institutions of a mixed republic, primarily parliamentary responsibility of the government and the dualism of executive power. Although the elements of these institutions are in a number of cases fixed by constitutional norms, their real application is impossible. The leveling of the parliamentary responsibility of the government and the dualism of the executive power by the components of presidentialism gives rise to a hybrid form of government, which in a number of features can be identified with a mixed republic, but in a number of other features it corresponds to a presidential republic.

The application of the parliamentary responsibility of the government becomes as difficult as the influence of the president on the executive power increases. Under the conditions when the president is the real head of the executive power, his right to prematurely terminate the powers of the parliament, which expressed a vote of no confidence in the “presidential” government, makes it impossible to apply the parliamentary responsibility of the government. The constitutions of the post-Soviet presidential republics essentially create the illusion of parliamentary responsibility for the government. In the post-Soviet presidential republics, parliamentary responsibility of the government is possible only if the president has the political will to do so. Therefore, the dual responsibility of the government to the president and the parliament is actually replaced by its responsibility to a single subject, namely the head of state. In a mixed republic, the president, as the coordinator of the mechanism of interaction of the highest state bodies, has the right to have prematurely terminated the powers of the parliament, which has expressed a vote of no confidence in the government. However, in the post-Soviet presidential republics, where the president actually heads the government, his right to have terminated the powers of the parliament, which has expressed a vote of no confidence in the government, turns into nonsense: an attempt by the parliament to terminate the powers of the “presidential” government by expressing a vote of no confidence causes the premature termination of the powers of the parliament itself. This proves that in the post-Soviet presidential republics, the right of the president to prematurely terminate the powers of the parliament nullifies the possibility of parliamentary

responsibility of the government. Considering the quite obvious consequences of expressing distrust in the “presidential” government, the parliament will naturally not provoke them, without giving the president a reason for dissolution. Therefore, according to the content of the constitutions of Azerbaijan, Belarus, Kazakhstan, and the Russian Federation, the resignation of the government as a result of a vote of no confidence by the parliament is a legal fiction.

Therefore, in the post-Soviet presidential republics, where the government carries out the political course of the head of state, an attempt by the parliament to deny the government confidence will inevitably lead to the early termination of the powers of the parliament itself. Here, the parliamentary responsibility of the government, if it is constitutionally provided for, cannot really be applied, and the composition of the government does not change as long as the president as the guarantor of its stability, wants it.

The constitutions of the post-Soviet presidential republics, if they establish parliamentary responsibility for the government, significantly complicate its real implementation. The initial version of the Constitution of Ukraine, for example, did not establish the right of the President of Ukraine to terminate the powers of the Verkhovna Rada of Ukraine in the event that it expresses a vote of no confidence in the Cabinet of Ministers of Ukraine. At the same time, it significantly complicated the parliamentary responsibility of the Cabinet of Ministers of Ukraine. According to Article 115 of the Constitution of Ukraine, the adoption by the Verkhovna Rada of Ukraine of a resolution of no confidence in the Cabinet of Ministers of Ukraine obliged the Prime Minister of Ukraine to submit to the President of Ukraine a statement on the resignation of the Government [10]. However, the Constitution of Ukraine did not oblige the President of Ukraine to sign the mentioned statement and did not foresee a situation when the Prime Minister of Ukraine does not submit a statement of resignation to the Cabinet of Ministers of Ukraine or the Head of State does not sign it. Under such conditions, the parliamentary responsibility of the Cabinet of Ministers of Ukraine could arise only when it corresponded to the interests of the President of Ukraine.

The 1992 Constitution of Uzbekistan excessively complicates the procedure of parliamentary accountability of the government: the resignation of the Government is possible if at least two-thirds of the constitutional composition of both chambers of the Parliament vote for a vote of no confidence (paragraph 13 of Article 98) [11].

In the Constitution of Tajikistan of 1994, the institution of parliamentary responsibility of the government is not enshrined at all. The original version of the Constitution of Belarus in 1994 did not provide for it either. The original version of the Constitution of Turkmenistan in 1992 established the right of the Parliament to express a vote of no confidence in the Government, but did not determine its consequences. The current version of the Constitution of Turkmenistan, given the status of the President as “the Head of the Cabinet of Ministers” (Article 72) [12], does not even

contain such a provision.

The content of the constitutions of the post-Soviet presidential republics also shows the desire to prevent the dualism of the executive power. The dualism of the executive power is a fundamental and unique feature of the mixed republican form of government. Therefore, the absence of this feature does not allow to classify the form of government as mixed republican.

The dualism of the executive power is eliminated first of all by the relevant constitutional and personnel powers of the president in relation to the government. Constitutions of Azerbaijan (Article 109, Clause 5) [13], Belarus (Article 84, Clause 7; Article 106) [14], Kazakhstan (Article 44, Clause 3) [15], Kyrgyzstan (Article 70, Part 1, Clause 4; Article 92, Part 1) [16], the Russian Federation (Article 83; Article 117, Part 2) [17], Uzbekistan (Article 93, Clauses 10, 11) [11] give the president an unconditional right to prematurely terminate the powers of the government as a whole or its individual members. This right was enshrined in the Constitution of Kyrgyzstan of 1993 (Article 46, Part 1, Clauses 3, 4) [24], the initial version of the Constitution of Georgia of 1995 (Article 73, Part 1) [18], and of the initial edition of the Constitution of Ukraine in 1996 (Article 106, Clause 10; Article 115) [10]. The unrestricted discretionary right of the president to terminate the powers of members of the government (or the government in total) causes their administrative subordination to the head of state, hence the erosion of the dualism of executive power.

Another “non-accidental” right of the president, namely the right to cancel government acts, contributes to the destruction of the dualism of executive power in the post-Soviet presidential republics. The mentioned right is established by the constitutions of Azerbaijan (Article 109, Clause 8) [13], Belarus (Article 84, Clause 25) [14], Kazakhstan (Article 44, Clause 3) [15], Kyrgyzstan (Article 89, Clause 3) [16], the Russian Federation (Article 115, Part 3) [17], Tajikistan (Article 69, Part 6) [19], Uzbekistan (Article 93, Clause 16) [11], and it was also provided by the Constitution of Kyrgyzstan of 1993 (Article 46, Part 5, Clause 4) [20], the initial version of the Constitution of Georgia of 1995 (Article 73, Clause 3) [18], and the initial version of the Constitution of Ukraine of 1996 (Article 106, Clause 16) [10].

The right to terminate the powers of the government (the prime minister and other members of the government) and the right to cancel government acts at their own discretion correspond to the status of the head of the executive power and testify to the real role of the presidents of the post-Soviet presidential republics in the state mechanism. Analyzing, in particular, the competence relationships of the president and the prime minister in the Russian Federation, Russian researchers A. Kozyrin and E. Glushko note: “... Although the Russian legislation nowhere says that the president heads the executive branch, but in fact his prerogatives in this area are leading. Under such a construction, the powers of the head of government inevitably acquire an administrative character” [21].

The destruction of the dualism of the executive power turns into nothing even such a principled restraint for a mixed republic as the countersignature of the president's acts by the prime minister and /or the relevant minister. It is notable, however, that of all the currently valid constitutions of the post-Soviet presidential republics, the institution of countersignature is enshrined, moreover, in an atypical form, only in the Constitution of Kazakhstan of 1992 (Article 45, Part 3) [15].

Thus, in the post-Soviet presidential republics, the way the president and the executive power are related negates its dualism. Here, the government turned from an independent supreme body of executive power into a body implementing the president's policy.

The form of government in Azerbaijan, Kyrgyzstan, Tajikistan and Turkmenistan cannot be defined as a mixed republic, at least taking into account the fact that the president combines the statuses of the head of state and the head of executive power. In accordance with Part 1 of Article 66 of the Constitution of Kyrgyzstan dated April 11, 2021, the President, referred to as the head of state and “highest official”, “heads the executive power” [16]. “The President of Turkmenistan is the head of state and executive power...” is established in Article 50 of the Constitution of Turkmenistan of 1992 [12]. “The President of the Republic of Tajikistan is the head of state and executive power (Government)” is enshrined in Article 64 of the 1994 Constitution of Tajikistan [19]. The Constitution of Georgia as amended from August 24, 1995 (Article 69, Part 1) [18], the Constitution of Belarus as amended from March 15, 1994 (Article 95) [22] and the Constitution of Uzbekistan as amended contained similar provisions of December 8, 1992 (Article 89) [23]. According to the 1995 Constitution of Azerbaijan, the Government as a body of the “executive power of the President” ensures the “executive powers” of the Head of State (Article 99; Article 114, Part 2) [13].

In a mixed republic, the relationship between political parties and the government forms the basis of the organization and functioning of the state mechanism. This gives reason to define a mixed republic as “party rule”. However, in the post-Soviet presidential republics, there are no constitutional mechanisms for direct participation of political parties in the development and implementation of government policy. This policy is formed and implemented by a single subject, namely the president. Due to the insufficient influence of political parties on the state mechanism, the oppositional parliamentary majority is also unable to influence the president's policy. The president can carry out his policy without paying attention to this majority at all [24]. In the post-Soviet presidential republics, the president is the real head of the system of executive authorities. Here, the Russian scientist H. Chebotaryov notes that “the executive power is a separate and specific form of presidential power” [25]. The president is the de facto head of executive power even in those post-Soviet presidentialized republics where it is not formally headed. Analyzing the form of combination of the President of the Russian Federation

with the executive power, another Russian researcher M. Baglai points out: “The analysis of the powers of the President of the Russian Federation and the Government of the Russian Federation gives every reason to consider the President of the Russian Federation as the head of the executive power of the Russian Federation, and not the Head of the Government or the Government of the Russian Federation in general. Therefore, when it is claimed that the Government of the Russian Federation is the highest body of executive power, it is necessary to take into account the well-known conventionality of such a statement” [26].

The status of the president as the head of the executive power determines the consolidation of the system of his respective powers. First of all, taking into account the method of relationship (degree of organizational and functional combination) of the president with the executive power, the presidential form of government adopted in the post-Soviet states of Eastern Europe and Asia should be defined as transitional between presidential and mixed republics.

The presidentialized form of government, widespread in the post-Soviet space, reveals various regulatory defects that not only take it beyond the borders of a mixed republic, but also sometimes contradict the most important principles of the republican organization of state power. The most significant constitutional defects of this form of government are the lack of a full-fledged system of checks and balances and the endowment of certain state authorities with functions and powers not inherent to them. The mentioned defects of the form of government cause its significant functional bias towards the presidential republic and the real manifestation of its potential defects.

In the post-Soviet presidential republics, the concentration of power in the hands of the president causes significant distortions in the implementation of the principle of separation of powers. As a result, the implementation of this principle here is insufficient or even inadequate [8]. Under the conditions of granting the president excessive powers, both in terms of their content and scope, the real application of checks and balances on him by other authorities is significantly complicated or impossible. In the post-Soviet presidential republics, the asymmetry of the competence relationships between the president and the government is especially clearly visible. Such essential institutions of a mixed republic as the parliamentary investiture of the government, the parliamentary responsibility of the government, the countersignature of the president's acts by the members of the government, the dualism of the executive power, in the post-Soviet presidentialized republics are significantly distorted, have acquired the character of a legal fiction or are not constitutionally provided for at all.

One of the legal features of a mixed republic is the constitutional definition of the president as the guarantor of the coordinated functioning of state authorities. The status of the president as a coordinator-arbitrator does not allow him to interfere in the competence of other state authorities, to violate their independence or to replace them functionally.

This status implies the same exactingness, neutrality and impartiality of the president in relation to all state authorities and their officials. However, the president's competence orientation towards the performance of the functions of the head of executive power makes it impossible for him to perform the coordination and arbitration function. In the post-Soviet presidential republics, where the president is not only competently and functionally, but also sometimes structurally integrated into the executive power, the coordination and arbitration function of the president has become a constitutional “ghost”. The president cannot be an impartial arbiter in a constitutional conflict involving a body (in our case, the government) with which the president is structurally connected. The ability of the president to play two alternative and incompatible roles of coordinator-arbitrator and guarantor, on the one hand, and head of executive power, on the other, which is due to the combination of relevant statuses in his person, always motivates the choice in favor of the second direction of the president's activity and prevents the realization of his status as a guarantor of constitutional rights values, coordinator of the mechanism of interaction of branches of government and mediator in state-legal conflicts. In the post-Soviet presidential republics, the president, having acquired the characteristics of the head of executive power, turned out to be unable to play the role of coordinator-arbitrator in the state mechanism. Here, the president turned from a political arbiter into an absolute ruler [5].

A characteristic feature of the post-Soviet presidential republics is the distortion of the parliamentary way of forming the government. The procedure for forming the government adopted in these republics does not provide for its parliamentary investiture. This ensures the determining influence of the president on the selection of the composition of the highest executive body. The lack of parliamentary investiture of the government explains why in the post-Soviet presidential republics the government is the “team” of the president. Parliamentary investiture of the government is not established (at least in its classical form) by the Constitution of Azerbaijan 1995, the Constitution of Belarus 1994, the Constitution of Kazakhstan 1995, the Constitution of Kyrgyzstan 2021, the Constitution of the Russian Federation 1993, the Constitution of Tajikistan 1994, the Constitution of Turkmenistan 1992, by the Constitution of Uzbekistan 1992.

The lack of necessary institutional links between the parliament and the government is also evidenced by the provisions of the constitutions of the post-Soviet presidential republics on the assignment of powers by the government not to the newly elected parliament, but to the newly elected president. The government issues powers to the newly elected president in Azerbaijan (Article 116 of the Constitution of Azerbaijan) [13], Belarus (Article 106, Part 3 of the Constitution of Belarus) [14], Kazakhstan (Article 70, Part 1 of the Constitution of Kazakhstan) [15], Kyrgyzstan (Article 92, Part 4 of the Constitution of Kyrgyzstan) [16], the Russian Federation (Article 116 of the Constitution of the Russian Federation) [17], Tajikistan (Article 74, Clause 2 of

the Constitution of Tajikistan) [19] and Turkmenistan (Article 76 of the Constitution of Turkmenistan) [12]. The Constitution of Kyrgyzstan of 1993 (Article 70, Part 3) [20], the initial version of the Constitution of Georgia of 1995 (Article 79, Part 2) [18] and the initial version of the Constitution of Ukraine in 1996 (Article 115) contained provisions on the government's assignment of powers to the newly elected president [10].

The assignment of powers by the government to the newly elected president proves, in fact, its controllability and subordination to the president. This order of termination of the government's powers means that it does not need a vote of confidence from the newly elected parliament, and parliamentary elections do not require the formation of a new government taking into account the new arrangement of political forces. Therefore, the government's delegation of powers to the newly elected president contradicts the logic of the organization of state power in a mixed republic.

The constitutions of the post-Soviet presidential republics, without establishing the institutions immanent to the mixed republic, at the same time establish atypical institutions that further complicate the classification of the form of government.

According to the 1995 Constitution of Azerbaijan, the Government does not have the right of legislative initiative.

The Constitution of Kyrgyzstan of 1993 gave the President the right to exercise the legislative powers of the Parliament in case of premature dissolution of its chambers (Article 68) [20]. Neither the Constitution of Kyrgyzstan of 1993, nor the Constitution of Kyrgyzstan of 2010, nor the current Constitution of Kyrgyzstan of 2021 provide for the institution of countersignatures.

The Constitution of Kazakhstan of 1995 enshrines a kind of substitute for the individual parliamentary responsibility of ministers: upon the initiative of two-thirds of its members, the Houses of Parliament can “approve an appeal to the President of the Republic for the dismissal of a member of the Government in case of non-fulfilment of the laws of the Republic” (Article 57, Clause 6) [15]. Therefore, there are no political grounds for the responsibility of ministers. Also, the President of Kazakhstan has the right to object to the decision of the Constitutional Council as the body of constitutional jurisdiction. If the Council does not overcome the objection of the President by two-thirds of the votes from its constitutional composition, its decision is considered not adopted.

The Constitution of Turkmenistan of 1992 does not establish the parliamentary responsibility of the government, the institution of countersignature and the institution of specialized constitutional control. The initial version of this Constitution dated May 18, 1992 introduced an atypical and at the same time leading body in the state mechanism named Khalk Maslahaty (People's Council). According to the Constitution, the People's Council was the “highest representative body of the people's power” (Article 45) [27]. In reality, the composition of Khalk Maslahaty was selected only in part. The Khalk Maslahaty included the President,

members of the Parliament, elected representatives of the relevant administrative and territorial units, the Chairman of the Supreme Court, the Chairman of the High Economic Court, the Prosecutor General, members of the Government, heads of local executive bodies, mayors of municipal councils. Acts of the People's Council had legal supremacy over the laws of the Parliament, which turned it into a kind of “super-parliament”. The decisions of the Khalk Maslahaty actually determined the limits of the activities of the legislative and executive authorities. It was the decision of Khalk Maslahaty that made it possible to amend the Constitution, adopt a new Constitution, hold a national referendum and remove the President from office. Indirectly, through Khalk Maslahaty, the President of Turkmenistan had full control over political life in the Republic. In essence, the presence of the Khalk Maslahaty in the state mechanism gave the principle of separation of powers enshrined in the Constitution of Turkmenistan a declarative nature. In 2008, after the death of Saparmurat Niyazov, the life-long president of Turkmenistan, Khalk Maslahaty made changes to the Constitution that terminated its own existence and dissolved itself. The powers of Khalk Maslahaty were divided between the President and the Parliament by the constitutional changes of September 26, 2008.

The current Constitution of Kyrgyzstan of 2021 provides for the creation of a special body, the People's Kurultay. In the Constitution, this body is called a “representative public assembly” (Article 7), while the Parliament of the country – Dzhogorku Kenesh – is a “higher representative body” (Article 76) [16]. Such definitions raise questions about the relationship between the representative nature of the Dzhogorku Kenesh and the People's Kurultay. It is obvious that the existence of the People's Kurultay undermines the legitimacy of the Dzhogorku Kenesh, especially in cases where the decisions of the Dzhogorku Kenesh will contradict the recommendations of the People's Kurultay or when the Dzhogorku Kenesh rejects the draft law initiated by the People's Kurultay. It is also obvious that the People's Kurultay can be used by the President of Kyrgyzstan to legitimize his own decisions contrary to and in opposition to the decisions of the Dzhogorku Kenesh.

The lack of provisions on the parliamentary investiture of the government, its parliamentary responsibility, the institution of countersignature, the right of legislative initiative of the government in the initial version of the Constitution of Belarus in 1994, combined with the definition of the status of the President as the head of state and head of executive power, made the form of government of Belarus very similar to the presidential republic.

The constitutions of some post-Soviet presidential republics designate the president as the highest official of the state. The highest state official is defined, in particular, in the Constitution of Kazakhstan of 1995 (Article 40, Part 1) [15], the Constitution of Kyrgyzstan 2021 (Article 66, Part 1) [16] and the Constitution of Turkmenistan, 1992 (Article 50) [12].

According to the theory of separation of powers, the president is only one of the highest bodies of the state, along

with the parliament, the government, the highest judicial body of general jurisdiction and the body of constitutional jurisdiction. The supremacy of the power of the president would cause the subordination of all other higher bodies of the state to him. The system of checks and balances is an immanent component of the mechanism for implementing the principle of separation of powers. The checks and balances applied by the highest bodies of the state in relation to each other, in particular, in relation to the president, indicate their fundamentally equal status. Therefore, the normative definition of the president as the highest official of the state indicates a distorted understanding of the relationship between the president and other higher bodies of the state. In fact, the constitutional definition of the president as the highest official of the state is a republican rudiment of monarchism.

Given the functional hypertrophy of the institution of the president, post-Soviet presidentialized republics are often called presidential or “super-presidential” republics in special literature. The development of the super-presidential phenomenon in the presidentialized republics of Eastern Europe and Asia largely explains their striking functional similarity to the presidential form of government.

It is obvious that the level of presidentialization of the form of government in Azerbaijan, Belarus, Russia, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan is not the same. However, in all the mentioned countries, it reached a critical point and seriously destroyed the organization of state power characteristic of a mixed republic.

4. Definition of the Form of Government in the Post-Soviet Presidential Republics

The absence of the minimally necessary set of features of a mixed republic in the post-Soviet presidential republics does not make it possible to consider them a variety of this form of government. At the same time, the post-Soviet presidential republics, despite their obvious similarity to the presidential republic, are not identical to it. The studied form of government lacks a “rigid” separation of powers and features that are not characteristic of a presidential republic, first of all, such powers of the president as the right of legislative initiative and the discretionary right to prematurely terminate the powers of the parliament. The “rigidity” of the separation of powers, which is a fundamental feature of a presidential republic, does not provide for the president to be given the aforementioned powers.

Since it is impossible to adequately define the presidential form of government adopted in the post-Soviet states of Eastern Europe and Asia within the trichotomous division of republics, its classification leads to real chaos in the specialized literature. The obvious dominance of the president in the state mechanism of the post-Soviet presidentialized republics gives researchers reasons to use such terms in their characteristics as “super-presidency” [5, 24, 28], “super-presidential republic” [29], “personalist

regime” [30], “presidential dictatorship regime” [31], “atypical semi-presidential system” [32], “super-presidential system” [33], etc.

Researchers from the countries of Eastern Europe and Asia often describe the presidential republic as a hybrid and atypical form of government. This is how many Russian scientists characterize the form of government adopted in the Russian Federation. For example, according to I. Marino, it “belongs neither to the presidential form of government of the American type, nor to the semi-presidential form of government of the French type” [34]. I. Marino believes that in the Russian Federation “legally, the republic is presidential-parliamentary, but in fact – presidential” [35]. I. Bachilo draws attention to the fact that in the Russian Federation the President “does not formally head the executive power, but actually exercises it” [36]. L. Simonishvili points out that the actual removal of the Parliament from the process of forming the Government and its lack of real parliamentary responsibility, make it impossible to classify the Russian form of government as a mixed republic. However, according to the researcher, since this form of government contains certain features of a mixed republic, it can be considered as a camouflaged model of a presidential republic [37]. The functional attraction of the Russian form of government to the presidential republic in the presence of a number of signs of a mixed republic also leads the researcher N. Varlamova to the opinion that the form of government in Russia is a hidden presidential republic [38]. The authors of one of the commentaries on the Constitution of the Russian Federation conclude that there is a “special and unusual form of government” in Russia, which in certain features “resembles a mixed republic, but no more than a presidential one” [39]. According to A. Kovalev, the ratio of features of presidentialism and parliamentarism in the Russian form of government gives rise to a “fundamentally new system of relations between branches of government” [40]. “In Russia,” notes V. Chetvernin, “there is no parliamentary responsibility of the government; accordingly, Russia cannot be considered a mixed republic. But this is not a presidential republic, since the early dissolution of the parliament is foreseen” [41]. O. Zaznayev points out that “the atypicality of the form of government of the Russian state consists in the predominance of presidential elements with extremely weak parliamentary components” [32]. L. Morozova defines the form of government in the Russian Federation as a “presidential republic with strong executive power” [42]. M. Baglai also considers the Russian form of government to be a presidential republic. At the same time, he notes that the President of the Russian Federation has an obviously greater scope of powers than the President of the United States of America, a classic presidential republic [26]. According to O. Ovchinnikova, the form of government in the Russian Federation is a “super-presidential republic”, in which “the President is removed from the triad of power and stands above them” [29]. V. Balytnikov and V. Ivanov classify the form of government in the Russian Federation as a type of presidential republic, “which includes some

elements of a mixed model of the republican form of government” [43].

Researchers from other post-Soviet countries determine similarly the form of government adopted in them. S. Parechina, a Belarusian researcher writes that “according to a number of basic provisions, the Belarusian and Russian models of government definitely gravitate toward a presidential republic.... At the same time, it is not entirely justified to talk about them as traditional presidential republics” [44]. According to the Kazakh scientist B. Mukhamedzhanov, the form of government in Kazakhstan is transforming from presidential to mixed republic [45]. V. Malinovskiy, an another Kazakh author, defines the current form of government in Kazakhstan as “a model of a semi-presidential republic with a strengthened institution of the president” [46].

The Ukrainian constitutionalist V. Shapoval notes: “It is important that the form of government introduced in most post-Soviet countries can be characterized as an imitation of certain features of a mixed republican form or a presidential republic” [47]. V. Shapoval classifies this form of government as a monocratic republic [47].

The above analysis of researchers' judgments about the essence of the researched form of government proves the existence of fundamental theoretical difficulties that become obvious when trying to classify correctly this form of government [48], and the complexity of issues related to clarifying its nature [49].

5. Conclusion

In most of the states that were formed on the territory of the former Soviet Union, there were no democratic traditions of state formation, only the gaining of independence initiated the development of civil society in them, and the political parties that were independent of the totalitarian state, which had just appeared, did not affect the state mechanism of any kind tangible impact. Under such conditions, the formation of a stable coalition government on a parliamentary basis turned out to be impossible, and the president became the personification of the state and political life of the country. As a result, there was a functional replacement of the highest collegial body of executive power, the government, with a one-person body, the president, who uses other political institutions to ensure and strengthen his own legitimacy. It is natural that the constitutions, which were drafted with the direct participation and under the control of authoritarian presidents, legalized the mentioned practice. Thus, a special presidential form of government appeared in the post-Soviet space, which combined certain formal and legal features of a mixed republic with the hypertrophied constitutional status of the president. Although the organization of state power in this form of government testifies to the influence of the idea of a mixed republic, at the same time it reflects the rejection of the most important institutions of a mixed republic.

The presidential republic that exists in many countries of Eastern Europe and Asia shows too obvious differences from

a “full-fledged” mixed republic. Such essential attributes of a mixed republic as dualism of executive power, parliamentary investiture of the government, parliamentary responsibility of the government, countersignature of presidential acts by members of the government in post-Soviet presidentialized republics are either significantly distorted, or have acquired the character of a legal fiction, or are not constitutionally provided for at all.

The transitional, hybrid nature of the investigated form of government fundamentally complicates its classification. The correct definition of the presidential form of government adopted in the post-Soviet states of Eastern Europe and Asia within the trichotomous division of republics established in modern political science is essentially impossible.

Despite its high authoritarian potential and obvious functional defects, the transitional presidential republic proved to be a viable form of government under conditions of insufficient development of civil society and insurmountable political remnants of totalitarianism. The establishment of a “real” mixed republic in the countries of Eastern Europe and Asia directly depends on the prospects for the development of their party systems. Only the strengthening of the influence of political parties on the state mechanism, in particular, on the executive power, will enable the formation of a “full-fledged” mixed republic in these countries.

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