

## President of Russian Federation under the Constitution

*Tatyana Medvedenko*

Volgograd branch of Moscow University of Finance and Law, Volgograd, Russia

---

**Abstract:** The article is devoted to the institution of the Presidency according to the Russian constitutional and political practice. Many researches have been devoted to this issue. There are enough of different points of view on the given theme and they require the further analytical studying. The findings and recommendations, which author made in the article, may be used by practicing politicians and political scientists.

**Key words:** Constitution of Russian Federation • President • Parliament of Russian Federation • Resignation • Authority

---

### INTRODUCTION

The acceptance of the Constitution of Russian Federation [1] in 1993 was called to overcome a strip of political crisis and oppositions of all branches of state authority. The logic of construction of the new Constitution of Russian Federation corresponds to a principle of division of authorities accepted in the countries both with classical presidential and with parliamentary system of government. According to an item 10 of Constitution, the state authority in Russian Federation is carried out on the basis of division on legislative, executive and judicial. All the branches of authority are independent. Thus, the division of authorities not only does not exclude, but, opposite, provides coordination of efforts of various branches of authority and their interaction in established by the Constitution of Russian Federation limits and forms. The basic role on maintenance of interaction of authorities is assigned by the Constitution to the President, which agrees part 2 of item 80 Constitutions (coordinated functioning and interaction of bodies of state authority).

Thus the constitutional model of presidential republic in Russian Federation and the principles of interaction of authorities look in such a manner that with “checks” and “balances is provided by impeding to transformation of institute of the President into a mode of personal authority, uncontrolled to the people or capable to ignore other branches of state authority of Russia [2]. The problem consists in filling this model with the real social contents both legally and actually to guarantee a

society from authoritarianism. The legal conditions, necessary for it, are present in the Constitution. No matter how broad powers of the President are not unlimited. These powers are interfaced to powers of other federal bodies of state authority and the attitudes of the President both bodies of legislative and executive authority of Russian Federation, bodies of state authority of the subjects of Russian Federation are characterized not only rights, but also mutual responsibility.

### MATERIALS AND METHODS

The method of comparative analysis was used in distinction of different levels and kinds of legislations (Russian and foreign).

The method of qualitative analysis of scientific sources, literature and texts of laws were also used in the given study, as well as scientific method of system analysis.

### RESULTS

The former Constitution gave back the certain priorities to a maximum representative body of state authority-Congress of the national deputies, including in relation to the President. The congress had the right to consider any question referred to conducting of Russian Federation, heard the annual reports of the President and if regarded necessary, could require of President of the extraordinary report and at any time to cancel his acts.

---

**Corresponding Author:** Tatyana Medvedenko, Volgograd branch of Moscow University of Finance and Law,

The working Constitution not only does not give such priorities to parliament of Russian Federation-Federal Assembly, but also proceeds from a conducting situation of the President in system of state bodies of the country. It was reflected even in sequence of the chapters of the Constitution: Ch. 4 “The President of the Russian Federation” precedes Ch. 5 “The Federal Assembly”.

Earlier President was defined as the chapter of the executive authority and maximal official in the country. Now, according to an item 80 Constitutions, he is “the chief of state”. Referring to as the chief of state, the President can be a nominal figure and the conducting role in the country belongs to the government. However in Russia other model is elected, according to which we have not simple strong, but super-strong President.

According to the Constitution (item 80), President is the guarantor of the Constitution of Russian Federation, rights both freedom of the man and citizen. In the order, established by the Constitution, he arranges on protection of the sovereignty of Russian Federation, its independence and state integrity, provides the coordinated functioning and interaction of bodies of state authority. The President according to the Constitution of Russian Federation and federal laws defines the basic directions of internal and external policy of the state. He, as the chief of state, represents Russian Federation inside the country and in the international attitudes.

In what model of the strong Russian President is reflected brightly? It is possible to allocate the following factors:

- The President is elected on the all-Russian elections, hence, his power are derived from the people, which trusts the President maximum of state functions. So, according to an item 81 Constitution of Russian Federation, the President is elected by all citizens of Russia having the active suffrage, on general elections. By virtue of it he receives the mandate of trust not from parliament, as for example in Germany or Italy and from all population of Russia.
- The President in Russia on the constitutional model is not included into system of division of authorities and stands above all branches of authority. It is well visible from comparison of a number of norms. According to an item 10 Constitutions, the state authority in Russian Federation is carried out on the basis of division on legislative, executive and judicial.

The state authority in Russian Federation is carried out the President of Russian Federation, Federal Assembly, Government of Russian Federation, by courts of Russian Federation (item 11). It seems that the President carries out practically all of the state authority. Is it really so? Legislative carries out Parliament (item 94 Constitutions), executive authority of Russian Federation-Government of Russian Federation (item 110), the judicial authority, naturally, belongs to courts (ch. 7 Constitutions). It is necessary to make a conclusion that at the President the independent form of authority, which some researchers dubbed the presidential authority.

- Proceeding from told, it is necessary to note, that only President is allocated with a task of maintenance of the coordinated functioning and interaction of all other bodies of state authority-both federal and subjects of Russian Federation (items 80, 85 Constitution). Any other bodies have not similar opportunities in relation to the President.
- The President as a whole is independent of other bodies of state authority. Parliamentary and judicial checks and balances concerning presidential authority and furthermore the control exist in the most minimal sizes. In effect it is possible to speak about absence of the constitutional responsibility of the President. Even if to present, that the President of Russian Federation will make state change or other heavy crime serving as the basis for his dismissal from a post (item 93 Constitutions), the similar dismissal will be rather problematic, as in the Constitution the responsibility of the President for rough infringement not only Constitution, but also laws and presidential oath is not stipulated. Though the parliament of Russia in the face of the chambers is formal on the basis of items 93, 102 Constitutions can release the President from his post.
- In turn opportunities of the President, is especial in relation to parliament, are rather impressive: beginning from the messages to Federal Assembly, entering of the projects of the laws, which can be certain by the President as prime, right of the veto, offer of nominees of the officials nominated as chambers and finishing the right of dissolution of the bottom chamber-State Duma and purpose of extraordinary parliamentary choices (items 84, 111, 117).

- On an existing design the President has right on lawmaking, that is on acceptance of the acts (first of all of decrees), which in absence of the laws on equal with them adjust the public attitudes and work until the appropriate laws will appear; on a number of questions the laws are not accepted at all and the regulation is carried out or independently by President, or under his assignment by Government of Russian Federation. According to item 90 Constitutions the President of Russian Federation issues the decrees and orders, which are obligatory for execution in all territory of Russia. Neither Council of Federations, nor State Duma has no right them to cancel. But these decrees and orders can not contradict the Constitution and federal laws. At detection of such contradiction the Constitutional Court is proxy to cancel the normative decrees of the President, if will consider, that they do not correspond to the Constitution of Russian Federation.
- The President holds in hands all strings of internal and external policy of the state. According to item 86 Constitutions he carries out a management of external policy, negotiates and signs the international contracts, instruments of ratification. However these contracts do not inure without them ratification by Parliament by acceptance of the laws by both chambers (item 106 Constitution of Russian Federation).
- It is quite possible to name government of Russian Federation as Government of the President of Russian Federation, as the President completely forms it, directs its activity and at any moment have the right to send in a resignation (items 83, 111), though for appointment to the post of the Chairman of Government the consent of State Duma (items 103, 111) is necessary for the President. According to item 117 Dumas can also be expressed by mistrust to Government, in this connection the President is put before a dilemma-to announce about a resignation of Government or to not agree with the decision of State Duma. If the chamber within three months repeatedly will express mistrust to Government, the President is obliged either to set aside government or to dismiss State Duma (items 117 Constitutions of Russian Federation). Thus it is necessary to note, that a number of the members of Government take key posts, works under a direct management of the President (ministers of foreign businesses, defense,

internal businesses etc.), the President establishes also all system of federal bodies of the executive authority.

- According to item 87 of Constitution, the President is the Supreme Commander of the Armed Forces. The extremely President possesses the right to assert the military doctrine of Russian Federation, to nominate and to release maximum command of the Armed Forces of Russian Federation (item 83). However he is obliged (item 87) at sole introduction of a military rule immediately to inform about it Council of Federations and State Duma. He does not possess the right of the announcement of war and conclusion of the world. It is the exclusive competence of Council of Federation (item 106). Besides the parliament is allocated the right to assert the federal budget, with which help the legislative authority can influence questions of subsidizing of army and fleet. Just in conducting Council of Federations there is a decision of a question on an opportunity of use of the Armed Forces of Russia behind its limits (item 102).

The Constitution has given the President the right to enter in territory of Russia and in its separate districts an extreme rule [3]. However same clause obliges the President immediately to inform about it Council of Federations and State Duma. Just the legislative authority possesses the right to authorize or to cancel this decision of the President.

Carrying out the powers, the P resident of Russian Federation issues two kinds of the acts: the decrees and orders (item 90 Constitutions). Distinction between them to establish rather difficultly. It seemed, it is necessary to recognize that the decree-act of wider action having normative character and order-document of more private, concrete purpose. But it not so. Quite often normative are both decrees and order. And sometimes for regulation of similar questions the decrees, the orders (for example, creation of divisions of Administration of the President and statement of rules about them) are used. However, recently all the same tendencies are observed to use for normative regulation of the public attitudes in the form of the decrees. Besides for the certain questions of non-normative character the steady form is not the order and decree (for example, concerning rewarding, granting of citizenship of Russian Federation, output from citizenship, pardon prisoners, etc.). Therefore border between the acts of the President is conditional.

But perhaps in one situation the form of the decree is used rather frequently. It is connected to regulation of the most important public attitudes, is especial if they are not settled by the law; the decrees of the President in this case as though replaces legislative regulation.

According to an item 91 Constitutions, the President has inviolability. It means: nobody can apply concerning the President of physical or mental violence; he cannot be detained, neither to search, nor to arrest, to involve in any kind of the legal responsibility, while he consists in a post of the President; at last, President it is impossible to overthrow, to discharge of execution of duties [4].

According to item 92 Constitutions the President of Russian Federation begins execution of powers from the moment of bringing by him of the oath, stops their execution with expiry of the term of his stay in a post from the moment of bringing the oath again by elected President of Russian Federation.

Recently involve steadfast attention theoretical and practical questions connected to the preschedule termination of powers of the President of Russian Federation. In item 92 Constitutions devoted to these questions, is noticed: "the President of Russian Federation stops execution of powers preschedully in case of his resignation proof inability on a condition of health to carry out powers, belonging to him or discharges from a post. Thus the elections of the President of Russian Federation should be held not later than three months from the moment of the preschedule termination of execution of powers". The extremely important meaning has and following, the third part of item 92: "in all cases, when the President be not capable to carry out the duties, they temporarily are executed by the Chairman of Government of Russian Federation. Acting the President has not right to dismiss State Duma, to nominate referendum and also to bring in the offers on the amendments and reconsideration of rules of the Constitution of Russian Federation".

As it is visible, three ways of the preschedule termination of execution of powers of the President are specified in item 92: a resignation, proof inability on a condition of health to carry out powers, belonging to him, dismissal from a post. Let's consider each of them.

Resignation. It is a voluntary leaving from a post by signing of the written application informing about leaving a posts, of the oral announcement will be in this case hardly enough. Submission in a resignation and acceptance by the Chairman of Government on itself performance of duties of the President have already

irrevocable for the President character. Or else, the President can not then announce, that he changed his mind and withdraws the application for a resignation.

The tell the truth, arises a practical question: whether there comes for the Chairman of Government execution of duties of the President at a resignation last automatically or the Chairman should officially announce about the beginning of execution of duties? In order to prevent misunderstanding on this account there would be useful an interpretation of item 92 Constitutions on the part of the Constitutional court of Russian Federation. It is possible to offer the following interpretation: as the Constitution speaks only about a resignation of the President and does not provide that someone such resignation to accept, beginning of development of events is caused factor of the official announcement President about resignation, which, as is told, moves in writing (with the instruction not only year, month and day, but also hour, with which the resignation) begins, even if the President announces about it in public performance or in the application for TV. And the resignation should follow per day of the announcement about it; that is the President can not announce today that in one week, month. He leaves from the post, therefore as the similar situation and assumes for the President an opportunity to change his mind and to withdraw the application.

From the announced moment (day and hour) the Chairman of Government is considered automatically begun to execution of duties of the President. In his turn, Chairman of Government has to immediately make the application that has entered in the performance of duties. Such application is necessary for public calmness and maintenance of normal continuation of a general course of state businesses. But no more that.

Condition of health. At the decision of a question on destiny of powers of the President in connection with a condition of health two situations are possible.

The first situation. The president feels by the patient, but he in clear mind and consequently personally announces, that can not continue execution of powers of the President.

The second situation. The condition of health of the President is those, that the special authoritative medical conclusion is required; as to own opinion of the President, or him it is impossible to ask, for example, at proof loss of consciousness, or this opinion at a condition of the President can not have decisive meaning, for example, at come to deafness, blindness and etc.

The speech goes, hence, about cases, when, as against a resignation, the personal will of the President objectively can not be a determinative and the Chairman of Government announces about acceptance on itself executions of duties of the President on the basis of the medical documents. The tell the truth, not all is simple here again. Therefore it is necessary to consider different variants, though that someone did not search for the indirect forms of an overthrow of the President.

The first variant is irrevocable. The medical commission ascertains, that the President any more in a condition to return to fulfillment of duties. Then the Chairman of Government begins execution of duties of the President, is thought, since day and hour, when he knew the conclusion of a medical commission; also makes the special announcement of it. And from the date of such announcement the readout specified in the Constitution 3 months for realization of new choices begins.

Other variant-situation, when the President on a condition of health can not temporarily execute the duties, but there is a hope that the treatment will restore his forces, then he again can conduct state activity.

The question is-whether is necessary in this case to President to make the special application. Obviously, all depends on a concrete situation. If the Chairman of Government of Russian Federation leaves in holiday, he assigns the duties to one of the first assistants. Any public applications is not made, but the appropriate order of the Chairman is issued. Certainly, if the first assistant one, it is possible to do without and the order, as the specified rule is supposed logically or finds reflection in the law on Government.

The replacement of the President is not stipulated by the Chairman of Government on time of holiday. Being in holiday, the President continues to remain "at execution". Therefore formulation item 92 is designed on extraordinary situation.

Dismissal from a post. At introduction of a post of the President of Russian Soviet Federal Socialistic Republic (RSFSR) in 1991 in the Constitution the opportunity of his dismissal from a post was provided in case of infringement by him of the Constitution of RSFSR, laws of RSFSR and brought oath [5]. The working Constitution of Russian Federation has established such bases for statement of a question about dismissal, at which it practically is impossible. The president of Russian Federation, according to item 93 Constitutions, can be released from a post by Council of Federation only on the basis of put forward by State Duma of accusation of state change or fulfilment of other heavy crime.

The procedure at dismissal under the Constitution and rules of State Duma and Council of Federation consists in the following. The offer about nomination of accusation against the President can be brought in under the initiative not less than one thirds of deputies of State Duma. The Duma forms a special commission and receives its conclusion on a question. According to rules State Duma, discussion of the offer of the deputies will be carried out on session State Duma, on which act the representative from group of the deputies who have put forward accusation, the representative of a special commission, is necessary heard the conclusion of the Supreme Court of Russian Federation about presence in actions of the President of attributes of a crime, the deputies, experts act; the representatives of the President and Government in State Duma can receive a word outside of turn. State Duma makes a decision about nomination of accusation against the President two thirds of general number of the deputies of chamber.

The decision of State Duma is transferred in Council of Federation, which is obliged to receive the conclusion of the Constitutional Court of Russian Federation about observance of the established order nomination of accusation. Under the Rules of Council of Federation, at its session the consideration of a question begins with the message of the Chairman of State Duma about the bases nomination of accusation against the President, then the word is given to the Chairman KC and Chairman of the Supreme Court of Russian Federation for announcement of the conclusion of these bodies, then the conclusion of Committee Council of Federation by the constitutional legislation and judicial and legal questions is heard. The President is invited to session Council of Federation, to him or his representative the word at will can be given. The decision of Council of Federation about dismissal of the President from a post is accepted two thirds of votes of general number of the members of the given chamber. And this decision should be accepted not later than in 3-month's term the ambassador nomination State Duma of accusation against the President (item 93 of Russian Constitution); if in the specified term the decision Council of Federation will not be accepted, the accusation against the President is considered rejected [6].

With the announcement of the decision of Council of Federation of dismissal from a post of the President the execution of duties of the President by the Chairman of Government of Russian Federation begins. It seems, thus will not be excessive and application of the Chairman of Government that he has begun execution of duties (for public calmness and normal course of state activity).

## CONCLUSION

In England there is a saying, that the English queen can sign the mortal verdict to itself if the Prime Minister will give the signature for this act. This saying in the limiting form expresses degree powerlessness the queen in state activities and omnipotence of parliament. The queen-only symbol of unity of the state-United Kingdom of Great Britain and Northern Ireland. She executes only ceremonial and minor legal functions.

Certainly, the application of the English formula to the President of Russia is impossible, the modern Russian Constitution allocates with his authority and powers practically absolute monarch.

## REFERENCES

1. Constitution of Russian Federation (current edition), 2013. <http://www.consultant.ru/popular/cons/>
2. Avakyan, S.A., 1998. The President of Russian Federation: evolution of the constitutional and legal status. *Moscow State University Herald, Series "Law"*, 1: 8-40.
3. Fisher, L., 1971. The Efficiency Side of Separated Powers. *Journal of American Studies*, 2(5): 113-131.
4. Kulyabin, A.I., 1992. If Presidency is the best form of the executive authority. *The State and Right*, 8: 20-21.
5. Marchenko, M.N., 1992. The political and legal status of institute of the President (historical aspect). *Moscow State University Herald, Series "Law"*, 2: 3-12.
6. Radchenko, V.I., 1995. The President of Russian Federation in system of division of authorities. *The Russian Justice*, 8: 7-16.