

Does a “super-presidential republic” exist? The phenomenon of super-presidency experienced by post-communist countries of Eastern Europe and Asia

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Abstract: The aim of the work is to prove the scientific fallacy of the notion of a “super-presidential republic” as a form of government. In countries where the power of the president does not meet the necessary opposition from civil society and other state authorities, that power is transformed into the phenomenon of super-presidency. The desire to understand the essence of this phenomenon has led to the emergence in the professional community, primarily among political scientists of the post-communist countries of Eastern Europe and Asia, of the terms “super-presidential regime” and “super-presidential republic” or “super-presidentialism”. The use of the latter two terms reflects an attempt by a certain circle of scientists to explain the phenomenon of super-presidency as a form of government. Here lies a serious methodological error, since a “super-presidential republic” is not a form of government. If democratic political institutions are weak and civil society is underdeveloped, any republic in which the constitutional status of the president ensures his dominant influence over the executive branch can become “super-presidential”.

Keywords: form of government, political regime, super-presidential republic, super-presidentialism, super-presidency

Introduction

In modern scientific research in the field of the doctrine of state, in particular in political science and constitutional law, the terms “super-presidential republic” or “super-presidentialism” are usually used to characterize countries in which the strengthening of the role of the president in the state mechanism has reached its extreme limits and is accompanied by the development of a phenomenon of super-presidentialism. Studying the causes and nature of this phenomenon refutes the claim about a “super-presidential republic” as a form of government. The super-presidency is the functional hypertrophy of the president with the proportional atrophy of other most important elements of the state mechanism. Although the legal basis of the

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super-presidency is the competent dominance of the president over other higher bodies of the state, as well as his significant ability to influence the organization and activities of the executive power, the super-presidency is based mainly on extralegal factors.

Initially, the term “super-presidential republic” was used to describe the presidential republics of Latin America and Africa. In the mid-90s of the XX century, the “super-presidential republic” was considered as a Latin American variant of the presidential form of government. Along with the “super-presidential” republics of Latin America, the “presidential-monocratic (monistic)” republics of Africa were distinguished (Chirkin, 1996, p. 463; 1997, p. 128). The defining difference between “super-presidential” and “presidential-monocratic (monistic)” republics turned out to be conditional. It was seen in the fact that in “presidential-monocratic (monistic)” republics “the power of the president was even more strengthened” (Chirkin, 1996, p. 463). In fact, the “presidential-monocratic republic” was described as an extreme form of the “super-presidential republic”. Therefore, African non-democratic regimes began to be identified with the “super-presidential republic”.

After the formation of new independent states on the territory of the former Soviet Union, the terms “super-presidential republic” and “super-presidentialism” began to be applied to those of them, in which state power was concentrated in the hands of the president. Today, presidential republics of Latin America and Africa and post-Soviet transitional (between presidential and mixed) presidentialized republics are associated with the “super-presidential republic”.

The methodological basis of the study is formed by structural-functional, legal-dogmatic methods and the method of comparative analysis. With the help of the structural-functional method, the trend of development of the institution of the president in the political systems of post-communist countries of Eastern Europe and Asia was analyzed. The legal-dogmatic method was applied in substantiating the range of scientifically acceptable criteria for classifying the form of government, analyzing the features of the forms of government, etc. The use of the method of comparative analysis is associated with cases of comparison of homogeneous objects – forms of government and their elements, concepts, judgments, etc. The component of comparative analysis – the comparative-historical method helped to trace the development of ideas about the “super-presidential republic” in the scientific community.

1. Factors of the development of the phenomenon of super-presidency in the post-Soviet space

In the post-Soviet space, the development of the super-presidential phenomenon was determined by a number of circumstances. In most of the post-Soviet republics, there were similar unfavorable socio-political conditions and trends in their development, which objectively led to the recognition of the president as 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 socio-political stability, social and cultural development of the population, integrate into the world community or receive international recognition as a full member. Solving these tasks required a concentrated state will based on organized executive power. The president became the personification of this 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 (Seilekhanov, 2009). The successful solution of serious political and socio-economic 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 and socio-economic life of the country and thereby strengthened the stability and legitimacy of the political system in general. In the post-Soviet republics, where the phenomenon of the super-presidency arose and developed, it became a monofunctional system specially created to solve those extraordinary political, social and economic problems that the state faced (Harutyunyan, 2005).

The need to combine the legitimacy and effectiveness of power does not tolerate its vacuum. In many political systems, varieties of parliamentarism, unable to combine legitimacy with the effectiveness of power, are doomed to give way to a certain variant of presidentialism. In the post-Soviet republics, the strengthening of the power of the president against the background of the weakness of other elements of the state mechanism took place to the limit, which transformed it into a super-presidency. The super-presidency leaves a significant impact on the functioning of the constitutionally established form of government, distorting the action of many of its elements. "This makes us talk about the presence of presidential power, which stands above other branches of government, controls them and, in the end, closes them to itself. In other words, presidential power suppresses other branches of state power and replaces them with itself" (Harutyunyan, 1996, p. 29), A. Harutyunyan, an Armenian researcher notes.

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. "It is possible to predict with certainty", S. Holmes, an American scientist states, "that strong presidential power will appear where society is not organized enough to elect a parliament that is monolithic enough to create and support a coherent government capable of tough measures" (Holmes, 1993, pp. 36-39). Where civil society is not organized enough to ensure the formation of a government on a parliamentary basis, strong presidential power inevitably emerges. It is quite obvious that the inability of

the parliamentary majority to form a stable coalition government is evidenced by its inability to effectively restrain the actions of the president. As a result, the super-presidency became inevitable for many post-Soviet political systems (Holmes, 1993, Superpresidentialism), in which the constitutional strengthening of the status of the president took place against the background of the weakness of the parliamentarism.

In the development of the super-presidential phenomenon in the post-Soviet space, socio-psychological factors were also important, first of all, the strong paternalistic attitudes in society, which were preserved from socialist times. Under the conditions of an underdeveloped civil society and a deepening socio-economic crisis, such attitudes always produce a psychological need for a “strong hand” identified with the president (Seilekhanov, 2009, p. 85).

Another unattractive feature of post-totalitarian social consciousness is the underestimation of the importance of democratic political institutions, in particular parliamentarism, which also creates favourable conditions for the expansion of presidential power beyond its constitutionally defined boundaries. The reality of the constitution depends on the extent to which it is consistent with the political and legal psychology of the majority of the population. If public psychology and mentality are not yet able to perceive the essence of parliamentarism, but constantly personify power, no matter what the constitutional system of checks and balances is, the real capabilities of the president will always exceed his constitutional powers (Harutyunyan, 1996).

So, the super-presidential phenomenon is primarily based on political and socio-cultural factors. The reasons and nature of this phenomenon illustrate the well-known statement that authoritarian power is based mainly on informal and extra-constitutional principles (Elkins et al., 2014). Therefore, although the super-presidency is accompanied by constitutional deformations of the principle of separation of powers, it is more their cause than their consequence. The role of political and sociocultural factors in the hypertrophy of presidential power in the post-Soviet republics has become decisive. The legacy of the totalitarian past, underdeveloped political culture and legal awareness, features of the post-totalitarian psychology of society, which is used to personifying power, the immaturity of civil society led to the divergence of constitutional law and political reality. Therefore, despite the constitutional consolidation of the principle of separation of powers and the corresponding system of checks and balances, the entire state power was in the hands of the president. At the same time, the political experience of the post-communist countries of Eastern Europe and Asia attests that the emergence and development of a super-presidency is possible in any country with an underdeveloped civil society and a strengthened constitutional status of the president.

2. The essence of the “super-presidential republic”

It would be a serious mistake to underestimate the importance of constitutional provisions on the organization of state power even in a political environment where relations are regulated mainly by informal institutions. There is no doubt that the constitutions themselves create the formal and legal foundations of presidential authoritarianism (Shtykov, 2018). Therefore, the phenomenon of super-presidency always accompanies the concentration of a huge amount of powers in the hands of the head of state. It is obvious that the disproportion of constitutional powers of state authorities contradicts the principle of separation of powers and threatens the establishment of a dictatorship. However, trying to understand the essence of the phenomenon of super-presidency, it is important to keep in mind that under the conditions of super-presidency, the real role of the head of state in the functioning of the political system goes far beyond the limits defined by the constitution. Constitutional deformations of the principle of separation of powers are far from the determining reason for the development of the super-presidency. An essential characteristic of state power is its strength, that is the ability to achieve the desired result despite existing obstacles. The real power of the president depends not only on the scope of his constitutional powers, but also on the strength or weakness of those ruling subjects who interact with him (Holmes, 1993). Under the conditions of the super-presidency, only the president is a “strong” ruling entity, compared to which other higher bodies of the state show political weakness. The essence of the super-presidency is that the role of the president in the political system goes far beyond his constitutional status. “No matter how deeply the constitutional foundations of the status of the Head of State are analyzed”, one of the apologists of the super-presidency writes, “its true significance is incomparably richer”. Therefore, the normativist approach obviously requires additional analysis of numerous aspects of the real functioning of the complex institution of the presidency, or, as it is customary to say, a “living institution” (Malinovskii, 2012, p. 13).

The reactionary nature of this judgment is more than obvious, because in a state governed by the rule of law, the activities of all its bodies are bound by law and take place within constitutionally defined forms and limits. However, in the post-Soviet presidential republics, the idea of the connection of the activities of state authorities by law was forgotten. Here, not only the concentration of enormous power in the hands of the president took place, but also its exercise far beyond the constitutionally defined limits. It is important to understand that in the post-communist countries of Eastern Europe and Asia, the transformation of the president into a dominant element of the state mechanism and political system in general was not so much a consequence of a serious strengthening of his constitutional status, but more a consequence of the weakness of parliamentarism and other political institutions, which proved unable to limit the power of the president.

Paying tribute to the super-presidency as a possible alternative means of achieving political stability and overcoming the socio-economic crisis in the transitional period of the development of statehood, one cannot ignore its negative consequences for the prospects of the country's political development. The existence of a "super-presidential republic" inevitably leads to the collapse of the democratic foundations of social development and the establishment or strengthening of an undemocratic political regime. The super-presidency preserves an undemocratic political regime by preventing the development of democratic political institutions and the formation of a full-fledged civil society. Thus, the super-presidency makes it impossible to establish a democratic political regime in the medium and long term, and ultimately causes national degradation (Lytvyn, 2014). There is a certain limit beyond which the role of the president in the political system becomes detrimental to the development of immature democratic political institutions. The phenomenon of super-presidency, without any doubt, is beyond this limit and causes the threat of the country slipping into authoritarianism or even totalitarianism.

A destructive feature of the super-presidency is the weak institutional limitation of the power of the head of state (Rose-Ackerman et al., 2011, pp. 246-333). The super-presidency makes it impossible to apply actually any checks and balances to the president. Under the conditions of the super-presidency, it is practically impossible to apply to the president the impeachment as an extraordinary form of his constitutional and legal responsibility, and to recognize the acts of the head of state as unconstitutional by a body of constitutional jurisdiction. The characteristic features of the super-presidency are also attempts by authoritarian presidents to extend their tenure of office beyond the term established by the constitution or to retain power for life.

The legal and political irresponsibility of the president, the absence of any real institutional limits on his power inevitably lead to its self-sufficient, authoritarian nature. Under the conditions of the super-presidency, the existence and strengthening of any democratic political institutions enter into a logical contradiction with the authoritarian essence of the president's power. Therefore, the destruction or complete disappearance of these institutions become inevitable. Although under the conditions of the super-presidency much depends on the personal commitment of the president to constitutional values, in the end it is important to remember that the super-presidency is an alternative to the legal, democratic organization of state power.

The above provides grounds for concluding that under the conditions of an underdeveloped civil society and a presidential form of government, the phenomenon of super-presidency always occurs. Naturally, given the level of development of civil society, the functioning of the state mechanism of the countries of Latin America, Africa and post-Soviet presidential republics is marked by the phenomenon of super-presidency. However, super-presidency is mainly based on political and socio-cultural factors, therefore, ascertaining the fact of the existence

of this phenomenon in the country does not help in the classification of the form of government. Although constitutional norms that establish the form of government significantly influence political practice, they may not be decisive for this practice. This is confirmed by the fact that the texts of the constitutions of democratic and authoritarian states often do not show fundamental differences in terms of the distribution of powers (Elkins et al., 2014, p. 160). It is noteworthy that the development of the super-presidency does not depend on whether the president is constitutionally designated as the head of the executive power. The super-presidency is not a legal feature of the form of government. Despite the fact that a common feature of all states in which the phenomenon of super-presidency is observed is the excessively strengthened constitutional status of the president, the super-presidency reflects the political regime available in them, and it is caused, first of all, by the political immaturity of society. In particular, in the post-Soviet “super-presidential republics”, the form of government combines features of presidential and mixed republics.

3. Judgments about the nature of the “super-presidential republic” in the scientific community

The nature of the so-called super-presidential republic as the element of an undemocratic political regime is illustrated by the judgments of a number of political scientists of the post-Soviet space, primarily those who study the phenomenon of super-presidency using the example of their own country. In particular, the Russian scientist V. Chirkin, who was one of the first on the territory of the Commonwealth of Independent States to use the term “super-presidential republic” in his works, wrote in 1994: “The presidential republic has a tendency towards presidential authoritarianism, this is clearly evidenced by the appearance of super-presidential republics in Latin America, as well as presidential-monist republics in Africa” (Chirkin, 1994, p. 110). The experience of state building in the post-communist countries of Eastern Europe and Asia confirms the truth of V. Chirkin’s judgments about the immanent attraction of presidentialism to an authoritarian political regime and provides an opportunity to widely illustrate this potential flaw of presidentialism with the functional characteristics of presidentialized republics that appeared on the political map of the world after the collapse of the Soviet Union. The value of the quoted judgment of Chirkin lies in the fact that it explains the essence of the “super-presidential republic” as a result of the combination of the presidential form of government and the authoritarian political regime.

Later, in 1996, Chirkin, relying on external criteria that do not relate to the structural and functional organization of state power, already distinguished between “super-presidential”, “presidential-monist” and “presidential-military” republics. Chirkin distinguished the “super-presidential republic” on the basis of the concentration of “great powers” (Chirkin, 1996, p. 463) in the hands of the head of

state. As Chirkin believed, the “presidential-monist” republic distinguishes from the “super-presidential” republic by the fact that in it “the power of the president was even more strengthened”. “The presidential-military republic”, Chirkin argued, arises “under conditions of military regimes” and is, in fact, the rule of a junta headed by its representative, the president. In this form of government, the president “relies on the army, which forms a system of governing bodies from top to bottom” (465).

In 1999, guided by empirical criteria, Chirkin, along with the “super-presidential” and “presidential-military” republics, singled out the “presidential-monocratic republic” – “a form of presidential absolutism”, in which presidents head the only legal or generally the only party in the country, are the main ideologists of the country and the creators of the officially proclaimed mandatory ideology (1999, pp. 156-157). The researcher repeated his judgments about the “super-presidential republic” as a result of the concentration of power in the hands of the president and the “presidential-military” republic, which arises as a result of military coups and is the rule of the military. In fact, the names used by V. Chirkin reflect the peculiarities of the political regime in certain countries with a presidential form of government.

In 1994, the Ukrainian scientist Georgitsa, resorting to the geographical criterion, distinguished the “super-presidential republic of the Latin American type” and the “presidential-monocratic republic” observed in the countries of Africa and Asia (1994, pp. 50-51).

“The ‘super-presidential’ form of government”, says the Moldovan scientist Mishin, “is a strong presidential power that is practically independent and weakly controlled by legislative and judicial bodies. This is a special conglomerate of the traditional presidential form with a semi-dictatorial rule” (2003, p. 84).

In a similar way, the Russian researcher Orlov believes that the emergence of the “super-presidential republic” is associated with the functioning of the presidential form of government in the special conditions of the political systems of Latin America, under which the power of the head of state has become uncontrolled (Orlov, 2001). Simonishvili, another Russian scientist, distinguishes a “super-presidential republic” from a presidential form of government “*on the basis of the methods of exercising power* (emphasis added) and the scope of the president’s powers” (pp. 97-98). She believes that the most important reasons for the emergence of a “super-presidential republic” are the weakness of the legislative branch and political parties, rather than the way in which the principle of separation of powers is constitutionally implemented (p. 174).

The Russian scientist Gomerov, supporting the established legal division of republican forms of government into presidential, parliamentary and mixed forms of government, also calls the “super-presidential republic” a separate form of government. A special feature of the “super-presidential republic”, Gomerov points out, is the hypertrophied power of the head of state, which is not controlled by anyone. Gomerov believes that the main reason for the hypertrophy of the president’s power is not a violation of the balance of power in favour of the head of state (although, as the

scientist points out, this is also characteristic of a “super-presidential republic”), but the weakness of the parliament and the judicial branch of power, which are unable to effectively oppose the usurping actions of the president. The real content of the “super-presidential republic”, notes Gomerov, depends to a great extent on “the domestic political situation in the state, the balance of political forces and the scale of the democratic movement” (Gomerov, 2002, p. 747). I. Gomerov’s description of the “super-presidential republic” evokes associations with a presidential dictatorship. At the same time, the signs of a “super-presidential republic” defined by Gomerov, as well as in Chirkin’s classification of varieties of “super-presidential republic”, are signs not of a form of government, but of a political regime.

Russian researcher Ovchinnikova singles out the “super-presidential republic” as an independent form of government. Dividing the republican forms of government into parliamentary, presidential and super-presidential, the researcher sees the reason for singling out the latter in the fact that “the super-presidential republic is based on the main characteristics (the method of transferring power is the election of a successor by his predecessor; the issuance of normative acts regulating relations in all spheres of public life; law dissolution of the parliament; becoming the head of the regions and removing them from power) is significantly different from the classical presidential republic” (Ovchinnikova, 2008, p. 14). It is noteworthy that all of the above so-called main features of the “super-presidential republic”, except for one, are not features of the form of government at all.

English political scientists Derbyshire and Derbyshire put a meaning similar to the term “super-presidential republic” into the term “unlimited presidential form of government”. Derbyshires use this term “to describe the executive bodies of non-communist one-party states” (Derbyshire & Derbyshire, 1996, pp. 41-44). The defining feature of the “unlimited presidential form of government” is the concentration of power in the hands of a monopoly ruling party headed by a charismatic leader” (Derbyshire & Derbyshire, 1996, p. 48). However, this is not a sign of a form of government, but of a totalitarian political regime. In effect, the “unlimited presidential form of government” is a degeneration of the presidential republic under totalitarianism.

Derbyshire and Derbyshire are also singling out the “military (militaristic) organization of the executive power”. Scientists actually offer a description of individual national cases of military dictatorship. The absence of stable and repetitive features, and most importantly, its own special logic of the organization of state power, do not give grounds for considering the “military organization of the executive power” as an independent form of government.

Remarkable are the judgments about the essence of the “super-presidential republic” by the Russian scientists Khudoley and Khudoley. They define the “super-presidential republic” as “the organizational form of the president’s authoritarian power” (Khudoley, 2010, p. 56), its “legal expression” (Khudoley, 2015, p. 173). If the power of the president loses its authoritarian character”, Khudoley believes, “the

reverse process of transformation into an ordinary democratic republic of the presidential or mixed type from a super-presidential republic is also possible” (2010, p. 58). Applying an empirical approach, Khudoley distinguishes not only the “super-presidential republic”, but also its varieties – “monocratic super-presidential republic” and “segmentary super-presidential republic” (Khudoley, 2010, pp. 53-65). It is noteworthy that Khudoley and Khudoley describe the “super-presidential republic” as the result of the degradation of the presidential or mixed republican form of government in the conditions of an authoritarian political regime (Khudoley, 2010, pp. 53-65; Khudoley, 2015, pp. 166-175).

The Russian researcher Kondrashev, classifying the form of government in the Russian Federation, claims that the term “super-presidential republic” most successfully denotes a situation in which the head of state acquires “the image of a typical leader” or “monarchic president”, “who grants rights and freedoms to citizens and guarantees the preservation of the few remaining attributes of the republican form of government in the conditions of Russian reality” (Kondrashev, 2018, pp. 34-42).

The Ukrainian scientist Myronenko, singling out the modern “super-presidential republics” of Latin America, claims that “some of them (say, Venezuela, Bolivia, Ecuador) in the 21st century are *modern and post-modern modifications of the traditional Bonapartist or Caesarist regimes of the past*” (emphasis added) (Myronenko, 2014, p. 83). He considers the tendency to “strengthen authoritarian methods of governance while preserving formal democratic institutions and processes” to be a manifestation of the essence of “authoritarian super-presidential rule” (Myronenko, 2014, p. 125).

“So if we talk about the elevation of the institution of the president over traditional branches of power, and even more so – about its elevation over all state institutions”, the Ukrainian political scientist Karmazina writes, “then ... a more suitable equivalent would be, I think, one of such concepts as a super-presidential republic, dictatorship, tyranny, etc.” (Karmazina, 2004, p. 44).

The German scholar Shtykov, studying the constitutional foundations of presidential authoritarianism in the post-Soviet space, notes that although “in post-communist countries there is a strong correlation between the degree of authoritarianism of the political regime and the constitutional and legal concentration of power in the hands of the president” (Shtykov, 2018 p. 110), the “*super-presidential regime*” (emphasis added), among other things, is characterized by “highly personalistic, informal politics, in which clientelistic ties are the only significant form of collective action” (Shtykov, 2018, pp. 113-114).

The “Republic with a super-president” is studied by the Ukrainian scholar V. Lytvyn. By the aforementioned concept, he means “the format of any republican system of state government, in which the president as the head of state (and/or possibly the head of the executive branch) has a formal (legal) and/or actual (political) concentration of all branches and levers of state power” (Lytvyn, 2014, p. 165).

Noting the fact that the phenomenon of super-presidentialism can develop under different forms of government, Lytvyn proposes to use the terms “super-presidentialism” (or “super-presidential presidentialism”) and super-semi-presidentialism (or “super-presidential semi-presidentialism”) (Lytvyn, 2014, p. 163) to describe such cases and speaks of “understanding the phenomenon of republican systems of state government with super-presidents, as well as the dichotomy of republican systems of government with super-presidents into formally presidential and semi-presidential systems of government” (Lytvyn, 2014, p. 163).

Lytvyn points to several fundamental circumstances that confirm our conclusion that any presidentialized republic in a country with an underdeveloped civil society can become “super-presidential”, namely: the power of super-presidents is hypertrophied not only in accordance with the constitution, but also due to the fact that their powers “are not subject to checks and balances from the legislative, executive and judicial branches of state power”; in a “super-presidential republic” the president can be constitutionally designated as the head of state and the head of executive power or only the head of state” (Lytvyn, 2014, p. 166). The general defining features of political systems with the phenomenon of super-presidency, according to Lytvyn, are the underdevelopment of the party system, in which, under the conditions of an undemocratic political regime, the nature of political parties as institutions of civil society is distorted; the weakness of the parliament, in which a viable parliamentary majority capable of balancing the influence of the president cannot be formed; the transformation of the president into the center of the political system, which becomes not only the head of executive power, but also of the nation as a whole; “the establishment of an autocratic/monocratic type of regime, which is characterized by an orientation towards the president on the part of all or most state structures, in which there is no electoral or liberal democracy, and human and civil rights have only a formal and even fictitious nature” (Lytvyn, 2014, p. 168). Obviously, these features are not features of a form of government.

“The term “super-presidential republic”, the Ukrainian researcher Alekseenko points out, “is used rather as an ideological label, the use of which is intended to indicate an undemocratic regime of government ... the use of such a term as a “form of government” in relation to a super-presidential republic seems incorrect” (Alekseyenko, 2010, p. 14). It is noteworthy that in describing specific national variations of the phenomenon of super-presidency, Alekseenko uses the term “super-presidential regime” (Alekseyenko, 2010, pp. 14-17).

The above judgments indicate that in the works of many scientists, the description of the features of a “super-presidential republic” acquires obvious similarities to the characteristics of a political regime, and some researchers define super-presidentialism as a type of personalist political regime (Riabov, 2009, p. 68; Smirnova, 2013, p. 101).

The authors of one of the Ukrainian encyclopedic publications indicate that a “super-presidential (monocratic) republic” “is a type of authoritarianism”

(Superprezydentska, p. 375). Also in the electronic Great Ukrainian Encyclopedia, in the section on “superpresidential republic” it is indicated that “superpresidential republic is a type of authoritarian regime” (Demyanenko).

Therefore, the above gives grounds to assert that “superpresidential republic” is not a form of government, but a hypertrophy of the president’s power in the conditions of an undemocratic political regime, regardless of the adopted form of government. As a feature of a political regime, super-presidency, however, does not change the constitutionally established form of government.

4. The separation of the “super-presidential republic” as a methodological error in the classification of the form of government

Each form of government reveals a certain logic of the organization of state power. Therefore, for the correct classification of the form of government, it is important to establish the content of this logic. Any deviation in the organization of state power is insignificant, if it fundamentally does not violate its logic (Sartori, p. 81). Unprincipled exceptions to the rule characterizing the form of government are, to put it mildly, not rare. Since these exceptions do not significantly violate the logic of the organization of state power inherent in the form of government, they do not affect its classification. Therefore, 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. This fact is usually ignored by researchers who tend to “discover” many new forms of government, which are not such in reality.

Another common methodological error in the classification of the form of government among political scientists is the belief that formal and legal criteria are insufficient for an adequate classification of the form of government and the need to supplement them with empirical criteria. Proponents of the empirical approach to the classification of the form of government are convinced that the correct classification requires the application of the so-called functional principle and should be based on specific empirical data. Proponents of the empirical approach criticize the formal-legal approach to the classification of the form of government inherent in legal science as such that it does not allow to explain the fundamental functional differences of the forms of government, which according to their legal characteristics belong to the same classification group. The correctness of the empirical approach, they believe, confirms that any form of government has advantages and disadvantages, the abstract formal and legal analysis of which, without taking into account the political context of the functioning of the form of government, leads to the distortion of scientific knowledge. Therefore, supporters of the empirical approach argue that the classification, which is based not on the formal features of the form of government, but on the real capabilities of subjects exercising state power, “makes it possible to improve the traditional understanding of the forms of

government” (Pavlenko, 2002). However, attempts to rely on empirical data as criteria for classifying a form of government lead to far-fetched results. Although any specific form of government has special and unique features, it is always based on essential legal features, on the basis of which its truly scientific classification is possible. It is precisely such essential formally defined features that are permissible criteria for classifying a form of government. The classification of a form of government on other grounds is a case of using “too external and accidental features” (Korkunov, 1908, p. 257). It is natural that such a methodological error gives rise to a multitude of “newly discovered” and “unique” forms of government.

A form of government is a normatively established organization of state power, and not its functional characteristics. Ignoring the legal features of a form of government as criteria for its classification calls into question the importance of the constitution in the organization of state power. Of course, the form of government, given the peculiarities of the socio-political environment in which it exists, can acquire different manifestations in political practice. However, the fact that a certain form of government functions differently in different external conditions does not at all indicate that its constitutionally expressed essence changes. The form of government is capable of containing different political content. Political practice can significantly level or even completely eliminate the constitutional elements of the form of government. However, this practice does not create a new form of government, since it does not change its constitutional characteristics.

The use of an empirical approach denies the fundamental importance of formal and legal criteria for classifying a form of government. The essential features of a form of government do not depend on the multitude of variable external factors that affect its functional characteristics. Such features reflect the structural and functional organization of state power enshrined in the constitution. Therefore, replacing the formal and legal criteria for classifying forms of government with empirical data inevitably leads to erroneous classification results. The functional differences that the same form of government will exhibit in different socio-political conditions will by no means indicate the emergence of new forms of government or even its new varieties. The form of government will not change as long as its formal and legal features remain unchanged. The functioning of the same form of government in different external conditions will always cause certain empirical differences, sometimes significant ones. On the contrary, forms of government that differ in their legal features in conditions of a non-democratic political regime may exhibit similar functional characteristics. This is quite likely when the political regime levels the political significance of the form of government.

Thus, the fallacy of the empirical methodological approach to classifying forms of government is obvious. Developing the idea of the empirical (functional) aspect of the form of government, its supporters actually replace the analysis of the form of government with the analysis of the political regime.

Rejection of the legal criteria for the classification of the form of government leads to the confusion of its concept with the concepts of political system or political regime. Such a methodological error is reflected, in particular, by attempts to single out a special type of republican form of government – a “super-presidential republic”, as well as “classifications” of republics with a “super-presidential form of government” available in special literature. Replacing the legal criteria for the classification of the form of government with empirical criteria, supporters of the empirical approach claim the existence of a “super-presidential republic” in a specific case, based on the features of the political regime established by them. Since these signs are manifestations of the super-presidential phenomenon, supporters of the empirical approach consider them signs of a “super-presidential republic”.

Thus, the basis of the isolation of the “super-presidential republic” as a form of government is a methodological error, which involves replacing the legal features of the form of government with the features of the political regime or mixing these features. Moreover, the determining basis for this isolation is the fact of the hypertrophy of the president’s power, and not the establishment of a special combination of legal features inherent only to the “super-presidential republic”.

Under the conditions of the super-presidential regime, the president’s power is hypertrophied primarily because it is real and has filled the space that can and should be filled by the power of other higher state bodies. However, these bodies turned out to be weak and unable to play the role envisaged for them by the constitution in the functioning of the state mechanism.

The multitude of classifications caused by the lack of a clearly defined, established set of essential criteria for the classification of the form of government is unacceptable. Subjectivism, which leads to the selection of secondary, unprincipled criteria, cannot create a truly scientific classification, but generates classification chaos (Zaznayev, 2006). The subjective approach to the classification of the form of government was criticized already in the works of Jellinek. “It’s similar to that”, points out Jellinek, “if we were to classify mammals by their size, color, usefulness, etc., features that are all present in them, but are not distinctive features of individual species of this class. Moreover, all the specified criteria are inevitably one-sided and arbitrary, as well as any classification based on secondary or accompanying elements of any group of objects” (Jellinek, 1914, p. 663). Jellinek points to a methodological error of researchers who, resorting to subjectively chosen classification criteria, deduced “new” forms of government. Jellinek sees a truly scientific approach to the classification of the form of government in the application of formal and legal criteria:

Under all circumstances, only the formal aspects of the volitional relations expressed in the constitution can be clarified with scientific reliability, which, regardless of any specific features, due to legal necessity must be expressed in the life of the state. Therefore, only the legal classification of the forms of the state can be scientifically satisfactory. The question about the forms of the

state is identical to the question about the legal differences of the constitutions” (Jellinek, 1914, p. 665).

Indeed, only the legal features of the form of government reflect its essential features and the inherent logic of the organization of state power. It is impossible to classify the form of government based on criteria external to it. The form of government is a legal organization of state power, the essential features of which are reflected in its normative features. These signs have an objective nature and are therefore fundamentally important for the classification of the form of government. However, replacing the constitutional features of the form of government with other criteria for its classification causes scientifically incorrect results. Therefore, classifications of the form of government, which ignore its constitutional features, are unscientific. It is on such classification criteria external to the form of government that the assertion of the existence of a special form of government – the “super-presidential republic” is based. This statement is scientifically false – under the conditions of an underdeveloped civil society, any republic with a strengthened constitutional status of the president can become a “super-presidential”.

Since the strengthening of the constitutional status of the president was natural in the newly established post-Soviet states, most of them were unable to avoid a significant bias towards presidentialism. At the same time, a presidential republic was not introduced in any of the states that were formed after the collapse of the Soviet Union. Even where the role of the president in the organization and activities of the executive power is the greatest, the form of government has certain elements of parliamentarism and does not reveal a “rigid” separation of powers. In general, the organization of state power in the post-Soviet space reflects the influence of the idea of a mixed republic. This idea, however, is embodied in the constitutions of the post-Soviet states in an extremely distorted form: the form of government adopted in Azerbaijan, Belarus, Kazakhstan, Kyrgyzstan, the Russian Federation, Tajikistan, Turkmenistan, and Uzbekistan eclectically combines features of mixed and presidential republics. Considering the relationship (degree of organizational and functional combination) of the president with the executive branch, the form of government adopted in the aforementioned republics seems correct to define as a transitional (between presidential and mixed republics) presidential republic.

A transitional presidential republic does not have a full set of essential elements of a mixed republic and in fact only imitates it. The fundamental differences between a transitional presidential republic and a “real” mixed republic are the absence of parliamentary investiture of the government, a significant complication or even the absence of parliamentary accountability of the government, and the presence of the president as the head of the executive branch. In this form of government, the unconditional discretionary right of the president to terminate the powers of the prime minister and other members of the government, combined with his right to cancel government acts, eliminate the dualism of the executive branch and reduce the significance of the institution of countersignature. The presence of

the aforementioned powers in the competence of the president, even if he does not formally head the government, ensures the actual subordination of the government to the head of state. In the post-Soviet presidential republics, the president has become the real head of the executive branch, and the prime minister has become the administrative prime minister.

Although the constitutions of some post-Soviet states directly designate the president as the head of the executive branch, this does not indicate the existence of a presidential republic. A transitional presidential republic exhibits certain features that are not typical of a presidential form of government, primarily such powers of the president as the right of legislative initiative and the discretionary right to terminate the powers of the parliament early. The “rigidity” of the separation of powers, which is a fundamental condition for classifying the form of government as a presidential republic, does not imply the vesting of the president with the aforementioned powers. Another fundamental difference between the post-Soviet presidential republics and the presidential form of government is the presence of certain elements of parliamentarism, such as the participation of parliament in the procedure for forming the government, the right of parliament to approve the government’s program of activities, and the possibility of parliamentary accountability of the government. Despite the fact that the significance of these elements of parliamentarism in terms of the level of influence of the president on the executive branch is minimal, the form of government can no longer be considered presidential (Martyniuk et al., 2023).

Presidentialized post-Soviet republics exhibit significant differences. In some of them, the president combines the statuses of head of state and head of executive power (currently in Azerbaijan (Art. 99 of the Constitution of Azerbaijan) (The Constitution of the Republic of Azerbaijan), Kyrgyzstan (Part 1 of Art. 66 of the Constitution of Kyrgyzstan) (The Constitution the Kyrgyz Republic), Tajikistan (Part 6 of Art. 69 of the Constitution of Tajikistan) (Constitution of the Republic of Tajikistan), Turkmenistan (Art. 50 of the Constitution of Turkmenistan) (Constitution of Turkmenistan)), in some other cases he is not directly constitutionally defined as the head of executive power (currently in Belarus (Part 1 of Art. 79 of the Constitution of Belarus) (Constitution of the Republic of Belarus), Kazakhstan (Part 1 of Art. 40 of the Constitution of Kazakhstan) (Constitution of the Republic of Kazakhstan), the Russian Federation (Parts 1, 2 of Art. 110 of the Constitution of the Russian Federation) (Constitution of the Russian Federation), Uzbekistan (Art. 105 of the Constitution of Uzbekistan) (Constitution of the Republic of Uzbekistan)). At the same time, in all these states, regardless of the level of presidentialization of the form of government, a hypertrophied power of the president has reached a critical limit, taking the form of a super-presidency.

The very fact that the “super-presidential republic” exists in states with different forms of government proves that the “super-presidential republic” is not a form of government.

Researchers who consider the “super-presidential republic” as a form of government try to establish a set of its distinctive features. The number of these features and their content vary significantly, but there are some that are mentioned most often. Perhaps the most frequently mentioned feature of the “super-presidential republic” is the right of a person holding the position of president to be re-elected an unlimited number of times, which gives him the opportunity to hold the position of president for life. Thus, the feature, firstly, contradicts the principle of republicanism, which only argues our statement that the “super-presidential republic” is the result of the degeneration of the essence of the republican form of government in the conditions of an undemocratic political regime. Secondly, the phenomenon of the lifelong presidency is based on the desire of authoritarian presidents to retain power in any way, that is, to usurp it, and to avoid criminal liability, which also does not meet the criteria of a republican organization of state power. Thirdly, as the experience of post-Soviet republics has shown, in conditions of authoritarian or totalitarian political regimes, the powers of specific permanent presidents are prolonged, and mainly not by removing from the constitution provisions on the impossibility of running for the position of president by a person who has already held it twice in a row or the number of times established by law, but by constitutionally nullifying the terms of a person’s tenure as president, which preceded the relevant constitutional amendments, or by enshrining in the constitution an exception to the rule established by it regarding the possibility of re-election to the position of president for a specific person. It is noteworthy that restrictions on the terms of office of the president or the possibility of re-election to this position are currently established in the constitutions of Kazakhstan (Part 5 of Art. 42 of the Constitution of Kazakhstan (Constitution of the Republic of Kazakhstan)), Kyrgyzstan (Part 2 of Art. 67 of the Constitution of Kyrgyzstan (The Constitution of the Kyrgyz Republic)), the Russian Federation (Part 3 of Art. 81 of the Constitution of the Russian Federation (Constitution of the Russian Federation)), Tajikistan (Part 4 of Art. 65 of the Constitution of Tajikistan) (Constitution of the Republic of Tajikistan)), Uzbekistan (Part 1 of Art. 106 of the Constitution of Uzbekistan (Constitution of the Republic of Uzbekistan)). These states are often called “super-presidential republics” in the special literature. In the post-Soviet space, only the constitutions of Azerbaijan, Belarus and Turkmenistan do not contain the aforementioned restrictions and allow the same person to be re-elected to the position of president an arbitrary number of times.

All the special legal features of the so-called super-presidential republic should be considered as a more or less significant deviation from the norm, which is presidential and mixed republics. The eclectic and occasionally dissimilar combination of these deviations does not create a new form of government. Since the “super-presidential republic” does not reveal an established and repeated set of its own legal features unique to it in all cases, it is incorrect to use the term “super-presidential republic” to denote the form of government. However, political

scientists from the post-communist countries of Eastern Europe and Asia use this term to denote a special, in their opinion, republican form of government. At the same time, they endow the “super-presidential republic” with features that are more suitable for characterizing a non-democratic political regime than a form of government. It is obvious that the case when the constitutionally established republican form of government is combined with a non-democratic political regime reflects the concept of “monocratic quasi-republic” (“monocratic quasi-republican form of government”). It is this quasi-republican monocratic organization of state power in all its variations that political scientists from the post-communist countries of Eastern Europe and Asia call a “super-presidential republic”. A distinctive feature of the “super-presidential republic” is the “degeneration” of the features of the republican organization of state power. The “super-presidential republic” actually lacks the most important features of the republican form of government, although such features are constitutionally enshrined. This indicates that the phenomenon of super-presidency as an element of an undemocratic political regime is capable of changing the functioning of the constitutionally established form of government beyond recognition. Serious functional deformation of the elements of the constitutionally established form of government gives rise to the myth of the existence of a “super-presidential republic”.

Conclusions

Any presidential form of government creates institutional prerequisites for the emergence of the phenomenon of super-presidency. In the post-Soviet presidential republics, the power of the president, weakly limited by the constitution, turned out to be practically unlimited. The concentration of enormous power in the hands of the president, however, was not so much a consequence of the strengthening of his constitutional status as a consequence of the weak development of civil society, the insignificant influence of political parties on the state mechanism, the weakness of parliamentarism and judiciary as well as a political dependence of the body of constitutional jurisdiction. Under such conditions, it became impossible to limit and balance the power of the president. The super-presidency is mainly based on political and socio-cultural factors. Against the background of an underdeveloped civil society, any presidentialized republic can become “super-presidential”.

Varieties of presidentialism, characterized by the phenomenon of super-presidency, are called “super-presidential republic” in special literature in the post-Soviet space. However, this concept is scientifically incorrect. It is impossible to establish distinctive legal features of the “super-presidential republic”, which would testify to the logic of the organization of state power inherent only to it and give the necessary grounds to single it out as a special form of government. Although all of the so-called super-presidential republics show signs of presidentialization of the form of government, this is the end of their commonality. The legal features of a

“super-presidential republic” that researchers are trying to identify vary significantly and cannot be reduced to a common denominator. Not being repeated from one case to another, these features do not establish legal criteria that would make it possible to clearly distinguish the “super-presidential republic” from the rest of the republican forms of government.

The authoritarian power of the president nullifies the political significance of the form of government. If a hypertrophied power of the president goes beyond the constitutional limits and takes the form of a super-presidency, the republic inevitably becomes “super-presidential”. At the same time, it is impossible to single out the “super-presidential republic” as an independent form of government based on a distinctive combination of its constitutional features. Even more, the separation of the “super-presidential republic” is the result of a methodological error that ignores and replaces the legal criteria for the classification of the form of government with empirical data. The substitution of formal and legal criteria for empirical data in the classification of forms of government is a serious methodological error. This error threatens to make any classification of forms of government conditional and provokes attempts to single out forms of government previously unknown to political science, the number of which could be identified with the number of existing states.

The analysis of the nature of the super-presidential phenomenon, particularly in the experience of post-communist countries of Eastern Europe and Asia, makes it possible to assess adequately the scientific correctness of the term “super-presidential republic”. “Super-presidential republic” is a term that does not reflect the essence of what it denotes. Therefore, in jurisprudence it is acceptable to use it to denote not the form of government, but the political regime. It is not by chance that this term is used to indicate the undemocratic nature of the political regime. However, even in the sense of a political regime, the “super-presidential republic” is a conditional and unfortunate term. The term “republic” denotes a method of structural and functional organization of state power, and not ways and methods of its implementation.

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