

774

THE 2020 AMENDMENTS TO THE CONSTITUTION OF THE RUSSIAN FEDERATION AND THE IDEOLOGY OF A SOVEREIGN DEMOCRATIC AND WELFARE STATE

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Abstract: The article examines the constitutional and legal content of the 2020 amendments to the Constitution of the Russian Federation. The study aims to substantiate the existence of a coincidence of public opinion and public demand in Russia with the amendments to the Constitution of the Russian Federation, as well as to analyze the impact of these amendments changing the citizens' constitutional rights. The results of the study are the assessment of the impact of amendments to the Constitution of the Russian Federation on a possible change in sociopolitical life in Russia, strengthening guarantees, and increasing the scope of citizens' social rights. The article defines the peculiarity of the constitutional system of Russia, which was the result of the formation of a new political and public life after 1991, and reflects liberal political and legal values, stating that the citizens' social rights and the ideas of

state sovereignty were largely beyond them. A change in the current situation is possible through the harmonization and succession of Russia and the Soviet state, with the adoption of the social values of the USSR in modern Russia. The conclusions of the article boil down to a positive assessment of the amendments to the Constitution of the Russian Federation, which, according to the author, will lead to the formation of the ideology of a real sovereign democratic and welfare state in Russia. Besides that, the author notes in the conclusions that the establishment of Russia as a democratic state, with the recognition of a market economy, separation of powers, and the rule of law, is impossible without guaranteeing the social rights of all Russian citizens.

Keywords: amendments, Constitution of Russia; democracy; sovereignty; social rights





Introduction

The problems of the study of the 2020 amendments to the Constitution of the Russian Federation (RF) is associated with the need to determine whether there is a real demand from society to change the organization of the highest bodies of state power, as well as to identify the need of Russian citizens to increase the volume of their socioeconomic rights.

Besides, the problematic of the study is connected with the analysis of the possibility of implementing amendments to the Constitution of Russia in practice and not turning them into constitutional declarative and fictitious norms.

These issues are determined by the constitutional reform in Russia, the most ambitious reform since the collapse of the USSR.

The reform was initiated by the President of Russia. In January 2020, the President of the RF V.V. Putin introduced bill No. 885214-7 "On improving the regulation of certain issues of the organization and authorities" functioning of public (hereinafter referred to as bill No. 885214-7) to the State Duma of the

Federal Assembly of the RF (hereinafter referred to as the State Duma). On March 14, 2020, the bill was signed by the President of the RF and published (Bill No. 885214-7, n.d).

The aim of the study is the constitutional and legal analysis of the 2020 amendments to the Constitution of Russia, determination of their impact on changes in the socio-political life of society and constitutional values, as well as stating whether there was a real public demand for such amendments.

The study of the 2020 amendments to the Constitution of the RF is a fairly new subject in the constitutional law of Russia and is represented by a small number of research works, which are given below.

The head of the department of constitutional and municipal law S.A. Avakyan (2020), who, by the order of the President of the RF of January 15, 2020, was also included in the task group on the development of amendments to the Constitution of the RF.

His proposals are in many ways similar to bill No. 885214-7.

Another Russian researcher S.N. Baburin pays special attention to social and spiritual norms aimed at educating a patriotic citizen in decent





material conditions in the 2020 amendments to the Russian Constitution (Baburin, 2020).

It is hypothetically possible to assume that the 2020 amendments to the Constitution of Russia will determine the change in constitutional values in Russia and will affect the social and political life of the multinational people of Russia.

We believe that the constitutional and legal assessment of the amendments to the Constitution of the RF is relevant and significant for the development of Russian statehood and the implementation of the constitutional status of an individual.

Thus, this article is aimed at assessing and analyzing the constitutional and legal content of the 2020 amendments to the Constitution of the RF.

Besides, we note that the initial vote on amendments to the Constitution of the RF was planned to be scheduled for April 22, 2020, but due to the pandemic, the vote was postponed to a later date. Perhaps the vote will be held in the summer of 2020.

Methods

In this work, we use the following research methods: the

analytical method, the empirical method, the method of comparative jurisprudence, the historical method, and the formal-legal method.

The analytical method is used to compare constitutional norms, as well as to analyze the amendments made to them, aimed at a logical analysis of the text of the Constitution of the RF.

The empirical method is based on data from sociology and public opinion studies. Law sociology which was justified in the works of such jurists as G. Jellinek (2004) and O. Ehrlich (2011) shows that the legislative process and lawmaking as a whole should be based on public inquiry and public opinion. Given this, full-fledged legal research should be based on public opinion and the data of opinion polls.

The method of comparative jurisprudence was used to compare constitutional norms (the text of the Constitution of the RF) with the constitutional norms of foreign states (USA, Germany, France) to determine the features of the constitutional system of Russia and Russia's place among foreign states.

The historical method makes it possible to conduct a retrospective analysis of the effect of constitutional





norms, to determine the historical prerequisites for the adoption of the Constitution of the RF in 1993 and amendments to it, to prove the positive or negative effect of certain constitutional norms in space and time. This is especially important for justifying the feasibility of amending the Constitution of the RF in 2020.

The formal legal method is aimed at the design and presentation of a scientific text and allows formulating statements, hypotheses, and concepts, as well as giving interpretations to certain constitutional norms. The formal legal method is used in all sections of this article and allows it to be formalized as a legal study in the field of constitutional law.

Results

The study of the prerequisites, grounds, and content of the 2020 amendments to the Constitution of the RF is impossible without a digression into the history of the 20th century on the issue of adopting constitutions in Russia and introducing amendments to them.

Constitutional practice in Russia shows that every head of state, since the adoption of the first Constitution of Russia in 1918, initiated the creation of a new constitution.

Sometimes this was associated with the formation of a state or a change in the constitutional system (Constitution of the Russian Soviet Federative Socialist Republic (RSFSR) of 1918, Constitution of the USSR of 1924, Constitution of the RF of 1993), in other cases with the registration of the results of the state's policy (Constitution of the USSR of 1936 and 1977).

The Constitution of the RF in 1993 was adopted in the conditions of a fierce struggle between the Supreme Soviet of the RSFSR and the first President of the RF B.N. Yeltsin, the result of which was the dissolution of the Russian parliament and the submission to a popular vote on December 12, 1993, of the "presidential" draft of the Constitution of The Russia. "presidential" draft differed from the draft constitution proposed by Supreme Soviet of the RSFSR, in the vesting of the President of the RF with extensive powers and the formalization of a presidential republic in Russia.

The Constitution of the RF of 1993 contains the main liberal values: the priority of human rights (Art. 2); private property (part 2 of Art. 8); market economy (part 1 of Art. 8); ideological and political pluralism (Art. 13); the rule





of law (Art. 15); the freedom of labor (part 1 of Art. 37).

Thus, the 1993 Constitution of the RF contains liberal values and formalizes a strong "presidential" power.

Over the more than 20 years of existence of the Constitution of the RF, society has formed its idea of constitutional values, which does not always coincide with the official state doctrine (Komarova, 2019).

Sociological polls show that the population of the RF retains a positive attitude towards the Soviet state and its system. According to a poll by the All-Russian Center for Public Opinion Research (hereinafter VTsIOM) in 2016, 63% of respondents regret the collapse of the USSR (Back in the USSR?, 2016). Similar data for 2017 (66%) are presented by the largest non-state sociological center in Russia, the Levada Center (Mukhametshina, 2018).

A study by VTsIOM of the attitude of citizens of the RF to the draft of the amendments to the Constitution of the RF showed that 91% of citizens had a positive attitude to amendments regarding the welfare system: the consolidation of the indexation of pensions, benefits, and other welfare payments, fixing the minimum wage not

lower than the subsistence rate. Structural changes in the procedure for empowering officials (ministers, prosecutors), expanding the powers of the Federation Council of the Federal Assembly of the RF (hereinafter the Federation Council) are approved by approximately 60% of Russians (Popravki k Konstitutsii: znachenie i otnoshenie, 2020).

The sociological polls cited above prove that the population of Russia has a positive attitude towards the Soviet system based on the demands for expanding the citizens' social rights and their proper consolidation in modern Russia. The change in the procedure for the formation of public authorities is less important for the population.

At the same time, the doctrine of Soviet state law on the priority of social rights over the citizens' personal rights is well-known and reflected in all Soviet constitutions.

The 1993 Constitution of the RF, as noted above, was adopted during the collapse of the Soviet system and reflects liberal values to a greater extent, one way or another, putting citizens' social rights into the background.

The violation of the balance of personal rights, the values of a market



economy, on the one hand, and the citizens' social rights, on the other hand, led to a critical attitude among the population towards the current Constitution of the RF and the constitutional system as a whole.

The amendments to the Constitution of the RF proposed by the President of the RF are aimed at expanding the citizens' social rights, strengthening the sovereignty of Russia, and developing democracy.

Every constitution has an ideological function; it is also present in the 1993 Russian Constitution. Moreover, Art. 13 of the Russian Constitution stipulates that ideological diversity is recognized in the RF, and no ideology can be established as a state or mandatory ideology. The prominent domestic constitutionalist S.A. Avakyan believes that "each constitution fixes its system of social values and is aimed at bringing up the corresponding view of each member of society on its basis" (Avakyan, 2010). Until now, based on analysis of the text of the Constitution of the RF, it could be argued that its ideological function is to proclaim and assert liberal values.

We believe that the 2020 amendments to the Constitution of the

RF make it possible to conclude the approval of the ideology of the welfare state in Russia:

- Bill No. 885214-7 envisages the consolidation of a new article of the Constitution of the RF 751, which mentions "respect for the laborer, ensuring a balance of rights and obligations of a citizen, social partnership, economic, political and social solidarity";

- Article 75 of the Constitution the RF is supposed be supplemented with parts 6 and 7 of the following content: "In the RF, a system of pension provision for citizens is formed based on the principles of universality, fairness and solidarity of generations and its effective functioning is maintained, and pensions are indexed at least once a year in the manner prescribed by federal law (part 6); In the RF, under federal law, compulsory social security, targeted social support for citizens and the indexation of welfare payments and other welfare benefits are guaranteed "(part 7).

It should be noted that none of the constitutions of the countries of Western Europe (Germany, Italy, Great Britain, France) and the United States (Maklakov, 2012) contains the phrase



"laborer". This term is characteristic only of the constitutions of socialist states.

We believe that the amendments to the Constitution of the RF are aimed at strengthening the sovereignty of Russia. We base our statement on the following provisions of draft law No. 885214-7:

- a new part 2.1 is introduced into article 67 of the Constitution of the RF, which directly prohibits actions to alienate parts of the territory of the RF, and states that calls for such actions are also prohibited. It follows from this that the question of transferring the Kuril Islands to Japan cannot be considered, and that liability (to a greater extent, criminal liability) must always be established for agitation aimed at alienating Russian territories;
- the strengthening of sovereignty is facilitated by the constitutional consolidation of the provision on the RF as the legal successor of the USSR on its territory, as well as the legal successor concerning membership in international their bodies. organizations and participation in international treaties (part 1 of Art. 67.1 of the Constitution of the RF according to bill No. 885214 -7). Such a constitutional norm provides state

immunity from statements according to which "the succession of Russia and the communist regime (i. e. the USSR — I. I.) is doubtful" (Postanovleniyu Konstitutsionnogo Suda Rossiiskoi Federatsii No. 39-P/2019, 2019). Such statements only contribute to the disunity of society, after the adoption of the amendments, similar statements can be considered as anti-constitutional;

- the amended text of the Constitution contains Part 2 of Art. 67.1, which for the first time introduces the term "Russian state", while the official name of our state is the RF — Russia (Art. 1 of the Constitution of the RF). Thus, the Russian state is introduced as a unifying concept of all thousand-yearold statehood and the legal succession of this statehood by Russia. The same part indicates that Russia recognizes the historically formed state unity. This suggests a reference to article 1 of the Basic State Laws of the Russian Empire of April 23, 1906, which stated that "the Russian State is one and indivisible."

The ongoing constitutional reform in Russia is also aimed at democratizing the procedure for the formation of executive power by endowing the Federation Council and the State Duma with additional powers to



agree on the appointment by the President of the RF of heads of federal executive bodies, federal ministers (subparagraph "K" part 1 of Art. 102 of draft law No. 885214-7), as well as the consolidation of the institution of parliamentary control at the constitutional level (Art. 1031 of the Constitution of the RF on draft law No. 885214-7).

Besides, we believe that the amendments to the Constitution of the RF will contribute to the development of digital democracy in Russia, in which the population will participate more in the political life of the state, having a positive attitude towards constitutional norms.

A controversial point is the rejection of the rule prohibiting the heads of federal government bodies and judges from owning real estate by right of ownership in foreign countries, which was contained in the original version of bill No. 885214-7 of January 20, 2020. When discussing bill No. 885214-7 in the State Duma, the deputies excluded this provision. The co-chairman of the task group on the adoption amendments to the Constitution of the RF, Chairman of the Committee on State Building and Legislation of the State Duma P.V. Krasheninnikov explained that this ban could lead to a negative effect and many highly professional specialists would have to leave the civil service (Fedorenko, 2020).

Our position on this matter is diametrically opposite and consists in the need to strengthen the mechanisms of "nationalization of the elites", in which the decisions of officials will not depend on possible sanctions of foreign states, including the arrest of foreign acts of these persons (such as real estate in foreign countries).

The implementation of the 2020 amendments to the Constitution of the RF in practice is an important issue. According to P.V. Krasheninnikov, these amendments are already being implemented in the form of additional welfare benefits, which are paid by the state in a pandemic to the unprotected segments of the population (Zelensky, 2020). However, we believe that the main block of the 2020 amendments to the Russian Constitution has yet to be implemented.

Discussion

In published research, there was no active discussion of the amendments to the Constitution of the RF of 2020,



which can be explained by the rapid adoption of these amendments (introduced to the State Duma on January 20, 2020, adopted by the State Duma and the Federation Council on March 11, 2020, officially published on March 14, 2020).

An appeal (open letter) was published by Russian academic figures, cultural and literature professionals under the title: "Let us prevent a constitutional crisis and an anticonstitutional coup. An appeal of scientists, writers and journalists to the citizens of Russia" (2020), the essence of which was a call to the Constitutional Court of the RF to give a negative assessment of the possibility "resetting" the presidential term by introducing amendments to the 2020 Constitution of the RF. Note that subsequently the Constitutional Court of the RF, in its Statement No. 1-3 dated March 16, 2020, substantiated the possibility of "resetting" the presidential term of the President of Russia (Zaklyuchenie Konstitutsionnogo Suda Rossiiskoi Federatsii No. 1-Z, 2020).

A different opinion was expressed by a prominent constitutionalist of Russia, Doctor of Law I.A. Umnova, according to which

the nationwide vote for amendments to the Russian Constitution proposed by the President of the RF turned out not to be a referendum, but some kind of new, special approval procedure, unclear even to legal scholars and constitutionalists. The lack of wide public discussion of the 2020 draft amendments to the Constitution of the RF was criticized (Umnova, 2020).

We believe that the position of the constitutionalist I.A. Umnova is justified, since a nationwide public discussion of the draft amendments to the Constitution of the RF could enrich their content and would take into account the opinion of the general population.

Judge of the Constitutional Court of the RF T.G. Morshchakova, in her article "On the dialectics of the constitutional process and constitutional changes", as a whole, characterized the amendments to the Constitution of the RF in a negative way (Morshchakova, 2020).

The leading Russian constitutionalist, Director of the Institute of Legislation and Comparative Law under the Government of the RF T.Ya. Khabrieva positively assessed the draft amendments to the Constitution of the RF, arguing that they would strengthen



state power and ensure social stability and justice (Khabrieva, 2020).

The Russian parliamentarian and Doctor of Law A.A. Klishas noted that "in a short time we will see real changes in the situation to improve the well-being of citizens with low incomes" (Mislivskaya, 2020).

In Western Europe, the 2020 amendments to the Russian Constitution were covered by the BBC. The BBC article dated March 3, 2020 "Russia's Putin wants traditional marriage and God in the constitution" (Rosenberg, 2020) rightly notes that the current Constitution dates back to 1993 when the then Russian President Boris Yeltsin adopted Western democracy and capitalism. In defense of historical truth, V. Putin proposed an amendment "on historical truth" to the Constitution to protect "the great achievements of the people in defending the Motherland".

At the same time, the BBC believes that the purpose of the amendments is to extend the term of office of the President of Russia after 2024 (Rosenberg, 2020). We believe that this assessment of the BBC is politicized.

We believe that the study of amendments to the Constitution of the RF may be interesting for scholars in Western Europe or the United States and other foreign countries for studying the transformation of the political regime of Russia, as well as Russia's relations with the international community, taking into account the strengthening of its sovereignty.

According to the professor of law at the University of Hamburg Otto Luchterhandt (Germany), MEP from the Green Party Sergey Lagodinsky, a political scientist of the German Science **Politics** Foundation Fabian and Burckhardt, in the foreseeable future, due to the 2020 amendments to the Russian Constitution, the question of how Russia will overcome decisions of international jurisdictional bodies (the International Commercial Arbitration, the European Court of Human Rights) could arise, which would problems in the international arena (Goldenzweig, 2020).

Thus, the 2020 amendments to the Russian Constitution are being discussed among lawyers, political scientists, politicians, and economists in Russia and Western Europe.

We believe that the study of amendments to the Constitution of Russia may be interesting for scholars from Western Europe in terms of





changes in Russia's relationship with foreign states and Russias claims to strengthen its sovereignty in the world.

Conclusion

In conclusion, we would like to note that the constitutional reform of 2020 in the RF is fundamentally aimed at changing the procedure for the formation of government bodies (the procedure for empowering federal ministers, heads of federal executive bodies, senior officials of judges, prosecutors is changing), the constitutional consolidation of the legal succession of Russia concerning the USSR, expanding the citizens' social rights (fixing the indexation of pensions, welfare benefits, fixing the minimum wage at the level of the minimum subsistence rate).

All this allows stating and proving that an ideology of a sovereign democratic and welfare state is about to form at the constitutional level in Russia.

The sociological polls presented in the article show that Russian citizens generally approve of the 2020 amendments to the Russian Constitution. This proves the hypothesis that the constitutional values presented in the 2020 amendments to the Constitution of the RF (the approval of the ideology of a

sovereign, democratic and welfare state in Russia) are approved by the citizens of Russia.

At the same time, the issue of implementing the 2020 amendments to the Russian Constitution in practice remains largely open, since they still need to be approved by the people of Russia and executed by the state. The statement of P.N. Krasheninnikov on the implementation of the block of the 2002 amendments to the Constitution of the RF regarding the social rights (Zelensky, 2020) deserves attention but requires additional research.

We believe that the analysis of the constitutional reform in Russia in 2020 will continue in Russia, the countries of Western Europe, and the United States and that it will be associated with assessments of the implementation of certain provisions of the amendments to the Constitution of the RF.

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787



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