

Information for citation:

Khabrieva T. Ya., Andrichenko L. V. Konstitutsionnye reformy na postsovetskom prostranstve: tendentsii razvitiya [Constitutional Reforms in the Post-Soviet Space: Development Trends]. *Vestnik Permskogo Universiteta. Juridicheskie Nauki* – Perm University Herald. Juridical Sciences. 2017. Issue 37. Pp. 272–287. (In Russ.). DOI: 10.17072/1995-4190-2017-37-272-287.

UDC 342.41

DOI: 10.17072/1995-4190-2017-37-272-287

**CONSTITUTIONAL REFORMS IN THE POST-SOVIET SPACE:
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Articles in “Scopus” / “Web of Science”:

DOI: 10.1134/S1019331616040043

DOI: 10.1134/S1019331615030119

DOI: 10.1134/S1019331615020033

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Introduction: the article provides generalization and analysis of the modern experience of constitutional reforms in the post-Soviet space. By the examples of certain states, the authors show the permanence and variety of constitutional reforms, prove that changes of the constitutional text can be of different importance, and the concepts “change of the Constitution”, “constitutional amendment”, “constitutional reform” and “revision of the Constitution” used in legal science are different. In the context of the latest practice of the European Commission for Democracy through Law (the Venice Commission of the Council of Europe), the authors describe the modern constitutional reforms, which reflect the main directions of modernization in a number of countries being at the stage of deepening and strengthening the democratic foundations. **Purpose:** based on the analysis of the constitutional reforms implemented in several post-Soviet states over the past decades, to identify and demonstrate the specific features of constitutional reforms, their difference from ordinary modifications of the constitutional text which do not lead to the transformation of the fundamental principles of the state and society. **Methods:** formal-logical and comparative law methods, analysis, synthesis, comparison, and generalization methods were used. **Results:** it is impossible to characterize the constitutional reform with only one unique feature which would allow one to clearly distinguish it from a number of similar phenomena. Constitutional reform cannot be measured with quantitative indicators. Therefore, it is important to identify the conditions, or criteria, which will allow for referring some particular constitutional changes to the class of constitutional reforms. Most changes of the existing constitutions represent partial semantic correction of the text, not affecting the nature of the constitutional institutions. Modern constitutional reform is a goal-oriented action or a set of uniform goal-oriented actions which are stretched over the time; it is always characterized by the scale and implications for the

modern and developing legal regulation as well as for the entire system of social relations within the constitutional impact. Constitutional reform is characterized by changes of the fundamentals of the state and society, goal-setting, adequate resourcing, and certain legal and factual results.

Keywords: Constitution; constitutional reform; constitutional amendments; constitutional institutions; constitutional provisions; president; parliament; government; public authorities

Information on Russian

КОНСТИТУЦИОННЫЕ РЕФОРМЫ НА ПОСТСОВЕТСКОМ ПРОСТРАНСТВЕ: ТЕНДЕНЦИИ РАЗВИТИЯ

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Статьи в БД «Scopus» / «Web of Science»:

DOI: 10.1134/S1019331616040043

DOI: 10.1134/S1019331615030119

DOI: 10.1134/S1019331615020033

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Введение: статья посвящена обобщению и анализу современного опыта конституционных реформ на постсоветском пространстве. На примерах конкретных государств показаны перманентность и разнообразие конституционных преобразований, доказываются, что изменения конституционного текста имеют неодинаковую значимость, а принятые в юридической науке понятия «изменение конституции», «поправка к конституции», «реформа конституции», «пересмотр конституции» различаются. С учетом новейшей практики Европейской комиссии за демократию через право (Венецианской комиссии Совета Европы) раскрываются современные конституционные преобразования, отражающие основные направления модернизации в ряде государств, находящихся на стадии углубления и укрепления демократических основ.

Цель: на основе анализа опыта конституционных преобразований, произошедших в ряде государств постсоветского пространства за последние десятилетия, выявить и показать специфику конституционных реформ, их отличие от обычных изменений конституционного текста, не приводящих к трансформации фундаментальных основ госу-

дарства и общества. **Методы:** формально-логический, сравнительно-правовой, анализ, синтез, сопоставление, обобщение. **Результаты:** анализ конституционных преобразований позволил заключить, что конституционную реформу невозможно охарактеризовать каким-то одним уникальным признаком, идентифицирующим ее в ряду схожих явлений, она не может быть измерена количественными показателями, поэтому важно выявить условия, или критерии, соответствие которым позволит отнести конституционные преобразования к классу конституционных реформ. Большинство изменений действующих конституций связано с частичной внутринституциональной смысловой коррекцией ее текста, не затрагивая при этом саму природу конституционно-правовых институтов. Современная конституционная реформа – это действие, имеющее целенаправленный характер, или совокупность однородных целенаправленных действий, растянутых во времени; ее всегда отличают масштаб и последствия как для современного и развивающегося правового регулирования, так и в целом для системы общественных отношений в орбите конституционного воздействия. Она характеризуется изменениями фундаментальных основ государства и общества, целеполаганием, достаточным ресурсным обеспечением и определенными юридическими и фактическими результатами.

Ключевые слова: Конституция; конституционная реформа; изменения конституции; поправки к конституции; конституционные институты; конституционные нормы; глава государства; парламент; правительство; органы государственной власти

Introduction

In the last decade of the 20th century and in the early 21st century there have been numerous constitutional reforms around the world, the purpose, scope and dynamics of which differ markedly from previous years [4]. In this period, the national legal systems in general and the constitutional development in particular were influenced by the globalization processes, the depth of which often entails the potential possibility and even inevitability of the fundamental changes at the level of constitutional provisions.

Adoption of constitutional changes is a key event for each country, because in most cases this process is determined by the goals of reforming social relations. Even a partial change in the constitutional text may lead to a significant reorganization of constitutional and legal institutions, entailing a new model of constitutional development for the country. Studies confirm that most of the current constitutions have been amended. This affected not only the “oldest” constitutions but also fairly new basic laws adopted in the post-Soviet space. Generalization of the current experience of constitutional reforms of the last decade reveals a number of new problems in constitutional law that need to be resolved, including the need to take into account international democratic legal standards.

It is obvious that constitutional reform is always a certain break of gradualness, a qualitative

change in constitutional and legal institutions and rules of law, and this is its difference from other changes in the constitutional text. Adoption of a constitutional or other law on constitutional reform is only a part of the process of reforming the social relations. A law on reform often contains only an important provision affecting a certain institution of the public (state) system, the basis of the legal position of the individual. It is very rarely that one such provision, formulated as a new principle, is enough. Almost always a change in the constitution requires adoption of new legal acts, revision of existing legislation. This process can be lengthy as the adoption of laws and introduction of legal institutions take time. At the same time, careful preparation of the constitutional reforms in the last decades, carried out with the help of the so-called “package principle”, helps to avoid excessive delaying of this process.

Main Part

Changes in the constitutional text are of unequal importance. In legal science, the concepts of “changing of the constitution”, “amendment to the constitution”, “constitutional reform”, “revision of the constitution” differ. In the Russian language, the discrepancy between these terms follows not only from the semantics of the words. It is revealed during the analysis of some articles of the Constitution of the Russian Federation, as well as

Russian constitutional practice. From the title of Art. 9 of the Constitution of the Russian Federation “Constitutional Amendments and Revision of the Constitution” it follows that the concepts “amendment” and “revision” are non-identical, and their regulation, as we can see when comparing the content of Art. 135 and 136 of the Constitution, also differs. However, Art. 137 mentions the concepts: “changes in Art. 65 of the Constitution” (the list of names of the constituent entities of the Russian Federation) and “changes in the name of the constituent entity of the Russian Federation”, which are not considered to be amendments. But the concept “change” is broader than the concepts “amendment” and even more so “revision”, since it covers any modification of the constitutional text.

The text of the Constitution of the Russian Federation has been changed on repeated occasions. Most of the changes are these in Article 65 concerning the names and composition of the constituent entities of the Russian Federation. However, even at the level of amendment of Article 65, the procedure for making changes has various grounds. In some cases, it was the result of a change of the name of the Basic Law (a constitution or a charter) of the constituent entity of the Russian Federation, as, for example, when establishing new names for the Republics of Ingushetia and North Ossetia-Alania, the relevant changes were made hereby by the decrees of the President of the Russian Federation. It is unlikely that in this case there are any reasons to believe that these changes became messengers of the constitutional reform.

In other cases, it was a projection of a merger of the constituent entities of the Russian Federation or the inclusion of new constituent entities in the composition of the Russian Federation; respectively, federal constitutional laws became the basis for changing the federal Constitution. However, in this case we take the risk of asserting that these changes also did not have the character of a constitutional reform. Despite the change in the composition of the Russian Federation the possibility of these changes was directly provided by the Constitution of the Russian Federation, the same Art. 65 (part 2), they were implemented within the framework of the general principles of the federal structure of the state. The change in the composition of the constituent entities of the Russian Federation did not influence the types of constituent entities of the Russian Federation, the system of relations between the federal center and the regions, and the principles of relations between the constituent entities of the Russian Federation among themselves¹. At the

same time, these changes considered as a whole can constitute an element of an ongoing constitutional reform of a certain part of the country’s state-territorial structure.

The change in the term of office of the President of the Russian Federation and the State Duma that took place in 2008 can also hardly be attributed to a constitutional reform, since this was not about changing the constitutional and legal formation, and the system and structure of social relations remained in the previous form. It is also unlikely that the change that took place in 2008 and strengthened the system of control powers of the State Duma in relation to the Government of the Russian Federation was a “reform”, although the result of the amendment to the Constitution of the Russian Federation was a change in the balance of relations between the Parliament and the Government of the Russian Federation. But the amendments were of “the point character”; although they strengthened the degree of influence of the Parliament on the Government, they did not change the balance of power totally.

The most ambitious were the changes to the Constitution of the Russian Federation in 2014 – those amendments mainly concerned the expansion of the powers of the President of the Russian Federation with respect to the formation of the Council of Federation, the Supreme Court of the Russian Federation and the Prosecutor’s Office of the Russian Federation. But even those amendments, despite being of essential, even conceptual nature, which is almost similar to a reform, can be said to be reformative. It is more of a partial adjustment of the current constitutional model of organizing the state power.

However, even with the relative invariability of the text of the Constitution of the Russian Federation, the model of the constitutional development of the Russian Federation has been repeatedly changed. The particularly noticeable was the change in the federal system connected with the repeated reforms that took place, first of all, in the system of delineation of powers between the authorities of various territorial levels. The local self-government system also underwent considerable modification, which changed its development directions. However, all this took place against the background of the constitutional stability of these relations, since their general constitutional principles are laid in the foundations of the constitutional order.

Let us pay attention that the said changes did not concern chapters demanding the full revision of the Constitution of the Russian Federation. At the same time, any changes in the three chapters

constituent entities of the Federation; it is published in the annex. Therefore, the abolition and unification of constituent entities is carried out by an ordinary law of the Parliament, not by an amendment to the Constitution.

¹ It is noteworthy in this connection that in some countries, for example in India, the Constitution does not contain a list of

(the first, the second and the ninth) of the Constitution inevitably lead to the change of the Constitution, necessarily preceded by the convocation of the Constitutional Assembly, which can take a decision to adopt a new Constitution, including through a Referendum. The applied formal approach to the invariability of the three chapters of the Constitution of the Russian Federation, in our opinion, is more likely to be a consequence of the need to maintain the constitutional stability in the period of instability of foundations of the constitutional system, which took place in the early 1990s, the period of adoption of the Constitution of the Russian Federation 1993, which allowed for solving this problem. However, under the invariability of certain provisions of the Constitution the issue is not about some specific chapters of the Constitution, but about the constitutional and legal foundations contained in these chapters, the invariability of which is supported by the complicated adoption of a new Constitution. These foundations should be not only a guarantee of the strength of the Constitution itself, but also the basis for the constitutional legal order and “an element of the constitutional thinking of the legal state” [2, p. 448].

Over the past decade, some other states of the post-Soviet space have seen many examples of constitutional changes, some of which have the character of constitutional reforms. Without naming all the constitutional changes that have taken place in these states since the collapse of the USSR, we will consider only the most noteworthy of them, reflecting the main directions of constitutional reforms and the specifics of the constitutional development of individual countries.

Perhaps the most significant changes that led to the change from the semi-presidential form of government to parliamentary were made in the Constitution of the Republic of Armenia in 2015¹.

¹ In addition to transferring the basic powers to manage the country to the Parliament, the constitutional reform corrected the procedure of replacing the post of the Head of state – now the president of Armenia is elected not for five years, but for seven years, and not in direct elections, but by deputies and elected representatives of local self-government bodies. The President retains individual staffing powers, he appoints a candidate from the party or party bloc that won the parliamentary elections as Prime minister. However the armed forces are subordinate to the Government, and the Supreme commander-in-chief during the war is the Prime minister. The President of Armenia is the Head of state, who embodies national unity, monitors compliance with the Constitution and cannot be a member of any party. Important guarantees have been estab-

Thus the constitutional reform in Armenia affected the very form of the state. At the same time, a new concept of constitutional regulation of human rights was proposed, the role of the church was determined, the organization of the judiciary was adjusted etc.²

The reform was implemented with the help of the constitutional referendum held on December 6, 2015. It should be noted that since 1991 it had already been the fifth constitutional referendum in the country, four of which being recognized as successful³. Given the scale of the constitutional reform and its consequences for the country, the resolution of such issues in a referendum ensures the highest degree of legitimization of constitutional reforms. In this regard, it is worth recalling the words of the well-known constitutionalist John Elster: “there are democratic constitutions in the world that were adopted by undemocratic way, but there is not a single authoritarian constitution that was adopted by democratic way” [6].

The members and experts of the European Commission for Democracy through Law (Venice Commission) [3] played a significant role in this reform. They had been providing the assessments of the constitutional processes in Armenia, prepared expert reports on all issues and institutions affected by the constitutional reform in accordance with the European standards of democracy, human rights and the rule of law for nearly two years⁴.

It should be noted that it was not the first fact of the transition to the parliamentary form of government in the post-Soviet space. Before such a scheme was also implemented for example in Georgia, where in October 2010 at the constitutional level the powers were transferred from the presidential vertical to the parliament and the government formed

lished against monopolizing power – one and the same person can be elected president only once.

² A smooth transition to the parliamentary republic should be implemented during the electoral cycle of 2017–2018.

³ For example, the first referendum on the recognition of the independence of the Republic of Armenia from the USSR was held on September 21, 1991, 99,5 % voted for independence; Constitutional referendums on the amendment of the Constitution of Armenia were also held in 1995, 2003, 2005 and finally in 2015. However, the results of the 2003 constitutional referendum were declared invalid, since the number of votes in favor of the changes was less than one-third of the number of registered voters.

⁴ The main report on the draft constitutional reforms in Armenia was presented by the Director of the Institute of Legislation and Comparative Law under the Government of the Russian Federation, member of the Venice Commission, Academician of the Russian Academy of Sciences T. Khabrieva.

by the highest legislative authority. After the parliamentary elections on October 8, 2016, in fact, the state's transition to the parliamentary republic was completed. At the same time, the last reform is radically different from the large-scale reform of the Georgian Constitution in 2004, when 30 articles of the Constitution of 1995 were changed, and the ultimate goal of the reform was the strengthening of the presidential power due to the concentration of the president's powers, including the power of early dissolution of the supreme legislative authority¹.

The Republic of Azerbaijan chose another way for constitutional reforms. Act of the Referendum of the Azerbaijan Republic "On Making Amendments to the Constitution of the Azerbaijan Republic", which was adopted by the referendum in September, 2016, affected 29 articles of the Basic Law. The legality of putting to the referendum the amendments to the Basic Law of the country was confirmed by the Constitutional Court of Azerbaijan, noting in its Ruling of July 25, 2016, "the proposed innovations do not contradict the general provisions of the Constitution on democracy and the foundations of the state, and can be put to a referendum".

A number of constitutional amendments were made to expand the rights of citizens, in particular, to confirm the protection and respect of human dignity, to ensure the equal rights of all persons with disabilities and administrative and judicial guarantees of human rights and freedoms, to prevent violations of the rights of citizens in the part related to personal data, when applying information technology, the responsibility of municipalities together with municipal employees for damage to citizens' rights, the reduction of passive electoral rights in elections to the Parliament of the country from 25 to 18 years old. All this obviously testifies to the democratization of the country's public life. However, despite all the importance, for the reform itself these were just private issues, which is evident even from the "point" nature of the innovations themselves.

The most significant changes that directly affected the form of the government in the state were related to the modification in the system of higher authorities of the Republic. In addition to some purely external changes,² in the Basic Law were

also introduced such fundamental provisions as the empowerment of the President to dissolve the Milli Majlis (the Parliament) of the country and announce the early presidential elections. Thus, unlike Armenia, the constitutional referendum in Azerbaijan was aimed at strengthening the role of the President of the country in the system of state power. It should be noted that the previous constitutional referendum held in the Republic of Azerbaijan in March 2009 established the right to elect the same person to the office of the President more than twice. It seems that the recent amendments to the Constitution had typical features of constitutional reforms in the Republic of Azerbaijan. They fit into the common line of constitutional changes that strengthened the foundations of the presidential republic in the state.

Numerous times amendments through a referendum have also been made to the Basic Law of the Republic of Kyrgyzstan – the Constitution of May 5, 1993. At the same time, the constitutional reforming had been often preceded by dramatic events connected with the violent change of political power in the Kyrgyz Republic³.

post of the First Vice-President and Vice-Presidents; In the event of an early resignation of the President from office before the election of a new head of the state, the President's authority should now be exercised not by the Prime Minister, as it was before, but by the first Vice-President.

³ The result of the 1996 and 1998 referendums were the amendments that affected the delineation of the powers of the President and the Parliament (Jogorku Kenesh) of the Kyrgyz Republic with a focus on strengthening the powers of the President. The amendments to the Constitution of 2003 established the presidential form of government in Kyrgyzstan as a result of a significant expansion of presidential powers to form the Government, to manage the external and internal policies of the state, to assign legislative powers (the right to issue decrees which have the force of law), etc. After the well-known events that led to the overthrow of the first President of the Kyrgyz Republic A. A. Akayev in March 2005, the country again carried out a constitutional reform, which resulted in the approval of a new version of the Constitution of the Kyrgyz Republic in 2007. However, in the conclusion of the Venice Commission on the existing constitutional situation in Kyrgyzstan (December 14–15, 2007), the following negative points were noted: 1) the tendency of authoritarianism of the current version of the Constitution; 2) violation of the principle of separation of powers by the head of the state; 3) impossibility for the civil society to exercise control over the actions of the authorities; 4) the risk of violent change of state power due to the lack of mechanisms for its peaceful transfer. It should be noted that although the task of the Venice Commission cannot be the consideration of national constitutional courts' decisions, the Commission, nevertheless, noted an extremely unusual, if not unprecedented, case connected with the fact that the Constitutional Court of the Kyrgyz Republic declared the entire text of the constitution to be unconstitutional. In fact, as a rule, constitutional courts must make their decisions on the basis of the constitution that is in force at the time of the decision-making. In the opinion of the Venice Commission, the new version of the Constitution 2007

¹ It is likely that in the next few years we can expect another constitutional reform in Georgia – as is known, on December 17, 2016 the Georgian Parliament approved the composition of the State Constitutional Commission, and on January 27, 2017 it prepared a draft of constitutional amendments. Speakers from the Venice Commission were: K. Grabenvater, E. Tanchev, T. Khabrieva and others.

² For example: the term of the President's office has been extended from five to seven years; the provision is made for the

Adoption of the current Constitution of the Kyrgyz Republic on June 27, 2010, in fact, marked the next constitutional reform in the life of the country. The Law of the Kyrgyz Republic “On the Enactment of the Constitution of the Kyrgyz Republic” stipulated that the provisions concerning the constitutional foundations of the state system and the rights and freedoms of the individual entered into force from the moment of the official publication of the Constitution. At the same time, a moratorium to amend the Basic Law by the Parliament until September 1, 2020 was enshrined. In the Opinion of the European Commission for Democracy through Law (Venice Commission) on the draft Constitution, it is noted that the Constitution of the Kyrgyz Republic (edition of 2010) “fully corresponds to democratic standards” and the project deserves high praise as it is the first creation of a form of parliamentary government in Central Asia¹.

The implementation of the constitutional reform of 2010 led to the expansion of the rights of citizens and to the consolidation of the maximum number of mandates of the political party that wins the parliamentary elections (no more than 60), as a result of which no party will have the

of the Republic also gave grounds for the development of serious problems, as it created the basis for excessive concentration of powers in the hands of the President and did not guarantee the separation of powers. With the formal preservation of the semi-presidential republic, in practice state power was concentrated in the hands of the President. The final “verdict” of the commission regarding the Constitution of the Kyrgyz Republic was also no less rigid, as it considered that “the negative aspects prevail in the text of the new Kyrgyz constitution, and the major attack was the establishment, by all means, of the undisputed predominance of the President over all the other branches of power. There are no legal restrictions on the powers of the President, and the consequence may be a revolution, and not a peaceful and constitutional transfer of power”. This is exactly what happened, because the system of power that was formed with the adoption of the 2007 Constitution once again led to the well-known tragic events of April 7, 2010 in the territory of the Kyrgyz Republic and the overthrow of the next President.

¹ See: Opinion of the European Commission for Democracy through Law (Venice Commission) on the Draft Constitution of the Kyrgyz Republic, adopted by the Venice Commission at its 83rd plenary session (Venice, June 4, 2010). The conclusion is registered under the number No. 582/2010 of CDL-AD (2010) 015 in Strasbourg on June 8, 2010. Available at: [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2010\)015-rus](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2010)015-rus)

opportunity to consolidate the monopoly in the political system. In addition, by virtue of the Constitution, there took place strengthening of the legislative power and a new distribution of powers between the legislative and executive branches and the President. Since the Provisional Government of the Kyrgyz Republic passed the decree of April 12, 2010 “On the Dissolution of the Constitutional Court of the Kyrgyz Republic” with the aim to exclude attempts to use the Constitutional Court of the Kyrgyz Republic for destabilization of the situation, it was decided to dissolve the Constitutional Court of the Kyrgyz Republic until a special decision of the Provisional Government of the Kyrgyz Republic would be made. As a result, the Court being the highest judicial body for the protection of the Constitution ceased to exist. According to the new version of the Constitution of June 27, 2010, constitutional control was remained with a completely new body – the Constitutional Chamber of the Kyrgyz Republic, which was part of the Supreme Court, but was seen as a separate, self-sufficient system for adjudication.

However, the remaining problems in the organization of state power (the intricate procedure of forming the Government, the ambiguity in the appointment of certain officials, the insufficient regulation of the interaction of the Parliament and the Government in the formation of the state budget, the critical attitude of experts to the decision to dissolve the Constitutional Court, the need for a more clear distribution of powers of the Parliament, the President and the Government concerning with the implementation of foreign policy, etc. [1]) demanded the continuation of the constitutional reform². In the referendum held in December 2016, despite the established moratorium on making amendments

² The violation of the procedure for introducing changes was brought to the attention of the 2016 Joint Opinion of the OSCE / ODIHR and the Venice Commission. See: Conclusion of the Venice Commission No. 863/2016, OSCE / ODIHR Conclusion No. CONST-KGZ / 294/2016. Republic of Kyrgyzstan. Joint Opinion on the draft law “On Amending the Constitution”, approved by the Venice Commission at its 108th plenary session (Venice, October 14-15, 2016). Strasbourg / Warsaw, October 19, 2016. CDL-AD (2016) 025.

until 2020, there was adopted a package of amendments to the Constitution of 2010¹, containing a set of changes concerning the rights and freedoms of the person and citizen; strengthening parliamentarism, clarifying the principles of interaction between the legislative and executive branches of state power; reforming the judicial system and the law enforcement system.

It is noteworthy that the Constitution changed the correlation between the international and national law – there is now no clear recognition of the primacy of international law. The determination of the procedure and conditions for the application of international treaties and universally recognized principles and rules of international law has been transferred to the level of law. The purpose of these changes was the establishment of national and international law synchronization while strengthening the sovereign rights of the state in the field of legal regulation.

In order to prevent the possibility to introduce into the consciousness of citizens alien family values that do not conform with the cultural traditions developed in the Kyrgyz society, it is established that the family is created on the basis of a voluntary union of a man and a woman, whereas in the earlier version the marriage was considered a voluntary union of two persons, without identification of their gender. This position is understandable. Today we see that the internationalization of certain “values” contributes to the conflict of cultures and their opposition, since their internationalization is of a propagative exportable nature.

Along with the expansion and strengthening of guarantees for the exercise of the rights of citizens, there is a provision that establishes the possibility of depriving Kyrgyz citizenship in cases and in the manner established by the constitutional law. Transferring the resolution on a question on the grounds for revocation of citizenship and the establishment of appropriate legal guarantees to the legislative level reduces the constitutional guarantees for ensuring the rights of citizens.

The reforms carried out in the sphere of constitutional construction aimed to create a system of checks and balances and raise the level of state control over the legality of the actions of public authorities. In particular, the ratio of the powers of the President and the Parliament has changed with the strengthening of the role of the latter regarding the

dismissal of the Prosecutor General’s Office of the Kyrgyz Republic. The role of the Prime Minister in the formation of the Government has increased.

At the same time, even at the level of examination of the draft amendments to the Constitution, the newly established powers of the President and the Parliament regarding the dismissal of judges of the Supreme Court and the Constitutional Chamber have caused a fair, in our opinion, disapproval by the Venice Commission, as the list of grounds for early dismissal in cases “not related to breach of the impeccability requirements” is open in nature and is not stipulated even by reference to the rules of the law.

As the OSCE / ODIHR and the Venice Commission noted in their joint opinion, some proposed changes could have a negative impact on the balance of power by strengthening the powers of the executive branch and weakening those the legislative and, to a greater extent, the justice. This can be seen in particular on the example of the Constitutional Chamber, whose role is set as a body of judicial constitutional control and determination of the responsibility of the judges of the Supreme Court and the Constitutional Chamber of the Republic. Some of the proposed changes raise fears in the light of their compliance with the key democratic principles, in particular, the rule of law, the separation of powers and the independence of the judiciary, and may lead to the violation of certain human rights and fundamental freedoms².

As part of the transformation of the judicial system, the Plenum of the Supreme Court was vested with the right to give explanations on judicial practices, which are mandatory for all the courts and judges of the Kyrgyz Republic (Part 2, Article 96). The fact that the decisions of the Plenum of the Supreme Court are binding at the constitutional level raises quite a natural question: will there be any problems with judicial discretion in connection with this matter? Each case has its own peculiarities, but the judges of the courts will have to decide cases in accordance with the explanations of the Plenum, and not as required by an agreement between the parties or the law.

Amendments have also been made to the powers of the prosecutor’s office, which “oversees

¹ See: Law of the Kyrgyz Republic No. 218 of December 28, 2016 “On Amendments to the Constitution of the Kyrgyz Republic”.

² See: Conclusion of the Venice Commission No. 863/2016; Conclusion of the OSCE / ODIHR No. CONST-KGZ / 294/2016. Republic of Kyrgyzstan. Joint Opinion on the draft law “On Amending the Constitution”, approved by the Venice Commission at its 108th plenary session (Venice, October 14-15, 2016). Strasbourg / Warsaw, October 19, 2016. CDL-AD (2016) 025.

the exact and uniform execution of laws by executive bodies, as well as by other state bodies, the list of which is determined by constitutional law, local self-government bodies and officials of the abovementioned bodies” (Article 104 § 1). In accordance with the earlier version, the prosecutor’s office could only supervise the executive authorities, local authorities and their officials. At the same time, state bodies, such as the National Bank, the Central Commission for Elections and Referendums, the Accounting Chamber or the Ombudsman, were removed from the supervision of the prosecutor’s office. However, even here, it is fair to ask: based on what criteria will the local government bodies and their officials determine the list of bodies supervised by the prosecutor’s office and will the absence of a clearly determined list of such bodies established at the level of the law lead to ambiguous practice of prosecutorial supervision in the field?

Thus, the constitutional reforms that have been repeatedly carried out in the Kyrgyz Republic, are characterized by inconsistency and incompleteness of their results.

Among the newest constitutional modernizations, there are changes to the Constitution of the Republic of Kazakhstan, which were made in March 2017. They indicate the advent of the next stage of the state’s constitutional development.

This conclusion is due to the scale of the constitutional changes in the Republic, which directly affected the basic institutions of development of the state and society: the foundations of the constitutional system, human and citizen rights and freedoms, citizenship, the system of public authorities and local self-government, including the status of the President of the Republic. An updated constitutional basis has been created, a “framework” for the development of these relations, which will entail new state and legal traditions and political practice. Specifically, the elements of the sacrosanctity of the state are defined: independence, unitarity, territorial integrity, and the republican form of government. At the same time, the democratic modernization of the presidential republic as a form of government, through the increase in the role of the Parliament, transfer of certain functions of the President to the Government, strengthening of the Government’s independence, while expanding the mechanisms for its accountability and control over the Parliament, has the character of positive evolutionary changes and does not involve

any radical measures, but on the contrary continues the logic of the previous constitutional reforms in the country.

The constitutional changes, as their analysis shows, have a clear organizational support, which allows them to be carried out within rather short timeframes. The main measures for the implementation of the constitutional changes, from elaboration of the future development model to the program for its implementation, met the deadline of a period not more than two months, although there is no denying that it concerned only their external design. Of course, tight deadlines for changing the Constitution are often fraught with possible errors that can lead to the need for further constitutional reforms. However, the time frames of the constitutional changes themselves, if they do not violate the established procedure, do not have a significant impact on the quality of their implementation. The main thing is that the relevant transformations are objectively imminent and long-awaited, they bear a welcome development for the progress of the society and the state and are not rejected, but on the contrary are supported by the citizens of the Republic [5].

The constitutional reforms were initiated on January 11, 2017, by signing the Ordinance on the formation of the Working Group on the redistribution of powers between branches of state power by the President of the Republic of Kazakhstan. The result of its activities was Draft Law “On Introducing Amendments and Additions to the Constitution of the Republic of Kazakhstan”, which from January 26 of this year was brought up for the public debate¹. The draft law had passed scientific expertise, including at the level of foreign experts². The Law of the Republic of Kazakhstan “On Introducing Amendments and Additions to the Constitution of the Republic of Kazakhstan” was adopted by the Parliament on March 6, 2017, and after its verification by the Constitutional Council for compliance with constitutional values, fundamental principles of activity and the form

¹ See more: https://tengrinews.kz/kazakhstan_news/ekspertyi-nazvali-samyie-vajnyie-punktyi-proekte-310903/

² Initially, it was about attracting individual experts (in this capacity academician T. Khabrieva took part), but in the end Kazakhstan asked the Venice Commission to perform an assessment of the draft constitutional amendments. The Venice Commission in its opinion on the law on introducing amendments and additions to the Constitution of Kazakhstan noted that constitutional changes in Kazakhstan represent a step forward in the process of democratization of the state.

of government of the Republic, it was signed by the President of Kazakhstan on March 10. At the same time, the Presidential Decree “On a complex of measures to implement the Law of the Republic of Kazakhstan of March 10, 2017 “On Introducing Amendments and Additions to the Constitution of the Republic of Kazakhstan” was adopted, which outlined a road map to implement the constitutional reform. This year on March 13, the President signed the Constitutional Law No. 52-VI “On Introducing Amendments and Additions to Certain Constitutional Laws of the Republic of Kazakhstan”, which implemented some results of constitutional changes at the legislative level.

The final text of the Law “On Introducing amendments and additions to the Constitution of the Republic of Kazakhstan” is significantly different from its first project version. Primarily, it is due to those remarks which came during the discussions of the project. In particular, in the first version a number of powers were only assigned to one house of Parliament – the Majilis, but later after the discussions these powers were also assigned to the other chamber – the Senate. Then the drafted changes to Article 26 of the Constitution of the Republic of Kazakhstan, aimed at guaranteeing the ownership rights of foreign citizens and apatrides, their equality and justice, were excluded from the final text. This circumstance puts in the difficult situation citizens of other States, primarily of the Eurasian Economic Union. The drafters have specified the procedure for substitution and dismissal of akims of other administrative-territorial units, except akims of the areas, cities of republican significance and the capital, and have excluded the right of the President of the Republic to release akims from office at his discretion.

At the same time, there are new provisions, which were not originally defined by the constitutional amendments. Among them, for example, raising to the constitutional level of some issues of the financial sector in the light of the recognition of the special legal status of the capital of Kazakhstan – Astana¹. The purpose of these changes is an

attempt to create in the territory of Astana a new financial hub – a leading international financial services center for the whole Central Asian Region, which should attract investments to Kazakhstan’s economy. The constitutional amendments established the financing of the IFCA activities from the national budget, and introduced such new concepts as “identification number”, “registry of the center of identification numbers”. Special attention deserves vesting IFCA with the right to adopt regulatory legal acts, which significantly alters the construction of the legal system of the state.

Another innovation of the Constitution is the possibility of deprivation of citizenship of people for terrorist offences or infliction of “other serious harm to the vital interests of the country” by the court decision (clause 2, article 10 of the Constitution as amended). In this matter the, Republic of Kazakhstan has followed the way of the constitutional regulation of the Kyrgyz Republic, as mentioned earlier, but slightly expanded the grounds for deprivation of nationality.

These changes raise questions, in particular, whether the state can abdicate from its citizens. In the world practice, the possibility of deprivation by the state of citizenship of its citizens exists in certain countries. In essence, deprivation is a sanction of the state in respect of persons who demonstrate unlawful behavior. In most modern states, deprivation of citizenship is only possible in relation to persons who acquired it by registration or naturalization, and only during a short period (usually within the first 5 years) of stay in citizenship. For example, according to the Spanish Constitution (article 11), “no person of Spanish birth may be deprived of his or her nationality”. However, deprivation of citizenship is impossible if the person becomes an apatriote – stateless. Similar provisions are contained in the legislation of several countries (see par. 1 of article 16 of the Basic

¹ In Kazakhstan there is already the Constitutional Law of December 7, 2015 No. 438-V “On International Financial Centre “Astana””, there are also a number of presidential decrees on this issue. On the basis of a constitutional amendment, this constitutional law also has some changes from 13.03.2017, at the same time these changes were complemented by amendments to the Budget Code of the Republic of Kazakhstan and changed the funding sources of the International Financial Centre “Astana” (hereinafter – IFCA) and amendments to the

Law “On the National Bank of the Republic of Kazakhstan” on the exclusion of the powers of the National Bank of the Republic for financing of the financial center. IFCA was provided with a special tax, foreign exchange and visa regimes, as well as a special regime to attract foreign labor force by the authorities and members of the center. The objectives of the IFCA is to promote the attraction of investments in Kazakhstan’s economy by creating an attractive environment for investment in the financial services industry, the development of the securities market, ensuring its integration with international capital markets. The center’s participants, as well as its organs will be exempt from corporate income tax until January 1, 2066.

Law of the FRG; part 2 of article 11 of the Spanish Constitution; §7 of the Swedish Constitution, etc.).

Grounds for deprivation of citizenship are: acquisition of citizenship by fraud, on the basis of false information, false documents (for example, in Russia the sanction is the loss of citizenship); if the person was engaged in anti-state activities in favor of a foreign state and thereby causes a damage to interests of the state (France, USA, UK, Bulgaria and other countries); persons sentenced for crimes against state security (France, UK). In the former Soviet Union, deprivation of citizenship upon the initiative of the state was widely practiced to crack down on political undesirables. As a rule, persons deprived of citizenship are subject to expatriation.

The Constitution of the Republic of Kazakhstan with amendments leaves a lot questions unanswered, obviously, transferring their solution to the legislative level. In particular, it is not clear what means causing of “serious harm to the vital interests of the country”. The term is uncertain, but the transfer of its definition at the legislative level, including in the framework of citation of specific offenses which fall under these features, in the Criminal Code of the Republic of Kazakhstan, can lead to a certain “blurring” of the Constitution text, the adoption of which goes with a special procedure compared to an ordinary law. Still, the grounds for deprivation of citizenship, if it is allowed by the state, should be strictly limited and defined directly in the Constitution.

Adoption of these amendments to the Constitution may lead to statelessness as a citizen of the Republic “cannot be recognized as a citizen of another state”. Thus, for a person having no other citizenship, deprivation of citizenship will inevitably lead to their becoming apatriote. At the same time, the creation of statelessness through the legislation, as we know, is condemned by the international community. Almost all the countries try to avoid occurrence of such a situation, including the countries which are not parties to the UN Convention 1961 “On the reduction of statelessness”.

There is still some uncertainty concerning the necessity of deportation of the person deprived of citizenship? This deportation seems to be quite difficult, considering the above mentioned situation when the person becomes an apatriote – it is unlike-

ly that a person convicted of terrorism will be of interest to other countries with which the Republic maintains diplomatic relations. In case if a citizen of the Republic of Kazakhstan went outside the state to commit terroristic acts in the territory of another state, can he be deprived of his citizenship in absentia? Perhaps if the person knows that if he/she travels outside the state to commit terroristic acts, he/she will not be able to return home to Kazakhstan and be deprived of his/her citizenship, the number of such persons reduces. At the same time, what is the guarantee that when considering such cases in absentia, it will be possible to avoid judicial errors?

Of course, these and other issues require some changes not only to the law on citizenship but also to criminal legislation of the Republic of Kazakhstan. At the same time, in this context, it is impossible not to pay attention to one fact – change to article 10 of the Constitution shall be enforced from the day of its official publication, while changes to the national legislation are not yet introduced. This fact also creates uncertainty in the application of constitutional provisions.

Among the new constitutional provisions, there are some changes relating to the order of the implementation of international treaties (clause 3 of article 4 of the Constitution). If earlier international treaties ratified by the state took precedence over laws and were applied directly, except cases when the implementation of the international treaty required the adoption of a law, the new text of the article contains a reference rule to the law of Kazakhstan: recognizing the priority of ratified international treaties over laws, however, the procedure and the terms for their action in the territory of the Republic of Kazakhstan shall be determined by the legislation of Kazakhstan. This change is rather substantial since it takes at the level of ordinary law the solution of the question of the place of international treaties in the legal system of the state.

Another one innovation is the inclusion in the Constitution of interfaith harmony as one of the highest values of Kazakhstan’s statehood. Now any action that would violate interfaith harmony shall be recognized as unconstitutional. The inclusion of these provisions is aimed at the development

of democratic processes in the Republic of Kazakhstan. Modernization of society is achieved largely through the formation and development in public consciousness of the culture of tolerance, which aims to maintain civil peace, to harmonize inter-ethnic and interfaith relations, and to enhance socio-political stability.

The main declared purpose of the changes to the Constitution of Kazakhstan is the redistribution of powers in the organizational structure of the state authorities. Constitutional transformations in this part, although being performed within the framework of the existing presidential republic, which, as was noted in the Commentary to the draft amendments to the Constitution of the Republic of Kazakhstan, proved its effectiveness, however, led to some change in the power balance.

According to the Constitution, the President is the head of the state, its highest official, who determines the main directions of the national and foreign policy and represents Kazakhstan within the country and in international relations, the symbol and guarantor of the people's unity and state power, inviolability of the Constitution, rights and freedoms of the individual and citizen, ensures the coordinated functioning of all branches of government and responsibility of the authorities before the people. Thus, the President of the Republic of Kazakhstan takes the central place in the system of state power bodies. Generally, all of these characteristics are the attributes of the presidential republic.

The constitutional changes have led to redistribution of some powers of the President of the Republic of Kazakhstan between the Government and the Parliament¹. At the same time, in favor of the protection of the rights and freedoms of the individual and citizen, ensuring of the national security, sovereignty and integrity of the state, the President has the power to appeal directly to the Constitutional Council about any law or other legal act in force, including the governmental acts, to check their conformity with the Constitution of the Republic of Kazakhstan. Generally, such power corre-

sponds to the tasks of development of the constitutional state. In addition, the revised Constitution also provides for the exclusion of a number of legislative powers of the President².

But the Constitution cannot be approached from the arithmetic perspective – some powers added and some powers excluded. The logic of the relationship between the branches of government is changing, and the philosophy of the Constitution in force is changing. As a result of the mentioned changes, on the one hand, there was a decrease in the number of organizational and legal powers, initially classified in accordance with the Constitution in force to the competence of the President. On the other hand, the constitutional changes aimed at strengthening such key national institutions as the Parliament and the Government in public and political life of the Republic of Kazakhstan. Thus, the constitutional changes are aimed at establishing a better balance in the implementation of powers and, ultimately, enhance the stability of the constitutional-legal institutions.

An important innovation of the Draft is the abolition of the presidential powers to cancel or suspend the acts of the Government and the Prime Minister of the Republic of Kazakhstan. The exclusion of the presidential powers to issue laws or decrees with the force of law (clause 2, article 45 of the Constitution), as mentioned above, is an innovation that meets the requirements of the constitutional provision about the exercise of state power in accordance with the principle of separation of the legislative, executive and judicial branches and their interactions among themselves with the use of the system of checks and balances. The refusal of the President in favor of Parliament from his legislative power makes the Parliament the only legislative and supreme representative body of the Republic. But the President is vested with the power to “determine priority of consideration of the draft laws, meaning that the relevant draft laws should be adopted as a matter of priority within two months” (see clause 2, article 61).

¹ The Government received the following presidential powers: approval of state programs, the unified system of financing and labor payment for all bodies financed from the state budget, these payments have to be made by the Government in coordination with the President; education, abolition and reorganization of Central Executive Bodies – not members of the Government, and the appointment and dismissal of their heads.

² It concerns his right to give instructions to the Government of the Republic of Kazakhstan on introduction of the draft laws in the Majilis of the Parliament of the Republic of Kazakhstan (the President of the Republic of Kazakhstan has an independent right of legislative initiative); the enactment of laws or decrees having the force of laws; the exercise of legislative powers in the case of delegating them to him by the Parliament of the Republic of Kazakhstan.

Of course, the interaction of state bodies in the law-making process is an extremely important component of it, but regulation of the issues of cooperation in this area requires the respect for the principle of retaining the independence of state bodies which belong to different branches of government. In this regard, we have to mention the fact that the mentioned provision (contained in clause 2 of article 61 of the Constitution) can be interpreted in different ways: not only as a requirement to give priority consideration to draft laws that are determined to be a priority by the President of the Republic, but also as an imperative constitutional mandate required to accept such draft laws. And this fact a priori determines the resolution of a number of relevant issues. It should be noted that it was emphasized in the Opinion of the European Commission for Democracy through Law (Venice Commission) on draft amendments to the Constitution of the Republic of Kazakhstan¹. However, in final text this provision was retained in the same form as it was in the draft amendments to the Constitution. Inclusion of this provision micrifies the significance of the rejection of the presidential legislative powers, and puts the Parliament in direct dependence upon decisions of the President. We believe in this regard that based on the objectives of the parliamentary development and consistent observance of the principle of separation of powers, it would be preferable to use another approach based on the use of terms such as “introduction” or “consideration” of the draft law in the text of the Constitution in accordance with the principle of the independence of Parliament.

The amendments to article 44 of the Constitution of the Republic of Kazakhstan established the procedure for the formation of Government and its structure for the purposes of strengthening the role of the Majilis as follows: the Prime Minister makes a submission to the President concerning the structure and the nominees for the members of the Government, after the consultations with the Majilis of the Parliament. In the same way, it is proposed to dismiss the members of the Government – with a submission of the Prime Minister based on consultations with the Majilis. Only the Minister of foreign affairs and the Minister of defense can be ap-

pointed and dismissed in the frame of President’s independent powers.

Surely, in general, the changes proposed by the amendments are democratic. They provide the Majilis, as one of the houses of Parliament, with the possibility to influence the composition of the Government of the Republic of Kazakhstan. At the same time, we believe that such influence will be determined by the nature and content of the prescribed procedure of holding consultations. And the way of settling the procedure will depend on whether such consultations will turn into a formality.

In this regard, there arise a few questions. What are the consequences of these consultations in case the Majilis expresses its disagreement with the proposed nominee? And then, as a consequence of the first question, can there be a nominee concerning whom the Majilis and the Prime Minister of the Government have different opinions? We believe that settlement of situations of possible disagreements between the Majilis of the Parliament and the Prime Minister concerning the proposed nominee, as well as the possible repass of this procedure during the formation of the “team” of the Government is of fundamental nature. In this context, the role of the Majilis in order to ensure subsequent effective cooperation of these bodies could be regulated directly in the Constitution, not relying solely on the legislative regulation.

Among the additional tools of influence of the Majilis of the Parliament on the organization and activities of the Government, one more new provision is of a statutory importance. In accordance with this provision, the Government abdicates from its powers before the newly elected Majilis (see clause 1, article 70). Also it should be particularly noted that article 64 of the Constitution proposes to establish a shared accountability (responsibility) of the Government to the President and Parliament. In new edition of article 67, it is provided for that the Prime Minister of the Republic reports on the main directions of Governments’ activities and all of its important decisions not only to the President but also to the Parliament.

These and other amendments develop institutions of parliamentary control, which promotes the improvement of the democratic organization of the state. At the same time, in terms of ensuring independence of executive power, stability of its operations, as well as maintenance of the regime of legality, there are some doubts concerning the validity of the amendment to subclause 6 of article 57

¹ See: Opinion on the amendments to the Constitution of Kazakhstan adopted by the Venice Commission at its 110th Plenary Session (Venice, 10-11 March 2017). Available at: [www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2017\)010-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2017)010-e).

of the Constitution, according to which the qualified majority of deputies of any chamber of Parliament (not less than two thirds of votes from total number of deputies of the Chamber) can address to the President with the request of dismissal of a member of Government on grounds of his/her non-execution of laws of the Republic; and this request can lead to a relevant presidential decision. The question of non-execution of laws, in our opinion, requires a preliminary judicial evaluation. Otherwise, the independence of the Government in realization of its functions can be reduced.

Some questions relating to the judicial system organization were also the subject of the constitutional amendments. For example, in accordance with the new wording of clause 3 of article 79, requirements for judges are specified by constitutional law, and these requirements were excluded from the text of the Constitution. But the detailed statement of requirements for judges in the text of the Constitution is consistent with contemporary practice needs, contributes to the stability and sustainable functioning of the judicial system, real consolidation of the principles of independence and immunity of judges. Along with this, there were specified the status of the Supreme Court of the Republic of Kazakhstan, the role of prosecutors, who provide the highest supervision over the observance of lawfulness, represents the state's interests in court and exercises criminal prosecution on behalf of the state. In addition, the Constitution establishes the institution of the Commissioner for human rights in the Republic.

As is seen from above, quite significant changes have affected almost all supreme bodies of the state power. However, the changes were not limited to higher state authorities, a number of changes were made for lower levels of the state and municipal management. In particular, the Constitution of the Republic of Kazakhstan is expected to retain the current procedure of appointing akims of the areas, cities of republican status and the capital. The procedure for appointment or election to the office of akims¹ of the other administrative-territorial units is proposed to be determined by law, not by a legal act of the President. Thus, there is still some cen-

tralization of state management at the level of so-called "middle ranking". But transfer of this matter to Parliament, which will decide it by adopting a law, shows the democratization of the procedure of regulation.

The procedure of early termination of powers of the maslikhats was also corrected². In this regard, clause 5 of article 86 of the Constitution proposes early termination of powers of the maslikhats by the President of the Republic after the consultation with the Prime Minister and Chairmen of Chambers of the Parliament. The current provision of this article provides for early termination of office only by the President of the Republic. Of course, in general the new procedure is more democratic, because there are elements of collegiality in the decision. Increased participation of other public authorities in the procedure of early termination of powers will provide a more objective assessment of the circumstances of the early termination of powers. At the same time, we cannot ignore the other side of this issue – the proposed procedure leads to the rise of the role of Chairpersons of Chambers, who really should be first among equals in the structure of collective bodies. In addition, it would be desirable to define in a law the list of grounds for early termination of powers of a maslikhat.

It is noteworthy that among all the amendments to the Constitution of the Republic of Kazakhstan, there are some provisions aimed at clarifying the procedure of amending the Constitution. The body of constitutional justice – the Constitutional Council of the Republic of Kazakhstan – is involved now in the procedure of constitutional amendments consideration. But "the independence of the State established by the Constitution, its unitarity and territorial integrity of the Republic, its form of government and the fundamental principles of the Republic established by the Founder of independent Kazakhstan, the First President of the Republic of Kazakhstan – Elbasy, and its status" cannot be subject to constitutional amendment, they are immutable.

The very constitutional-legal regulation of the procedure for constitutional amending should create the necessary guarantees to ensure the transparency, openness and inclusiveness, as well as the relevant

¹ Akim is the head of a local executive authority in the Republic of Kazakhstan.

² Maslikhat is a local representative body in Kazakhstan.

terms and conditions for the expression of opinions and a broad discussion of controversial issues, which are the key requirements of the democratic process of drafting a Constitution and contribute to the adoption of the Constitution by the whole society; this text has to reflect the will of the people. The necessity of following these requirements has been repeatedly stated in the documents adopted by the European Commission for Democracy through Law (Venice Commission)¹. In this regard, the participation of the Constitutional Council of the Republic of Kazakhstan in the procedure of consideration of amendments to the Constitution will increase the degree of validity and evaluation of the proposed constitutional amendments because the Constitutional Council is a public authority with the necessary competence and knowledge to properly evaluate the proposed constitutional amendments.

These examples show that not all of the constitutional transformations, even if titled constitutional reforms, are reforms in fact. Most changes to the existing constitutions are due to the partial inter-institutional semantic correction of the text, when there is a replacement, inclusion or exclusion of constitutional provisions, definitions, concepts that apply to a specific constitutional-legal institution, without affecting its real nature. Typically, they are caused by the evolution of views in the political sphere, other processes, the need to harmonize the articles of the Constitution with other already modified provisions, which is often related to the term of powers of state bodies.

Constitutional amendments can be expressed in the introduction of a new constitutional-legal institution in the text, in replacement or elimination of the previously existing institutions. However, such processes can also not always be titled a reform.

Constitutional reform is a goal-oriented action or a combination of similar goal-oriented stretched over the time. It is always characterized by the scale and consequences for the modern and developing legal regulation as well as for the whole system of social relations within the constitutional impact. At the same time, constitutional reform cannot be characterized by only one unique feature that distinguishes it from a number of similar phenomena; it cannot be measured with quantitative indicators. Therefore, it is important to identify the condi-

tions or criteria, compliance with which will allow for considering constitutional transformations to be constitutional reforms.

Analyzing the above mentioned constitutional transformations, it can be concluded that constitutional reform is a one-time or long-lasting legal political process to transform the constitutional text, which is characterized by changes of the fundamentals of the state and society, goal-setting, adequate resourcing and certain legal and factual results.

However, the evaluation of constitutional changes can hardly rely on the immutable action of some certain historical laws; they undoubtedly proceed from the specific state legal concepts and conditions, which make it possible to implement various transformations. Currently, many post-Soviet states are still at the stage of further implementation and deepening of democratic principles. These countries are still seeking the most appropriate form of government, corresponding to the character of development of the national historical, political, social, economic and other processes. Ultimately, this will lead to the fact that post-Soviet countries will find their own way of strong democratic legal social states, which will correspond to their history, traditions and culture.

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¹ See: Compilation of Venice Commission Opinions concerning Constitutional Provisions for Amending the Constitution) (CDL-PI(2015)023), December 22, 2015.

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