

Russia's Constitutional Reform in the Second Putin Administration: Presidential Power in the Russian Political System*

HASEGAWA Takeyuki**

Abstract

The major amendments made to the Constitution of the Russian Federation in 2020 were a watershed moment in contemporary Russia's political and legal history. Comparative political and comparative legal studies have raised a number of issues from a social sciences perspective based on analysis of the general characteristics of the amendments and surrounding the extended terms of office for political leaders. This paper examines how presidential power has changed in Russia under these institutional reforms, focusing on trends in the overhaul of lower-level laws and statutes including the federal constitutional law "On the Government of the Russian Federation" as part of our research on Semi-presidentialism. As an interim assessment, this paper points out that strengthening presidential authority has brought order to the complex nature of executive power under the Constitution and various laws and statutes, including the relationship between the president and the federal government, and how Federal Assembly's active role in the procedures for forming the federal government must be taken with a degree of reservation.

Introduction

The process of amending the Constitution of the Russian Federation began in earnest with President Vladimir V. Putin's marathon press conference on December 19, 2019 followed by his annual Presidential Address to the Federal Assembly on January 15, 2020, and represents a pivotal political moment in terms of contemporary Russia's political and legal history. Excluding amendments determining the structure of the Russian Federation, the Constitution, enacted in December 1993 ("the 1993 Constitution"), has been amended four times thus far, extending the terms of office of the president and members of the State Duma (the lower house of the Federal Assembly), among other changes.¹ The recent amendments can be seen as a large-scale reform of the Constitution covering a wide range of policy areas, from changes to the system of government, including the cabinet formation procedures, to education and socioeconomic policy.

* Originally published in Japanese in *Anzenhoshō Senryaku Kenkyū* [Security & Strategy], Vol. 2, No. 1, November 2021. Some parts have been updated.

** Research Fellow, America, Europe and Russia Division, Regional Studies Department, NIDS

¹ The following documents were referenced for the text of, commentary on, and Japanese translations of the articles of the Constitution of the Russian Federation. *Конституция РФ с изменениями, принятыми на Общероссийском голосовании 1 июля 2020 года (+ сравнительная таблица изменений)*, Москва: Эксмо, 2021; Бархатова, Е.Ю., *Комментарий к Конституции Российской Федерации: Новая редакция с поправками (3-е издание)*, Москва: Проспект, 2021; *Комментарий к Конституции Российской Федерации*

In his annual Presidential Address on January 15, Putin proposed a number of constitutional amendments that included a stricter ban on the president serving three consecutive terms and changes to cabinet formation process.² Prime Minister Dmitrii A. Medvedev's entire cabinet stepped down that same day, and a working group to draft proposals for the amendments ("the working group") was established.³ Then, on January 20, the proposed constitutional amendments were submitted to the State Duma⁴ in a series of political events that are presumed to have unfolded according to a carefully prepared scenario. Meanwhile, during the deliberations at the State Duma over the stricter presidential term limit, a so-called "reset clause" was proposed that would amend an article of the Constitution to allow the incumbent president and former incumbents at the time of the amendment to run in the next presidential election. Though the amendment process was extremely brief, the amendments themselves underwent significant alterations over a short period of time.

Apart from the presidential term of office, the main areas of concern among researchers over the recent amendments have been the relationship between international law, the federal Constitution, and other laws and statutes, the stricter requirements to qualify for public office, the introduction of a "single public authority system" that has altered the relationship between federal and local authorities, and the changes to cabinet formation procedures. Prior studies from comparative politics and comparative law have pointed out how authority has generally been consolidated among the president and the central federal government, how this has further escalated the imbalance of power, and how the current authoritarian regime had adapted its practices to the 1993 Constitution.⁵ Some have also analyzed how the Kremlin has gradually shifted from seeing constitutional change as a "taboo" that would give rise to instability in the nation to a tool for maintaining power.⁶

(2-е издание), Москва: Проспект, 2017; Ueno Toshihiko, "Roshia ni okeru 2020 nen no kenpo shusei wo meguru shomondai" [Issues regarding the 2020 constitutional amendments in Russia], *Russia & NIS Business Monthly* 65, No. 5 (2020): 80-105; Sato Fumito, "Roshia renpo" [Russian Federation], in *Constitutions of Nations (5th ed.)*, eds. Hiroyuki Hata & Komorida Akio (Tokyo: Yushindo, 2018): 551-574; Mizoguchi Shuhei, "Roshia renpo" [Russian Federation], in *Shin kaisetsu sekai kenposhu dai 5 ban* [New guide to constitutions of nations, 5th edition], eds. Shiyake Masanori & Tsujimura Miyoko, (Tokyo: Sanseido, 2020): 281-341; Shibuya Kenjiro, "Roshia" [Russia], in *Shinpan sekai kenposhu dai 2 han* [New edition of the constitutions of nations, 2nd edition], ed. Takahashi Kazuyuki (Tokyo: Iwanami Shoten, 2012): 457-517. The footnotes of this paper will use Конституция РФ when referring to articles of the Constitution prior to the 2020 amendments and Конституция РФ (1 июля 2020 г.) post-amendment to distinguish them. Web pages referenced were last accessed July 31, 2021.

² Президент России, от 15 января 2020г., «Послание Президента Федеральному Собранию».

³ Распоряжение Президента РФ от 15 января 2020г., № 5-рп, «О рабочей группе по подготовке предложений о внесении поправок в Конституцию Российской Федерации», *Собрание Законодательства Российской Федерации (СЗРФ)*, 20 января 2020г., № 3, ст. 251.

⁴ Президент России, от 20 января 2020г., «Владимир Путин внёс в Госдуму законопроект о поправке к Конституции».

⁵ Teague, E., "Russia's Constitutional Reforms of 2020," *Russian Politics*, Vol. 5, (2020), pp. 301-328; Gall, C. and Jäckel, L., "The 2020 Russian Constitutional Reform," *Russian Analytical Digest*, No. 250, (2020), pp. 2-5. The latest study findings in foreign law and comparative law research be found in the following publications. Kodama Shigeru, "93 nen kenpo no kaisei wa nani wo kaeru ka, kaenai ka" [What the amendments to the 1993 constitution will and will not change], *Russian Eurasian Society*, No. 1051 (2020): 2-31; "Erosion or Manifestation: The Dual Structure of the Russian Constitution," *The Journal of Law and Economics (Hokei Ronso)* Vol. 38, No. 1 (2020): 23-35.

⁶ Mizoguchi Shuhei, "Posuto puuchin jidai no roshia to kenpo kaisei" [Russia and its constitutional amendments in the post-Putin era], *Posuto-puuchin no roshia no tenbo* [Propects for a post-Putin Russia], The Japan Institute of International Affairs (2020): 7-18. In relation to this, the following literature was referenced on the issue of presidential term extensions in former Soviet Union countries. Mizoguchi Shuhei, "Presidential Term Limits and Legitimacy in Post-Soviet States," *International Relations*, Issue 201 (2020): 114-129.

In this way, a number of issues surrounding the 2020 constitutional amendments from a social sciences perspective have been examined based on analysis of the new provisions, and to an extent the main points of contention have been identified in each field of research. Overall, research into the topic is moving into its next phase, which includes analysis of how the Constitution is actually being applied. The reforms have been followed by overhauls to lower-level laws and statutes, including an amendment to the federal constitutional law “On the Government of the Russian Federation”⁷ in November 2020, and in light of this trend, this paper focuses not only on the articles of the Constitution but also such lower-level laws and statutes to examine how presidential power has transformed under these institutional changes as part of our research on Russia's Semi-presidentialism.

1. The 2020 Constitutional Amendments

(1) Constitutional Reviews and Amendments Under the 1993 Constitutional System

The Constitution of the Russian Federation, adopted on December 12, 1993 following the dissolution of the Soviet Union, enshrines popular sovereignty, respect for human rights, political pluralism, and the separation of powers among its basic principles. Chapters 1 and 2, which set forth these principles, and Chapter 9, which stipulates the procedures for reviewing the Constitution, form the foundation of the constitutional system, and any changes to them must follow the constitutional review (пересмотр Конституции) process. The hurdles for reviewing the Constitution have been set high, requiring not only that a federal constitutional law (ФЗК) be adopted by both houses of the Federal Assembly, but also that a Constitutional Assembly (Конституционное Собрание) be convened and a national referendum (Всенародное голосование) held. Chapters 3 through 8, on the other hand, establish the federal structure, the executive, legislative, and judicial systems, as well as local self-government, and the constitutional amendment (Конституционные поправки) process must be followed in order to change any of them. For a constitutional amendment to be made, a federal constitutional law must be adopted by both houses of the Federal Assembly and approved by the legislative (representative) bodies of not less than two thirds of the federal subjects of the Russian Federation.

The 1993 Constitution can be characterized as a rigid one in that reviewing it essentially requires the establishment of a new constitution, though changes to the system of government through constitutional amendments via parliamentary procedures have been made four times since the Medvedev administration, excluding those to the federal structure.⁸ One such case was the December 2008 amendments made to the terms of office of the president and the State Duma, which were extended from four to six year and four to five years respectively.⁹ A constitutional

⁷ Федеральный конституционный закон от 06 ноября 2020г., № 4-ФКЗ, «О Правительстве Российской Федерации», *СЗРФ*, 09 ноября 2020г., № 45, ст. 7061. This paper refers to the federal constitutional law “On the Government of the Russian Federation” amended on November 6, 2020 as the “2020 version,” and the federal constitutional law “On the Government of the Russian Federation” enacted on December 17, 1997 as the “1997 version” to distinguish them. Федеральный конституционный закон от 17 декабря 1997г., № 2-ФКЗ (ред. от 28 декабря 2016г.), «О Правительстве Российской Федерации», *СЗРФ*, 22 декабря 1997г., № 51, ст. 5712.

⁸ Статья 137, Конституции РФ. Admission to the Russian Federation, the consolidation and renaming of federal subjects, etc.

⁹ Закон РФ о поправке к Конституции РФ от 30 декабря 2008г., № 6-ФКЗ, «Об изменении срока полномочий Президента Российской Федерации и Государственной Думы», *СЗРФ*, 05 января 2009г., № 1, ст. 1.

amendment requiring the federal government to submit an annual report on its activities to the State Duma was enacted at the same time,¹⁰ strengthening the lower house's oversight authority. Further constitutional amendments were made twice successively in 2014, consolidating presidential authority over the appointment of prosecutors and the makeup of the Federation Council (the upper house of the Federal Assembly).¹¹ Thus, the Medvedev administration and the second Putin administration worked to augment presidential power through a realistic choice of means – by reforming the system of government through constitutional amendments. The recent 2020 amendments, on the other hand, are unique as will be discussed below in that while they fall within the scope of constitutional amendments to Chapters 3 through 8, their reach encompasses issues related to the basic principles set out in Chapters 1 and 2 of the 1993 Constitution, which would otherwise require a constitutional review.

(2) The Constitutional Amendment Process and Debate

While the 2020 constitutional amendments took about seven months in total as the nationwide vote on them was delayed due to COVID-19, the bill proposing the amendments itself was put together in a remarkably short amount of time. As shown in Table 1, the process began on January 15 with the annual Presidential Address, but given the timing with which the working group was established and the proposal submitted to the State Duma, it can be presumed that a considerable amount of careful scenario planning and coordination among actors had taken place.

¹⁰ Закон РФ о поправке к Конституции РФ от 30 декабря 2008г., № 7-ФКЗ, «О контрольных полномочиях Государственной Думы в отношении Правительства Российской Федерации», *СЗРФ*, 05 января 2009г., № 1, ст. 2.

¹¹ Закон РФ о поправке к Конституции РФ от 05 февраля 2014г. № 2-ФКЗ, «О Верховном Суде Российской Федерации и прокуратуре Российской Федерации», *СЗРФ*, 10 февраля 2014г., № 6, ст. 548; Закон РФ о поправке к Конституции РФ от 21 июля 2014г., № 11-ФКЗ, «О Совете Федерации Федерального Собрания Российской Федерации», *СЗРФ*, 28 июля 2014г., № 30 (Часть I), ст. 4202.

Table 1: Political Processes Surrounding the 2020 Constitutional Amendments (by Actor)

January 15	[President] - Annual Presidential Address to the Federal Assembly ➡ Makes reference to major constitutional amendments - Working group to draft amendments established by Presidential Instruction
	[Cabinet] - Medvedev's entire cabinet resigns - Mikhail Mishustin, head of the Federal Taxation Service, proposed as candidate for chairman of the government (prime minister) to the Federal Assembly
January 16	[President] - Working group to prepare the constitutional amendments holds its first meeting - Consolidated list of government posts and the Provisions on the Security Council partially amended by Presidential Decree (указное законодательство / a form of law-making by the president) - Medvedev appointed deputy chairman of the Security Council (newly established position)
	[Cabinet] - Mishustin appointed prime minister
January 20 – March 11	[President] - Submits proposal for constitutional amendments to the State Duma
	[State Duma] - Convenes for 1st reading (1/21-23), 2nd reading (2/14-3/10), and 3rd reading (3/10-11) - Significant revisions proposed during preparations for the 2nd reading, including the "reset clause" on number of terms served
	[Federation Council] - Bill sent and passed (3/11)
March 12	[Legislative (Representative) Bodies of the Subjects of the Russian Federation] - Bill approved by 85 legislative (representative) bodies (3/12-13)
	[President] - Signs and promulgates bill (3/14)
	[Constitutional Court] - Deems bill constitutional (3/16)
July 1	Nationwide vote scheduled for April 22 held after being postponed due to COVID-19

Source: Compiled by the author based on Госдума ФС, СОЗД, № 885214-7; Заключение Конституционного Суда РФ, от 16 марта 2020г., № 1-3, «О соответствии положениям глав 1, 2 и 9 Конституции Российской Федерации не вступивших в силу положений Закона Российской Федерации о поправке к Конституции Российской Федерации "О совершенствовании регулирования отдельных вопросов организации и функционирования публичной власти", а также о соответствии Конституции Российской Федерации порядка вступления в силу статьи 1 данного Закона в связи с запросом Президента Российской Федерации», *СЗРФ*, 23 марта 2020г., № 12, ст. 1855.

During the second Putin administration's second term (the incumbent government), inaugurated in May 2018, government officials have repeatedly referred to the possibility of changing the Constitution.¹² Under the administration's interpretation, the Constitution (at the time) stipulated that the president's term of office would be limited to two consecutive terms totaling 12 years, which would mean that President Putin, who returned to the presidency in 2012, would serve until 2024 at most. The resulting "post-Putin" issue and President Putin's departure had been a matter of concern among researchers and think tankers. However, the government officials' references to and comments on constitutional reform focused primarily on changes to the system of government. Among them, discussion on the reforms by Vyacheslav V. Volodin, chairman of the State Duma who also serves as a permanent member of the Security Council, drew

¹² Ueno, "Issues Regarding the 2020 Constitutional Amendments in Russia," pp. 82-84.

particular attention as a proposal seen coming from the Kremlin's center of power.

In the July 17, 2019 edition of the *Parlamentskaya Gazeta*,¹³ Chairman Volodin praised the 2008 constitutional amendments that strengthened the Federal Assembly's oversight and proposed that "the State Duma be granted at least authority to get involved in the consultation on the appointment of ministers."¹⁴ The lower house's involvement in the cabinet formation process prior to the constitutional amendments had been limited to the appointment procedures for candidates for prime minister. That is, the State Duma would deliberate the president's proposed candidate for chairman of the government (prime minister), and with the lower house's consent, the president would formally appoint the candidate as prime minister by Presidential Decree.¹⁵ Should the State Duma reject the president's candidate for prime minister three times, the president would be able to appoint a prime minister and dissolve the house.¹⁶ The system was thus designed in the president's favor, subject to the requirement that they have the support of a strong ruling party. The lack thereof was evident during the Boris N. Yel'tsin administration in the 1990s, when bargaining took place between the president and the lower house over the appointment of a prime minister.

On top of this, deputy chairmen (deputy prime ministers) and federal ministers were appointed and dismissed by the president at the recommendation of the prime minister.¹⁷ The prime minister was to also to submit a proposal to the president on the composition of the federal executive bodies (ministries) within one week of appointment,¹⁸ which was then decided upon by Presidential Decree.¹⁹ It can thus be said that most of the power to appoint ministers and form the executive branch sat with the president and the prime minister. From this perspective, Volodin's proposal can be seen as an attempt to augment the State Duma's authority in the cabinet formation process.

It is interesting to note that Volodin positioned his proposal as "a problem related to the deficiency of necessary balance in the activities of legislative power and executive power" in the *Parlamentskaya Gazeta*, but at the same time stated that "the proposal aligns with the realization of presidential constitutional power pertaining to Article 80 of the Constitution, the president shall ensure coordinated functioning and interaction of all the bodies of state power."

The 1993 constitutional system was marked by the power left with the president and is

¹³ *Парламентская Газета*, от 17 июля 2019г., «Живая Конституция развития: Статья Председателя Государственной Думы Вячеслава Володина».

¹⁴ References to Chairman of the State Duma Volodin's proposal are based on the following paper by the author. Hasegawa Takeyuki, "Russian Presidential Power in the Putin Era and the recent Discussion on Constitutional Revisions," *Briefing Memo*, The National Institute for Defense Studies, January 2020.

¹⁵ «г», статьи 83, «а», части 1, статьи 103, и части 1 статьи 111, Конституции РФ.

¹⁶ Часть 3 и 4, статьи 111, Конституции РФ.

¹⁷ «д», статьи 83, и часть 2, статьи 112, Конституции РФ.

¹⁸ Часть 1, статьи 112, Конституции РФ.

¹⁹ The establishment, amendment, and abolishment of federal executive bodies after the cabinet formation process are also done by Presidential Decree, the presidential authority for which was established as fact during the Yel'tsin administration in the 1990s. Morishita Toshio, "Roshia renpo shikko kenryoku no kozo: seifu to daitoryofu" [Structure of executive power in the Russian Federation: Government and the presidency], *Kobe Annals of Law and Politics*, No. 14 (1998): 16.

often described as “Superpresidentialism,”²⁰ though the predominance of executive power over legislative power has been particularly pronounced under the Putin administrations since 2000. Volodin’s focus on balance between executive and legislative power can be construed as concern over how parliamentary debate has been reduced to a formality under Russia’s system of single-party dominance led by the United Russia party. On the other hand, “ensur[ing] coordinated functioning and interaction of all the bodies of state power” is the president’s prerogative as stipulated in Article 80 of the Constitution, and alongside other provisions forms the grounds for the president to create laws by Presidential Decree,²¹ characterizing the president’s special position and authority under the 1993 constitutional system. Volodin’s proposal was a pragmatic one that attempted to improve the balance of power while maintaining the general framework of Russia’s strong presidential regime for the stability of the constitutional system.

On December 19, 2019, constitutional reform and the post-Putin issue came back into the spotlight as President Putin mentioned clarifying the president’s term of office (up to two consecutive terms totaling 12 years) through a constitutional amendment at his annual year-end marathon press conference.²² It would seem that there had been somewhat active discussion on the Constitution, including the arguments made by Volodin, among political elite under the current Putin administration that took office in May 2018, and it was likely these discussions that led to the Kremlin’s careful scenario planning leading up to the annual Presidential Address on January 15, 2020. The nationwide vote originally scheduled for April 22 was postponed to July 1 due to the rapid spread of COVID-19 in the country,²³ when it passed with 77.92% of the vote and a 67.97% turnout rate.²⁴

(3) Conservative and Patriotic Aspects of the 2020 Constitutional Amendments

The recent constitutional amendments are marked by major reforms to the system of government and the establishment of new conservative and patriotic provisions. This paper focuses primarily on the former, but in order to offer a more comprehensive understanding of the amendments, this section provides an overview of the latter.²⁵

Most of the conservative and patriotic provisions were amendments to Chapter 3, which

²⁰ Barany, Z., “Superpresidentialism and the Military: The Russian Variant,” *Presidential Studies Quarterly*, Vol. 38, No.1, (2007), pp. 14–38; Fish, M.S., “The Executive Deception: Superpresidentialism and the Degradation of Russian Politics,” In Sperling, V. (ed.), *Building the Russian State: Institutional Crisis and the Quest for Democratic Governance* (Boulder, CO: Westview Press, 2000), pp. 177–192.

²¹ Sato Fumito, “Gendai roshia ni okeru kenryoku bunritsu no kozo: Daitoryo kengen wo meguru kenpo saiban no tenkai” [Structure of the division of power in modern Russia: Constitutional Court developments surrounding presidential authority], *Nagoya University Journal of Law and Politics*, No. 255 (2014): 490-491.

²² Президент России, от 19 декабря 2019г., «Большая пресс-конференция Владимира Путина».

²³ Указ Президента РФ от 25 марта 2020г., № 205, «О переносе даты общероссийского голосования по вопросу одобрения изменений в Конституцию Российской Федерации», *СЗРФ*, 30 марта 2020г., № 13, ст. 1897; Указ Президента РФ от 01 июня 2020г., № 354, «Об определении даты проведения общероссийского голосования по вопросу одобрения изменений в Конституцию Российской Федерации», *СЗРФ*, 08 июня 2020г., № 23, ст. 3622.

²⁴ *Коммерсантъ*, от 03 июля 2020г., «ЦИК утвердил итоги голосования по Конституции».

²⁵ Detailed analysis of policy changes following the 2020 constitutional amendments, including the establishment of new conservative and patriotic provisions and shifts in social policy, will be left for a separate paper. References to the conservative and patriotic provisions are based on the following literature. “The Post-Putin Issue and Changes in the 1993 Constitutional System,” *East Asian Strategic Review 2021* (Tokyo: The National Institute for Defense Studies, 2021): 134-150.

stipulates the federal structure. Chief among them is the clause banning the cession of territory, stipulated under Article 67, paragraph 2.1: “The Russian Federation shall ensure protection of its sovereignty and territorial integrity. Actions (except for delimitation, demarcation, re-demarcation of the state border of the Russian Federation with neighboring states) aimed at alienating part of the territory of the Russian Federation and incitement to such actions shall not be permitted.”²⁶ Although delimitation (делимитация), demarcation (демаркация), and re-demarcation (редемаркация) were excluded, this provision could have significant impact on diplomatic negotiations depending on how the article is interpreted by the administration and based on rulings by the Constitutional Court. Deputy Chairman of the Security Council Medvedev and senior officials from the Ministry of Foreign Affairs have, in fact, referred to the provision in statements on Japan-Russia relations. Establishing a new clause banning the cession of territory has strongly demonstrated the current Putin administration’s basic stance on foreign policy both at home and abroad.²⁷

In addition, Chapter 3, Article 67.1, paragraph 3 highlights the issue of historical perception surrounding World War II, stating: “The Russian Federation shall honor the memory of the defenders of the Motherland and shall defend historical truth. Belittling the significance of the heroic feat of the people in defending the Motherland shall not be permitted.”²⁸ Article 67.1, paragraph 4 further stipulates that “children shall be the most important priority of the state policy of Russia. The state shall create conditions conducive to the comprehensive spiritual, moral, intellectual and physical development of children, and to instilling in them patriotism, civic-mindedness and respect for elders ...,”²⁹ while “protection of the family, maternity, paternity and childhood; protection of the institution of marriage as the union of a man and a woman; [and] the creation of conditions enabling children to be raised in families with dignity, and enabling adult children to perform their duty to care for their parents”³⁰ were included as part of the joint jurisdiction of the federal center and the federal subjects (regions) under Article 72.

These new provisions were proposed during preparations for the second reading, and exemplify how the overall nature of the proposals for the 2020 constitutional amendments underwent significant alterations over the course of the State Duma’s deliberations. More work is needed in this regard to shed light on the political processes surrounding proposals for amendments based on historical data, particularly on the relationship between the president and parliament, and the Kremlin and the United Russia party.

As advanced democracies largely in Western Europe promote pluralistic societies that, for example, guarantee human rights for minorities, the 2020 amendments to the Constitution of the Russian Federation demonstrate values that run counter to this trend, reinforcing the overall conservative and patriotic nature of the Constitution. These provisions could be described as “new principles” for the 1993 Constitution that differ from those set out in Chapters 1 and 2, created via

²⁶ Часть 2¹, статьи 67, Конституции РФ (1 июля 2020 г.)

²⁷ See the following literature for more detailed information on this point. Kodama, “What the Amendments to the 1993 Constitution Will and Will Not Change,” p. 19.

²⁸ Часть 3, статьи 67¹, Конституции РФ (1 июля 2020 г.)

²⁹ Часть 4, статьи 67¹, Конституции РФ (1 июля 2020 г.)

³⁰ «ж¹», части 1, статьи 72, Конституции РФ (1 июля 2020 г.)

constitutional amendment.³¹

The new principles are already being reflected in actual policy documents, including the National Security Strategy (NSS) of the Russian Federation. The NSS was revised on July 2, 2021 to emphasize the defense of traditional Russian spiritual and moral values and the preservation of historical memory.³² Should more policy documents be formulated and lower-level laws and statutes overhauled based on these new principles, it could lead to greater friction in the context of foreign affairs and security between advanced democracies and Russia over issues related to the safeguarding of human rights, liberalism, and democracy.

2. Presidential Power as Seen through Institutional Reform: The Interrelation between the President, the Federal Government, and the Federal Assembly

This section examines how presidential power has transformed under the constitutional reforms, focusing on the cabinet formation process and the power each actor holds.³³ The amendments augmented the authority of both the upper and lower houses of parliament in forming the cabinet, with the State Duma gaining the power to approve candidates for deputy prime ministers and certain federal ministers, and the Federation Council the power to consult with the president on the appointment of the heads of agencies and ministries responsible for national security policy.

(1) The New Cabinet Formation Process

The cabinet formation process begins with the president proposing a candidate for prime minister to the State Duma, as was the case prior to the amendments. The State Duma then deliberates and “approves” the candidate for formal appointment by the president.³⁴ Though the amendments altered the wording, with the State Duma now giving its “approval” rather than its “consent,” the basic parliamentary process remains unchanged. The president is also still able to appoint a prime minister and dissolve the State Duma should it reject the president’s candidatures three times,³⁵ meaning no substantial institutional changes have been made to the prime minister appointment process. Yet through an amendment to Article 83,³⁶ the president gained the authority to dismiss the prime minister, augmenting presidential power in this regard.

The State Duma was, on the other hand, granted authority over the appointment of deputy prime ministers and certain federal ministers, which prior to the amendments had been under the essentially exclusive purview of the president and prime minister. Specifically, the duly appointed prime minister proposes candidates for deputy prime ministers and select federal ministers to

³¹ For detailed analysis of the Constitution’s text and the Constitution in reality, including the “dual structure” theory, see Kodama, “Erosion or Manifestation,” pp. 23-35; “What the Amendments to the 1993 Constitution Will and Will Not Change,” pp. 27-30.

³² Пункт 28-33, «Стратегии национальной безопасности Российской Федерации», Указ Президента РФ от 02 июля 2021г., № 400, «О Стратегии национальной безопасности Российской Федерации», *СЗРФ*, 05 июля 2021г., № 27 (часть II), ст. 5351.

³³ Another important issue involves certain institutional changes made to the judiciary branch of power, including presidential inquiries to the Constitutional Court on the constitutionality of bills passed by the Federal Assembly, which would require detailed analysis going into the Constitutional Court’s role in the history of the Constitution. Due to length, this will be left for a separate paper.

³⁴ «а», статьи 83, «а», части 1, статьи 103, и часть 1, статьи 111, Конституции РФ (1 июля 2020 г.)

³⁵ Часть 1, статьи 109, и часть 4, статьи 111, Конституции РФ (1 июля 2020 г.)

³⁶ «а», статьи 83, Конституции РФ (1 июля 2020 г.)

the State Duma, which then deliberates and approves the candidates for formal appointment by the president.³⁷ The president is bound by the State Duma's decisions and has no veto power when making these appointments.³⁸ Should the State Duma refuse to approve the prime minister's candidates three times, the president is to appoint the deputy prime ministers and the select federal ministers from among the candidates proposed by the prime minister.³⁹ However, if not less than one third of the offices of the federal government (except for those the Federation Council is involved in the appointment of) remain vacant after the State Duma has rejected three candidatures, the president may dissolve the State Duma.⁴⁰

These changes to presidential and parliamentary authority have complicated the cabinet formation process. Thus, hereinafter the federal ministers that must be approved by the State Duma for the president to appoint shall be referred to as federal ministers (State Duma approval), and a clear distinction made with the federal ministers (Federation Council consultation) given the upper house's newly acquired authority under the constitutional reforms.

The recent constitutional amendments partially modified Article 83 to stipulate that the president "shall appoint following consultations with the Federation Council and shall release from office heads of federal executive authorities (including federal ministers) responsible for matters relating to defense, state security, internal affairs, justice, foreign affairs, prevention of emergency situations and natural disaster relief and public security."⁴¹ As a result, the Federation Council now holds influence, albeit limited, over the policies for appointing the heads of agencies and ministries in charge of national security policy, including the Ministry of Defence, the Ministry of the Interior, the Ministry of Foreign Affairs, the Federal Security Service (FSB), and the Foreign Intelligence Service (SVR). In this paper, they are classified as federal ministers (Federation Council consultation) and federal directors (Federation Council consultation) (Table 2).

As there have been no full cabinet resignations or other changes in personnel that require consultation with the Federation Council in the political process since the 2020 constitutional amendments, there is no evidence of how the article will actually be applied. The following paragraphs will use the process with which the Mikhail V. Mishustin cabinet was formed in January 2020 as reference to examine the institutional changes under the newly amended Constitution in more concrete detail.

All of the Presidential Decrees on ministerial appointments for the Mishustin cabinet followed provisions under the pre-amendment Constitution (Article 83) and, as has traditionally been the case, the cabinet formation process following the prime minister's appointment was under the effectively exclusive purview of the president and prime minister. However, during the cabinet's inauguration, the process differed from the past⁴² in that the ministerial appointments were announced in three separate categories: the appointment of the first deputy prime minister

³⁷ «д», статьи 83, «а¹», статьи 103, часть 2 и 3, статьи 112, Конституции РФ (1 июля 2020 г.)

³⁸ Часть 3, статьи 112, Конституции РФ (1 июля 2020 г.)

³⁹ Там же.

⁴⁰ Часть 4, статьи 112, Конституции РФ (1 июля 2020 г.)

⁴¹ «д¹», статьи 83, Конституции РФ (1 июля 2020 г.)

⁴² Under the second Putin administration (the current administration), ministerial appointments were announced together at once during the cabinet inaugurations in May 2012 and May 2018. Президент России, от 21 мая 2012г., «Утверждён новый состав Правительства»; от 18 мая 2018г., «Президент подписал указы о составе нового Правительства».

and the deputy prime ministers,⁴³ the appointment of the Ministers of the Interior, Foreign Affairs, Defence, Justice, and Emergencies,⁴⁴ and the appointment of government ministers.⁴⁵ This will serve as one point of reference in examining the institutional changes.

Following Prime Minister Mishustin's inauguration on January 16, 2020, the cabinet lineup was revealed on January 21 when the president issued Presidential Decree No. 21 determining the composition of the federal executive bodies, abolishing the Ministry of North Caucasus Affairs and transferring its functions to the Ministry of Economic Development. Nine deputy prime ministers including the first deputy prime minister were also placed under the prime minister, two of whom were to serve as presidential plenipotentiary envoy to the Far Eastern Federal District and Chief of Staff, respectively.⁴⁶ This was followed by 31 more Presidential Decrees, No. 22 to No. 51, confirming the ministerial appointments.⁴⁷

⁴³ Президент России, от 21 января 2020г, «Подписаны указы о Первом заместителе и заместителях Председателя Правительства».

⁴⁴ Президент России, от 21 января 2020г, «Назначены министры внутренних дел, иностранных дел, обороны, юстиции и глава МЧС России».

⁴⁵ Президент России, от 21 января 2020г, «Подписаны указы о назначении министров Правительства Российской Федерации».

⁴⁶ Указ Президента РФ от 21 января 2020г., № 21 (ред. от 20 ноября 2020г.), «О структуре федеральных органов исполнительной власти», *СЗРФ*, 27 января 2020г., № 4, ст. 346.

⁴⁷ Указ Президента РФ от 21 января 2020г., № 22, «О Заместителе Председателя Правительства Российской Федерации - полномочном представителе Президента Российской Федерации в Дальневосточном федеральном округе», *СЗРФ*, 27 января 2020г., № 4, ст. 349; Указ Президента РФ от 21 января 2020г., № 23, «О Заместителе Председателя Правительства Российской Федерации», *СЗРФ*, 27 января 2020г., № 4, ст. 350; Указ Президента РФ от 21 января 2020г., № 24, «О Заместителе Председателя Правительства Российской Федерации - Руководителе Аппарата Правительства Российской Федерации», *СЗРФ*, 27 января 2020г., № 4, ст. 351; Указ Президента РФ от 21 января 2020г., № 25, «О Первом заместителе Председателя Правительства Российской Федерации», *СЗРФ*, 27 января 2020г., № 4, ст. 352; Указ Президента РФ от 21 января 2020г., № 26, «О Заместителе Председателя Правительства Российской Федерации», *СЗРФ*, 27 января 2020г., № 4, ст. 353; Указ Президента РФ от 21 января 2020г., № 27, *СЗРФ*, 27 января 2020г., № 4, ст. 354; Указ Президента РФ от 21 января 2020г., № 28, *СЗРФ*, 27 января 2020г., № 4, ст. 355; Указ Президента РФ от 21 января 2020г., № 29, *СЗРФ*, 27 января 2020г., № 4, ст. 356; Указ Президента РФ от 21 января 2020г., № 30, *СЗРФ*, 27 января 2020г., № 4, ст. 357; Указ Президента РФ от 21 января 2020г., № 31, «О Министре обороны Российской Федерации», *СЗРФ*, 27 января 2020г., № 4, ст. 358; Указ Президента РФ от 21 января 2020г., № 32, «О Министре Российской Федерации по делам гражданской обороны, чрезвычайным ситуациям и ликвидации последствий стихийных бедствий», *СЗРФ*, 27 января 2020г., № 4, ст. 359; Указ Президента РФ от 21 января 2020г., № 33, «О Министре внутренних дел Российской Федерации», *СЗРФ*, 27 января 2020г., № 4, ст. 360; Указ Президента РФ от 21 января 2020г., № 34, «О Министре иностранных дел Российской Федерации», *СЗРФ*, 27 января 2020г., № 4, ст. 361; Указ Президента РФ от 21 января 2020г., № 35, «О Министре юстиции Российской Федерации», *СЗРФ*, 27 января 2020г., № 4, ст. 362; Указ Президента РФ от 21 января 2020г., № 36, «О Министре науки и высшего образования Российской Федерации», *СЗРФ*, 27 января 2020г., № 4, ст. 363; Указ Президента РФ от 21 января 2020г., № 37, «О Министре финансов Российской Федерации», *СЗРФ*, 27 января 2020г., № 4, ст. 364; Указ Президента РФ от 21 января 2020г., № 38, «О Министре строительства и жилищно-коммунального хозяйства Российской Федерации», *СЗРФ*, 27 января 2020г., № 4, ст. 365; Указ Президента РФ от 21 января 2020г., № 39, «О Министре просвещения Российской Федерации», *СЗРФ*, 27 января 2020г., № 4, ст. 366; Указ Президента РФ от 21 января 2020г., № 40, «О Министре промышленности и торговли Российской Федерации», *СЗРФ*, 27 января 2020г., № 4, ст. 367; Указ Президента РФ от 21 января 2020г., № 41, «О Министре здравоохранения Российской Федерации», *СЗРФ*, 27 января 2020г., № 4, ст. 368; Указ Президента РФ от 21 января 2020г., № 42, «О Министре экономического развития Российской Федерации», *СЗРФ*, 27 января 2020г., № 4, ст. 369; Указ Президента РФ от 21 января 2020г., № 43, «О Министре цифрового развития, связи и массовых коммуникаций Российской Федерации», *СЗРФ*, 27 января 2020г., № 4, ст. 370; Указ Президента РФ от

Table 2: The Federal Assembly's Authority in Ministerial Appointments

[II Federal Ministers (Federation Council Consultation)] Presidential Decrees No. 31-35 Federal executive bodies under jurisdiction of the president	[I Deputy Prime Ministers (State Duma Approval)] [III Federal Ministers (State Duma Approval)] Presidential Decrees No. 22-30, 36-51
	First deputy prime minister and deputy prime ministers (9)
Ministry of the Interior, Ministry of Civil Defence, Emergencies and Disaster Relief, Ministry of Foreign Affairs, Ministry of Defence, Ministry of Justice	Federal executive bodies under jurisdiction of the prime minister
	Ministry of Science and Higher Education, Ministry of Finance, Ministry of Construction, Housing and Utilities, Ministry of Education, Ministry of Industry and Trade, Ministry of Health, Ministry of Economic Development, Ministry of Digital Development, Communications and Mass Media, Ministry of Transport, Ministry of Sport, Ministry of Agriculture, Ministry for the Development of the Russian Far East and Arctic, Ministry of Natural Resources and Environment, Ministry of Culture, Ministry of Labour and Social Protection, Ministry of Energy
[IV Federal Directors (Federation Council Consultation)] Federal executive bodies under jurisdiction of the president	[VI Federal Directors and Director Generals (Chairman of the Government Appointment)] Federal executive bodies under jurisdiction of the prime minister
Foreign Intelligence Service, Federal Security Service, Federal Guard Service	Federal Anti-Monopoly Service, Federal Service for the Oversight of Consumer Protection and Welfare, Federal Service for Supervision in Education and Science, Federal Service for Environmental, Technological, and Nuclear Supervision, Federal Agency for State Reserves, Federal Medical-Biological Agency, Federal Agency for Youth Affairs, Federal Agency for Ethnic Affairs, Federal Agency for Tourism
[V Federal Directors (Presidential Appointment)] Federal executive bodies under jurisdiction of the president	
Federal National Guard Service, Chief Directorate for Special Programmes of the Russian President, Administrative Directorate of the President, State Courier Service, Federal Service for Financial Monitoring, Federal Archival Agency	

Source: Compiled by author

While it can be said that the State Duma's authority in the cabinet formation process was strengthened under (I) and (III) in the table above, the president's influence was maintained or even augmented comparatively in the appointment processes for (II), (IV), (V), and (VI). (II)

21 января 2020г., № 44, «О Министре транспорта Российской Федерации», *СЗРФ*, 27 января 2020г., № 4, ст. 371; Указ Президента РФ от 21 января 2020г., № 45, «О Министре спорта Российской Федерации», *СЗРФ*, 27 января 2020г., № 4, ст. 372; Указ Президента РФ от 21 января 2020г., № 46, «О Министре сельского хозяйства Российской Федерации», *СЗРФ*, 27 января 2020г., № 4, ст. 373; Указ Президента РФ от 21 января 2020г., № 47, «О Министре Российской Федерации по развитию Дальнего Востока и Арктики», *СЗРФ*, 27 января 2020г., № 4, ст. 374; Указ Президента РФ от 21 января 2020г., № 48, «О Министре природных ресурсов и экологии Российской Федерации», *СЗРФ*, 27 января 2020г., № 4, ст. 375; Указ Президента РФ от 21 января 2020г., № 49, «О Министре культуры Российской Федерации», *СЗРФ*, 27 января 2020г., № 4, ст. 376; Указ Президента РФ от 21 января 2020г., № 50, «О Министре труда и социальной защиты Российской Федерации», *СЗРФ*, 27 января 2020г., № 4, ст. 377; Указ Президента РФ от 21 января 2020г., № 51, «О Министре энергетики Российской Федерации», *СЗРФ*, 27 января 2020г., № 4, ст. 378.

relates to key cabinet members such as the Ministers of Defence, the Interior, and Foreign Affairs, and with the overhaul of lower-level laws and statutes following the constitutional amendments,⁴⁸ the Federation Council is now included in their appointment process (through consultation), but the State Duma has no opportunity be involved.⁴⁹

(IV) and (V) both relate to the appointment of directors for paramilitary and intelligence agencies that serve as auxiliary agencies to the president, including the Federal Security Service (FSB), the Foreign Intelligence Service (SVR), the Federal Guard Service (FSO), and the Federal National Guard Service (Rosgvardiya). In November 2020, the Federal Law “On Foreign Intelligence” was amended to stipulate in Article 12, paragraph 5 that the Director of the Foreign Intelligence Service shall be appointed by the president upon consultation with the Federation Council,⁵⁰ overhauling the lower-level law to be in line with the constitutional reforms. The paragraph provides that the president is to submit a candidate for the Director of the Foreign Intelligence Service (and documents pertaining to the candidate) to the Federation Council, which is to notify the president of the results of its deliberations in writing within one week. On the other hand, however, paragraph 4 of the Article now states that “the heads of foreign intelligence agencies other than the Director of the Foreign Intelligence Service shall be appointed by the President of the Russian Federation.”⁵¹ The Federal Law “On the Federal Security Service” was also amended at the same time,⁵² revising the process for deciding upon the Director of the Federal Security Service in a similar fashion.⁵³ On top of this, the system for appointing the Director of the Federal Guard Service, which is in charge of protecting dignitaries and managing the government’s

⁴⁸ Пункт «а», статьи 2, Указ Президента РФ от 01 июня 2021г., № 333, «О внесении изменений в Положение об органах предварительного следствия в системе Министерства внутренних дел Российской Федерации, утвержденное Указом Президента Российской Федерации от 23 ноября 1998 г. № 1422, Положение о Министерстве внутренних дел Российской Федерации и Типовое положение о территориальном органе Министерства внутренних дел Российской Федерации по субъекту Российской Федерации, утвержденные Указом Президента Российской Федерации от 21 декабря 2016 г. № 699», *СЗРФ*, 07 июня 2021г., № 23, ст. 4036; Пункт «б», статьи 1, Указ Президента РФ от 01 июля 2021г., № 387, «О внесении изменений в Указ Президента Российской Федерации от 11 июля 2004 г. № 868 “Вопросы Министерства Российской Федерации по делам гражданской обороны, чрезвычайным ситуациям и ликвидации последствий стихийных бедствий” и в Положение, утвержденное этим Указом», *СЗРФ*, 05 июля 2021г., № 27 (часть II), ст. 5346; Пункт «б», статьи 1, Указ Президента РФ от 05 марта 2021г., № 133, «О внесении изменений в Положение о Министерстве обороны Российской Федерации, утвержденное Указом Президента Российской Федерации от 16 августа 2004 г. № 1082, *СЗРФ*, 08 марта 2021г., № 10, ст. 1573; Пункт «а», статьи 2, Указ Президента РФ от 17 мая 2021г., № 284, «О внесении изменений в некоторые акты Президента Российской Федерации», *СЗРФ*, 24 мая 2021г., № 21, ст. 3554.

⁴⁹ A draft Presidential Decree has been released indicating plans to have the Federation Council be involved in the appointment of the Minister of Foreign Affairs, but as writing, President Putin has yet to sign it. Проект Указа Президента РФ, «О внесении изменений в Положение о Министерстве иностранных дел Российской Федерации, утвержденное Указом Президента Российской Федерации от 11 июля 2004 г. № 865 (по состоянию на 01 февраля 2021г.) (подготовлен МИД России, ID проекта 01/03/02-21/00112792), <https://regulation.gov.ru/Projects/List?type=Grid#npa=112792>.

⁵⁰ Часть 5, статьи 12, Федеральный закон от 10 января 1996г., № 5-ФЗ (ред. от 09 ноября 2020г.), «О внешней разведке», *СЗРФ*, 15 января 1996г., № 3, ст. 143.

⁵¹ Часть 4, статьи 12, Федеральный закон от 10 января 1996г., № 5-ФЗ (ред. от 09 ноября 2020г.) «О внешней разведке».

⁵² Федеральный закон от 03 апреля 1995г., № 40-ФЗ (ред. от 09 ноября 2020г.), «О федеральной службе безопасности», *СЗРФ*, 10 апреля 1995г., № 15, ст. 1269.

⁵³ Статья 1, Федеральный закон от 03 апреля 1995г., № 40-ФЗ (ред. от 09 ноября 2020г.), «О федеральной службе безопасности».

secure communications systems, was changed to involve the Federation Council.⁵⁴

However, no procedure has been established for appointing the Directors of the Foreign Intelligence Service, Federal Security Service, and Federal Guard Service in the event that the Federation Council rejects the candidatures as a result of its deliberations. The system is thus not designed to allow the Federation Council to play an active role in appointing the heads of military, diplomatic, and intelligence agencies, including auxiliary agencies to the president. As such, the appointment process must be taken with reservation pending developments in updates to the laws and statutes on the procedures should the president's candidatures be rejected.

At the time of writing, the heads of the auxiliary agencies to the president under (V) continue to be directly appointed by the president.⁵⁵ These include the Federal National Guard Service, which was newly established in 2016 based on the Ministry of the Interior's internal troops, as well as other paramilitary organizations such as the Chief Directorate for Special Programmes, which is responsible for mobilizing troops during contingencies. Developments in overhauls to lower-level laws and statutes must be watched closely to see how the new text will actually be applied.

Although the 2020 constitutional amendments partially expanded the Federal Assembly's authority over ministerial appointments, with both houses now involved in the cabinet formation process following the prime minister's appointment, they also made certain changes to presidential power, including the president's command over the federal government as discussed below.

(2) The Augmentation of Presidential Authority over the Federal Government and Changes to the Executive System

The president's position under the 1993 constitutional system was not entirely clear, and the duality of the president's status – as both head of state and de facto head of executive power – has

⁵⁴ Статья 1, Указ Президента РФ от 12 апреля 2021г., № 214, «О внесении изменения в Положение о Федеральной службе охраны Российской Федерации, утвержденное Указом Президента Российской Федерации от 7 августа 2004 г. № 1013», *СЗРФ*, 19 апреля 2021г., № 16 (Часть I), ст. 2747.

⁵⁵ Пункт 4, части 2, статьи 6, Федеральный закон от 03 июля 2016г., № 226-ФЗ (ред. от 31 июля 2020г.), «О войсках национальной гвардии Российской Федерации», *СЗРФ*, 04 июля 2016г., № 27 (Часть I), ст. 4159; Пункт 7, «Положение об Управлении делами Президента Российской Федерации», Указом Президента РФ от 17 сентября 2008г., № 1370 (ред. от 17 сентября 2020г.), «Об Управлении делами Президента Российской Федерации» (вместе с «Положением об Управлении делами Президента Российской Федерации»), *СЗРФ*, 22 сентября 2008г., № 38, ст. 4277; Пункт 8, «Положение о Главном управлении специальных программ Президента Российской Федерации», Указом Президента РФ от 31 декабря 2017г., № 651 (ред. от 25 декабря 2018г.), «Вопросы Главного управления специальных программ Президента Российской Федерации» (вместе с «Положением о Главном управлении специальных программ Президента Российской Федерации»), *СЗРФ*, 01 января 2018г., № 1 (Часть I), ст. 324; Пункт 22, «Положение о Федеральном архивном агентстве», Указом Президента РФ от 22 июня 2016г., № 293 (ред. от 18 декабря 2018г.), «Вопросы Федерального архивного агентства» (вместе с «Положением о Федеральном архивном агентстве»), *СЗРФ*, 27 июня 2016г., № 26 (Часть I), ст. 4034; Пункт 10, «Положение о Федеральной службе по финансовому мониторингу», Указом Президента РФ от 13 июня 2012г., № 808 (ред. от 01 октября 2020г.), «Вопросы Федеральной службы по финансовому мониторингу» (вместе с «Положением о Федеральной службе по финансовому мониторингу»), *СЗРФ*, 18 июня 2012г., № 25, ст. 3314; Пункт 9, «Положение о Государственной фельдъегерской службе Российской Федерации», Указом Президента РФ от 07 апреля 2014г., № 213 (ред. от 17 сентября 2020г.), «Вопросы Государственной фельдъегерской службы Российской Федерации» (вместе с «Положением о Государственной фельдъегерской службе Российской Федерации»), *СЗРФ*, 14 апреля 2014г., № 15, ст. 1726.

long been noted.⁵⁶ Chapter 1, Article 10 of the Constitution stipulates that state power shall be exercised on the basis of its division into legislative, executive, and judicial power,⁵⁷ calling for a separation of powers. Under Article 110, paragraph 1, executive power was to be exercised by the federal government, which the 1997 version of the federal constitutional law “On the Government of the Russian Federation” designated as a “supreme executive body of state power.”⁵⁸

On the other hand, Chapter 4 established the president's status as head of state⁵⁹ and a broad range of power in terms of executive authority, primarily over military security and foreign policy.⁶⁰ Article 80, paragraph 2 further stated that the president shall “ensure coordinated functioning and interaction of all the bodies of state power,”⁶¹ but it was not necessarily clear whether the state body in charge of executive power (and its head) was the federal government (and the chairman of the government) or the president, or even whether the position of president fell within framework of the three powers to begin with. These issues surrounding the president's status and the federal government's position stemmed essentially from the relationship between the president and the Council of Ministers (the *de jure* federal government), the Congress of People's Deputies, and the Supreme Soviet immediately following the dissolution of the Soviet Union, but more fundamentally, they can be traced back to the Council of Ministers' position under the constitution of the Russian Republic during the Soviet era.

The 2020 constitutional amendments sorted out to an extent the nature of executive power by strengthening presidential power. Article 110, paragraph 1 of the post-amendment Constitution now states that “executive authority in the Russian Federation shall be exercised by the Government of the Russian Federation under the general direction of the President of the Russian Federation,”⁶² clarifying the president's overall authority to command the federal government. Article 1 of the federal constitutional law “On the Government of the Russian Federation” was also revised on November 6, 2020 following the constitutional amendments to deem the federal government a “body of public authority”⁶³ and stipulate that “executive authority in the Russian Federation shall be exercised by the Government of the Russian Federation and other federal executive bodies in accordance with the structure of federal executive bodies under the general direction of the President of the Russian Federation, as well as by the executive bodies of the federal subjects of the Russian Federation.”⁶⁴ Together with the president's newfound power to dismiss the prime minister, these changes further strengthened the president's dominance in presidential-federal government relations and clarified that the president serves as head of the federal executive bodies

⁵⁶ Morishita, “Structure of Executive Power in the Russian Federation: Government and the Presidency,” pp. 8-10.

⁵⁷ Статья 10, Конституции РФ.

⁵⁸ Статья 1, Федеральный конституционный закон от 17 декабря 1997г., № 2-ФКЗ (ред. от 28 декабря 2016г.), «О Правительстве Российской Федерации».

⁵⁹ Часть 1, статьи 80, Конституции РФ.

⁶⁰ Часть 3, статьи 80, «ж», «з», и «л», статьи 83, «е», статьи 84, «а», статьи 86, статьи 87, и статьи 88, Конституции РФ.

⁶¹ Часть 2 статьи 80, Конституции РФ.

⁶² Часть 1, статьи 110, Конституции РФ (1 июля 2020 г.)

⁶³ Статья 1, Федеральный конституционный закон от 06 ноября 2020г., № 4-ФКЗ, «О Правительстве Российской Федерации».

⁶⁴ Часть 1, статьи 1, Федеральный конституционный закон от 06 ноября 2020г., № 4-ФКЗ, «О Правительстве Российской Федерации».

under both the Constitution and federal constitutional law.

In conjunction with this, the 2020 constitutional amendments also made changes to the article on the president's authority to form the executive branch, bringing a degree of order to the process. Prior to the amendments, the Constitution stipulated that the prime minister would submit a proposal concerning the structure of federal executive authorities to the president not later than one week after being appointed.⁶⁵ Though no revisions were made to this procedure, the article now specifies that the president shall approve the proposal or make changes thereto.⁶⁶ Moreover, the president was granted the authority to determine jurisdiction over federal executive bodies (either under the president or the prime minister), and on top of this, if the prime minister is dismissed by the president, the newly appointed prime minister is not to make a proposal to the president on the structure of the federal executive authorities. The power to reorganize federal executive bodies and oversee jurisdiction over them after the cabinet has been formed was thus officially conferred to the president under the Constitution, thereby strengthening presidential authority to form the executive branch.

Worthy of further note is the amendment to Article 80, paragraph 2 of the Constitution, which now stipulates that the president "shall ensure the coordinated functioning and interaction of the bodies forming part of the single system of public authority."⁶⁷ The issue here lies in how the post-amendment "bodies forming part of the single system of public authority" will differ from the pre-amendment "bodies of state power." Russia has a three-tiered system of government comprised of the federal center, federal subjects (republics, oblasts, krais, etc.), and municipalities (cities, towns, villages, etc.), with the bodies of state power being the federal executive bodies (the federal center) and the bodies of state power of the federal subjects (regions) according to Chapter 1, Article 11 of the Constitution.⁶⁸

In contrast, the single public authority system introduced as part of the 2020 constitutional reforms is comprised of bodies of local self-government and bodies of state power according to Chapter 8, Article 132, which are to work together to address tasks as effectively as possible in the interests of the population living within the relevant territory.⁶⁹ Municipalities have traditionally been separate from bodies of state power, so their inclusion in the single public authority system can be said to have further strengthened the centralized nature of Russia's system of relations between the federal center and local governments, increasing the former's influence over the latter.⁷⁰ Having fundamentally revised federal-local relations and the role of state power, the amendments will, however, likely pose a problem in terms of consistency with Chapter 1 of the Constitution, which requires a constitutional review to amend.

In addition, the State Council, which is responsible for coordinating policy between the federal center and local governments, became a constitutional state body as a result of the 2020 reforms. According to the amended Article 83, the president "shall form the State Council of the

⁶⁵ Часть 1, статьи 112, Конституции РФ.

⁶⁶ «б¹», статьи 83, Конституции РФ (1 июля 2020 г.)

⁶⁷ Часть 2, статьи 80, Конституции РФ (1 июля 2020 г.)

⁶⁸ Статья 11, Конституции РФ.

⁶⁹ Часть 3, статьи 132, Конституции РФ (1 июля 2020 г.)

⁷⁰ This particular matter requires a detailed analysis of overhauls to laws and statutes related to municipalities under the 2020 constitutional amendments, how they are actually being applied, and the president's direct command and oversight over local governments in particular.

Russian Federation for the purpose of ensuring the coordinated functioning and interaction of public authorities, determining the general direction of the domestic and foreign policy of the Russian Federation and the priority areas of the socio-economic development of the state; the status of the State Council of the Russian Federation shall be determined by federal law.”⁷¹ In line with this, the lower-level federal law “On the State Council of the Russian Federation”⁷² was amended on December 11, 2020 to state that it is to formulate strategic tasks and goals for the domestic and foreign policy of the Russian Federation, and shape national policy for the economic and social development of the Federation, federal subjects, and municipalities.⁷³

The fine details on the State Council were stipulated by Presidential Decree No. 800 issued December 21, which appointed Igor E. Levitin, Aide to the President, as State Council Secretary.⁷⁴ Secretary Levitin, 69, who was born in Odessa, Ukraine, comes from a military and transportation background. He served the Putin administration as Transport and Communications Minister (and later Transport Minister) from 2004, as Adviser to the President in 2012, and assumed the role of Aide to the President in September 2013,⁷⁵ supporting the president through transportation policy.

As shown in Table 3, the Presidential Decree established the State Council's working bodies: a set of commissions on socioeconomic development policy (the “socioeconomic commissions”), a commission on ensuring the coordinated functioning and interaction of bodies of public authority (the “Public Authority Commission”), a commission on coordinating activities between and evaluating the efficiency of the executive bodies of federal subjects (the “Evaluation Commission”), and a set of working groups. Eighteen socioeconomic commissions were created by function, including on state and municipal government, healthcare, and investment, with heads of federal subjects appointed as chair of each commission⁷⁶ (Table 3). Sergei S. Sobyenin, Mayor of Moscow, who was appointed head of the State and Municipal Administration Commission, the lead commission, also serves on the State Council Presidium, the Public Authority Commission, and the Evaluation Commission. Similar appointment decisions were made for Alexei L. Teksler, Governor of the Chelyabinsk Region, who serves as head of the Economy and Finance Commission,

⁷¹ «е⁵», статьи 83, Конституции РФ (1 июля 2020 г.)

⁷² Федеральный закон от 08 декабря 2020г., № 394-ФЗ, «О Государственном Совете Российской Федерации», *СЗРФ*, 14 декабря 2020г., № 50 (часть III), ст. 8039.

⁷³ Часть 2, статьи 3, Федеральный закон от 08 декабря 2020г., № 394-ФЗ, «О Государственном Совете Российской Федерации».

⁷⁴ Статья 2, Указ Президента РФ от 21 декабря 2020г., № 800, «Вопросы Государственного Совета Российской Федерации (вместе с “Положением о рабочих органах Государственного Совета Российской Федерации и Секретаре Государственного Совета Российской Федерации”)», *СЗРФ*, 28 декабря 2020г., № 52 (Часть I), ст. 8793.

⁷⁵ Президент России, «Левитин Игорь Евгеньевич».

⁷⁶ Статья 3 и 4, Указ Президента РФ от 21 декабря 2020г., № 800, «Вопросы Государственного Совета Российской Федерации (вместе с “Положением о рабочих органах Государственного Совета Российской Федерации и Секретаре Государственного Совета Российской Федерации”)».

and Viktor P. Tomenko, Governor of the Altai Territory, who chairs the Agriculture Commission,⁷⁷ placing the socioeconomic commission heads at the core of the State Council's operations as part of the Presidium.

The Public Authority Commission, meanwhile, is a working body related to the State Duma's newly granted power under the Constitution that examines issues pertaining to coordinated functioning and interaction between bodies of public authority (the federal center, federal subjects, and municipalities), including the transfer of authority.⁷⁸ Its duties are closely tied to the president's power provided for under Article 80, paragraph 2 of the Constitution, and given that they fundamentally relate to the nature of the federal system, the commission may be regarded as a particularly important institution among the working bodies.

In this regard, Sergei V. Kiriienko, First Deputy Chief of Staff who also serves as deputy chairman of the Public Authority Commission and chairman of the Evaluation Commission, holds an important role. He is thought to serve as a conduit between Presidential Administration directorates (the Control Directorate and the Domestic Policy Directorate) and the State Council in coordinating federal-local relations.

Table 3: Structure of the State Council

Chairman: President; Secretary: Levitin; Members: Chairman of the government (prime minister), speaker of the State Duma, speaker of the Federation Council, chief of staff of the Presidential Administration, senior officials of the constituent entities of the Russian Federation (heads of the federal subjects), and other persons such as representatives of political parties included by the decision of the president (104)		
Presidium: Secretary Levitin and 28 heads of federal subjects		
Working bodies ((1)-(4))		
(1) Commissions on socioeconomic development policy →	18 commissions in the areas of: state and municipal government; healthcare; investment; communications, telecommunications and the digital economy; culture; small and medium-sized businesses; youth policy; science; education; industry; agriculture; social policy; construction, utilities and the urban environment; transport; tourism, physical fitness and sports; ecology and natural resources; the economy and finance, and the power industry	
(2) Commission on ensuring the coordinated functioning and interaction of bodies of public authority	(3) Commission on coordinating activities between and evaluating the efficiency of the executive bodies of federal subjects	(4) Working groups

Source: Compiled by the author based on Указ Президента РФ от 21 декабря 2020г., № 800; ТАСС, от 21 декабря 2020г., «Путин утвердил состав Госсовета»; Президент России, «Государственный Совет».

⁷⁷ Распоряжение Президента РФ от 21 декабря 2020г., № 311-рп, «Об утверждении состава комиссии Государственного Совета Российской Федерации по обеспечению согласованного функционирования и взаимодействия органов публичной власти», *СЗРФ*, 28 декабря 2020г., № 52 (ч. 1), ст. 8802; Распоряжение Президента РФ от 21 декабря 2020г., № 312-рп, «Об утверждении состава комиссии Государственного Совета Российской Федерации по координации и оценке эффективности деятельности органов исполнительной власти субъектов Российской Федерации», *СЗРФ*, 28 декабря 2020г., № 52 (ч. 1), ст. 8803. Similar appointment decisions were also made for Anton A. Alikhanov, Governor of Kaliningrad Oblast, and Oleg N. Kozhemyako, Governor of Primorsky Krai.

⁷⁸ «а», пункта 11, «Положения о рабочих органах Государственного Совета Российской Федерации и Секретаре Государственного Совета Российской Федерации», Указ Президента РФ от 21 декабря 2020г., № 800, «Вопросы Государственного Совета Российской Федерации».

Although the 2020 constitutional reforms indeed augmented the State Council's authority, its organizational structure and personnel policies have also made it clear that it remains a state body responsible for coordinating federal-local relations with a focus on socioeconomic policy, including investment and the digital economy. Article 83 of the Constitution now states that the State Council is to be involved in determining "the general direction of the domestic and foreign policy of the Russian Federation," but the matters under its jurisdiction as stipulated in lower-level laws and statutes are limited to socioeconomic fields. At the very least, it is not an institution that deals with military security, foreign policy, or intelligence policy as the Security Council is. As such, focus will be on the interrelations between actors in terms of how these changes are applied, namely the overlap in jurisdiction between the federal government and federal subjects, which are responsible for socioeconomic policy, and the State Council.

Alongside introducing the concept of a single public authority (system), the 2020 amendments granting the State Council constitutional status and expanding its functions mark a milestone in the history of Russian federalism in that they furthered the establishment of a more centralized state system with the president of the federation at its head.

Conclusion

This paper examined how the 2020 constitutional amendments brought about change to Russia's Semi-presidentialism under the 1993 Constitution, focusing on how presidential power has evolved through alterations to the political system. The recent reforms made several changes to the relationship between the president, the federal government (the cabinet), and parliament. Both houses of the Federal Assembly gained greater though limited influence over the president and prime minister through their involvement in the cabinet formation process. The president won the power to dismiss the prime minister as well as the overall authority to command the federal government, cementing the president's position as head of the federal executive bodies under both the Constitution and federal constitutional law "On the Government of the Russian Federation." The introduction of the concept of a single public authority system is also expected to increase the president and federal center's influence over municipalities moving forward. In addition, the constitutional reforms and the enactment of the 2020 version of "On the Government of the Russian Federation" made the federal government more dependent on the president, and eliminated the State Duma's involvement in appointing cabinet members in charge of national security policy. These changes to the political system established a more organized system of executive power and can be said to have institutionalized Russia's "Superpresidentialism," which requires stability in presidential-parliamentary relations, as well as in federal-local relations via the State Council.

Any developments in updates made to lower-level laws and statutes in response to the constitutional reforms will be of note in terms of how much influence the Federation Council will actually hold over paramilitary organizations and the intelligence community. The lower-level laws and statutes on appointing the heads of the Federal Security Service, Foreign Intelligence Service, and Federal Guard Service were updated following the 2020 constitutional amendments to legally require the president to consult with the Federation Council, but it is not yet clear whether this system applies to Russia's diverse array of paramilitary and intelligence agencies, and if the upper house has the authority to reject the president's appointments, so a degree of reservation on the Federal Assembly's active role in the procedures is required. The administration's awareness of the

imbalance between executive and legislative power as expressed in Volodin's proposal will also be called into question, and future legislative developments surrounding the changes to parliamentary authority, a key element of the 2020 reforms, will be watched closely.

The other aspect of the 2020 amendments is the conservative and patriotic provisions, which were reflected in the new National Security Strategy approved in July 2021 as they begin to be codified as policy. Should more policies founded on these provisions be promoted in the future, the difference in values between Russia and advanced democracies will become an even greater foreign policy and security concern, particularly with Western European countries. These recent large-scale constitutional reforms are, to an extent, consistent with the institutional reforms surrounding executive power and federal-local relations the Putin administration has pursued and the social policy direction it has taken since 2000, and in that sense, can be seen as an institutionalization of the fundamental policies of the Putin era.

[Acknowledgments] I would like to thank Professor Ueno Toshihiko for the invaluable advice he provided in writing this paper, as well as the anonymous reviewers for their most apt arguments for revision.