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Ideal Political System Model for Belarus

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The new model for Belarus' political system should be based on generally acknowledged principles of the European law such as de-concentration and decentralization of power, parliamentarism, separation of powers, a system of checks and balances, independence of the judiciary, rule of law and respect for human rights and freedoms.

The supreme government institutions

The bad experience of presidential governance in Belarus has helped consolidate positions of politicians and scientists advocating a West European parliamentary system. A parliamentary system seems attractive for many among Belarus' 'counter-elite' since it appears to be effective in preventing one individual from usurping all powers in the country. Supporters of the parliamentary system refer to constitutional monarchy traditions of the Grand Duchy of Lithuania, and point to a more democratic nature of government and flexibility of the executive.

However, the ideas of 'pure' parliamentary government in Belarus stem from abstract democratic aspirations rather than real conditions that are necessary for a smooth operation of a parliamentary system. And, this is impossible without:

- economic and social stability;
- public consensus on fundamental values;

- well-established party system;
- electoral system limiting the number of acting political parties;
- democratic political culture of the ruling elite and counter-elite;
- deep-rooted democratic traditions;

Belarus does not offer a ready-made environment for a parliamentary system to exist. Quite on the contrary, the country experiences:

- permanent social and economic instability;
- deep division in society over fundamental values and a big divergence in political views that hampers finding a common ground;
- a fragmented political party system with all the characteristics of ‘extreme plurality’;
- an inadequate electoral system, which may contribute to party system fragmentation at the early stage of political reform;
- autocratic traditions;
- lack of experience in democratic governance.

Divided and fragmented as it is, Belarus would be especially vulnerable to the shortcomings of a parliamentary system. Major problems are likely to follow the adoption of the proportional representation or mixed-member proportional voting system. After a parliamentary election, the parliament is unlikely to have a one-party majority; a coalition majority is a more viable option. Coalitions are unlikely to be consolidated and will break up over conflicts among parliamentary factions. Party leaders’ inability to use consensus techniques increases the threat of major parliamentary and government crises. Plagued by internal parliamentary conflicts, the government would be unable to conduct radical and coherent reforms.

Another serious drawback of parliamentary systems is their lack of formal institutional limitations on powers of the parliamentary majority. A referendum is the only possible way for modifying the parliamentary majority’s mistaken policies before the end of term. However, referenda are an easy way to manipulate opinion of an incompetent general public.

Some advocates of a parliamentary system in Belarus suggest that the Constitutional Court should counterbalance the parliament blocking laws that are

unconstitutional and breach international treaties²⁵. The measure may not be effective, as legislation that turns government policies in a wrong direction may still be in line with the constitution and international commitments. The Constitutional Court is in no position to assess whether a piece of legislation represents a right or wrong political measure.

Lack of effective control over the parliament is fraught with despotic abuse of authority by a parliamentary majority, especially in transition societies. In that case, power of a parliamentary majority usually concentrates in the office of prime minister, who manipulates the compliant majority. An authoritarian prime minister may cause to subjugate the parliament to him/herself. Belarus was heading for such a premier-led republic in 1993 and 1994.

In certain circumstances, a parliamentary system is more conducive to sustainable democracy than other types of governance. There were just 43 established democracies in the world between 1979 and 1989, including 33 parliamentary systems, five parliamentary-presidential systems and five presidential systems of governance.

Nonetheless, in a divided society the parliamentary system often produces unexpected results. Belarusian political analyst Valery Karbalevich had a reason to say that ‘political will is necessary to pursue reforms. It is easier to concentrate political will in one hand or in a group of people rather than have a Parliament consisting of dozens of lawmakers with various political views’²⁶. This is a strong argument in support of restoring the presidential system in Belarus or moving towards a mixed system of government. Experience suggests that it is better to give much power to a limited group or even a sole executive, yet place him/her under effective parliamentary oversight.

Those who call for reanimating the 1994-type presidential system argue that it fits better in the traditions and mentality of the Belarusians. They argue that only a stable executive, relatively independent of power struggles within the

²⁵ Гл., напрыклад, матэрыялы круглага стала палітолягаў-юрыстаў *Какой быть Беларуси: президентской или парламентской?*, «Адкрытае грамадства» 2000, № 1, р. 15–16, 17, 18.

²⁶ Гл. матэрыялы круглага стала палітолягаў-юрыстаў *Какой быть Беларуси: президентской или парламентской?*, «Адкрытае грамадства» 2000, № 1, р. 15–16.

parliament, may bridge rifts in the society fueled by deteriorating living standards and economic crises, pursue the necessary reforms and take the country on a path of socioeconomic growth.

However, in countries with deep-rooted authoritarian traditions such as Belarus, a presidential system always risks transforming itself into a super-presidential government. Not by coincidence, many former Soviet republics mutated in super-presidential states with various degrees of personalization of power. Belarus is not an exception.

New 'democratic' leaders advocating a presidential system are driven by their autocratic habits inherited from past totalitarian regimes. The concentration of power in the president's hands, his/her relative independence of the parliament, and the fact that he/she always represents a voting majority makes it easier for him/her to suppress opposition and establish personalist dictatorship. On the one hand, a presidential republic, where the president and the parliament are elected in separate direct suffrage, requires experience in balancing the interests of the legislature and the government. But on the other, countries that lack such experience chose a presidential system more often²⁷.

The president acting as head of state should be above party- and other relatively minor political interests so as to be able to impersonate stability of the State. Yet, in a presidential republic, the president acts not merely in official representative capacity; he also acts as chief executive and leader of a certain political group.

Belarus' presidential system has shown that one of the dangerous consequences of combining ceremonial and executive ('effective') governance is that the head of state takes his supporters to represent the entire nation. He begins to view his policy as one of putting 'the people's will' to effect, and the policy of his opponents as anti-popular efforts aimed at advancing their narrow personal interests. Consequently, the president has refused to recognize restrictions on his mandate and has become extremely hostile toward the opposition. Thus, Be-

²⁷ Many former British colonies (Kenya, Tanzania, Pakistan) attempted to copy the British parliamentary system, but later opted for a presidential government that better suited their authoritarian traditions.

larus' presidential system of government has proved deficient not only in terms of flexibility but also in any of restricting presidential powers.

In addition, it should be noted that in a divided society it is very difficult for the president to ensure a stable majority in parliament. Moreover, a split in the coalition that rallies around the winning candidate is inevitable: if the cabinet is subordinate to the president, rather than the parliament, the most efficient method for ensuring political gains in next elections is to confront the presidential branch, which is responsible for everything. The president, in his turn, cannot but demand more and more powers, which exacerbates the crisis in his relations with the parliament and political parties.

In effect, presidential democracy engenders a strong conflict between the president and the opposition in the parliament, especially in times of serious social and economic crisis. The only way out of the conflict is a coup which, as a rule, is initiated by the executive power.

There are three major preconditions necessary for at least partial neutralization of the negative consequences of presidentialism in a fragmented society.

Firstly, it is necessary to establish a presidential electoral system capable of ensuring broad support for the elected president. This could be done by preference voting, where people decide which candidate they like best, which candidate ranks as second best etc. In this case, candidates can build their majority around the second and third most important choices of voters who cast their first vote for another candidate. Also, the dual condition principle could be applied which means that, to be elected, a presidential candidate needs to gain a majority of votes not only in total numbers, but also in a stated number of the country's constituencies/territorial units.

Secondly, it is necessary to establish a parliamentary electoral system that would help reduce the number of 'active' political parties to three or four. This could be a relative majority system which would spawn a two-party system, or a two-round majority system which would then breed two stable party coalitions in the legislature. The more parties represented in the parliament, the fewer chances there are of pro-presidential party coalition surviving. Also, this increases a possibility of the president ruling the country with a stable minori-

ty of his supporters in Parliament, with all the ensuing consequences e.g. preventing fast-track radical reforms, and inevitable conflicts and the use of force. Therefore, there are no more than 2 to 6 political parties in all lasting democratic systems of the presidential type.

Thirdly, the political elite should be able and ready to cooperate and compromise which, however, is unrealistic in a divided society.

Other factors to lessen the danger of a strong presidency include (fourthly) establishing an electoral college, and (fifthly) simplification of what is usually an excessively complicated impeachment procedure, provided there is sufficient evidence to prove the malfeasance charges brought against the head of state.

However, all the above-mentioned preconditions are necessary but not sufficient for presidential democracy to operate normally in a split society. The presidential system gets rid of most of its flaws only when factors of a consolidated democratic regime are at play, such as:

- durable consensus in the society regarding democratic procedures and institutions as the most efficient method of governance.
- A two-party system, in which the parties are not ideologized and do not represent opposing political forces of a split society, but rather reflect the greater part of the political spectrum. However, it should be noted that the two-party system is rare on a global scale and may not be established artificially.
- decentralization of government (federalism or developed local government), which implies that real politics is also conducted in regions and local communities. The most important decision-making areas are controlled by local entities. Central government does not bear responsibility for 'everything', and this lessens the threat of pressures on it.
- generally recognized role of the Constitutional Court as the arbitrator in disputes between the legislature and the executive, between central government and local authorities.

Since these conditions do not exist in a transitional society, the danger of presidentialism is very high. This is seen both in Latin American countries and the modern history of CIS countries, including Belarus. In a crisis situation and

with a polarized society, a 'pure' presidential regime with its subordinate 'vertically integrated' system becomes increasingly counterproductive. It contributes to a split in the society instead of leading the nation to concord, and therefore cannot guarantee stability.

Experience from other countries suggests that pure forms of governance have shortcomings revealed especially in societies in transition. A parliamentary republic is often hit by crises of the government and internal government changes. A presidential republic always risks turning into a dictatorial state.

Discussion of an optimal system for Belarus among politicians, political analysts and lawyers has been occasionally more animated, yet misguided in terms of methodology. A choice of the constitutional government system has boiled down to the simple dilemma of a parliamentary vs. presidential republic.

However, the number of purely presidential and parliamentary republics has been declining lately. The last decade has seen various systems mix, interweave and interact thus producing hybrid, semi-presidential and semi-parliamentary governments. The hybrids represent an attempt to combine advantages of the parliamentary and presidential systems and rid the system of shortcomings.

There are two types of mixed government. In a presidential-parliamentary republic, the government is accountable to the president and the parliament, the president appoints and dismisses the prime minister and other cabinet members, while the parliament can vote to dismiss the cabinet (Egypt, Peru, Russia, Turkey, and Ukraine). However, this type of government is rather questionable, as it implies a degree of uncertainty in the work of the cabinet having to serve two masters. Moreover, there is historical evidence that presidential-parliamentary republics can transform into a super-presidential system under certain circumstances (e.g. the Weimar Republic of Germany, the Fifth French Republic under de Gaulle, modern Russia and partly Ukraine).

The second type is a parliamentary-presidential republic where the prime minister and the cabinet are accountable to the parliament only (Austria, Finland, France, Iceland, Lithuania, Poland and Portugal). In a parliamentary-presidential republic, the president's choice of prime minister, as a rule, needs approval by the parliamentary majority. In other words, the legislature has the

prerogative to appoint the prime minister and key ministers. At the same time, unlike in a parliamentary republic, the president has certain rights that ensure the balance of powers and democratic stability (e.g. the right to dissolve the parliament or veto bills).

The parliament's right to remove the prime minister and change the cabinet's composition guarantees flexibility of the government's political course and reduces the risk of conflict between the executive and the legislature. The presidential right to dissolve the parliament and call new elections is a guarantee against recurrent government and parliamentary crises, and adds to the government's stability.

Such a system can be devoid of shortcomings of parliamentary and presidential republics.

In our opinion, a parliamentary-presidential republic would be the optimal choice for Belarus. It would imply giving some presidential prerogatives to the parliament and the government, restoring traditional functions of the parliament and greater independence of the government. Therefore, given the European experience and historical traditions of the Belarusian people, a parliamentary presidential republic may be regarded as an ideal model for Belarus.

One should bear in mind that transition societies usually lack sustainable democratic traditions present in developed democracies. For instance, the French constitution does not formally require that the president should appoint the leader of an election-winning political alliance as prime minister. Still, the French president would not even consider choosing someone else. The winning coalition should naturally form the cabinet. Belarus, Russia, Ukraine and some other CIS countries also have a constitutional provision whereby the president appoints the prime minister. However, in practice, its political interpretation may be quite different. For instance, in Russia the opposition's victory in parliamentary elections would have no impact whatsoever on the government and would not result in a change of prime minister. Moreover, the Russian president may dismiss the prime minister regardless of parliamentary support.

Thus, what is unwritten constitution in established democracies should be written down in the constitution of Belarus.

Above all, the new democratic constitution should specify the procedure of forming (changing) the cabinet and dissolving the parliament. The constitution should include a clear provision requiring the president to appoint the leader of a party (coalition) nominated as prime minister by a parliamentary majority. The president appoints other members of the cabinet nominated by the prime minister. At the same time, the parliament may vote to dismiss the cabinet on certain conditions (on the condition that the motion is put to vote along with a new candidate for the prime minister) followed by resignation of the cabinet. The constitution should clearly stipulate grounds for dissolving the parliament.

However, no matter how well-considered and perfect the wording, it cannot be a panacea against violations of democratic principles. Political elite's willingness to compromise and cooperate is essential for normal functioning of any democratic government, including a parliamentary presidential one.

Role of the President

Transition to a parliamentary-presidential republic should limit the president's powers so as to ensure dominance of the parliament in the system of governance, and raise the role of the government as an independent political body.

The president is the head of state in this system. He has the following functions:

- ceremonial leadership;
- mediation to ensure balance and stability of power;
- protection of the constitutional system.

In parliamentary governments, the head of state, who functions in ceremonial/representative capacity, and the chief executive are two separate offices. The executive power is exercised by the cabinet accountable to the parliament, while the president acts as the head of state. Unlike parliamentary systems, a parliamentary-presidential system expands powers of the president. Not only is the head of state the symbol of national unity, but also a mediator in settling conflicts among the branches of power and parliamentary gro-

ups; for instance, the president plays a role in selecting a candidate for prime minister, safeguards stability of the executive and prevents abuse of power by the parliament.

In a parliamentary-presidential system, the president has powers to:

- nominate a prime minister;
- make a formal appointment of prime minister after his/her nominee is endorsed by the parliament;
- appoint and dismisses other cabinet members nominated by the prime minister;
- accept resignation of the cabinet when a new cabinet takes office;
- approve nominations for judges with the exception of those appointed by the parliament and the justice minister;
- represent the country in relations with other countries and international organizations;
- negotiate and sign international treaties;
- accept credentials of foreign ambassadors and instruments for recalling foreign diplomats;
- take over command of the armed forces upon imposition of the martial law;
- dissolve the parliament and call early elections if:
 - a) the government loses a no-confidence vote;
 - b) the parliament cannot form the cabinet;

The president may dissolve the parliament or accept resignation of the cabinet if the parliament rejects the cabinet's program twice within a stated limited period.

If forming a cabinet with a parliamentary majority proves impossible, the president appoints the head of a minority cabinet or dissolves the parliament.

The president should have the right to issue decrees within the limits of his/her powers. The decrees have no force of laws and should be endorsed by the prime minister, with the exception of some Constitution-stipulated cases.

The president should be elected in direct suffrage for a four-year term. Presidency should be limited to two terms.

Those eligible to run for president should be citizens of the Republic of Belarus aged 45 and over who have lived permanently in the country for 10 years prior to the election. Candidates should have no criminal record and be fit for civil service.

The president should not run any agency, except for the Presidential Office. The president may not be a member of parliament, or a political party or other political organization, or hold other posts or jobs in addition to the presidency or have any other income, with the exception of fees paid for creative activity.

Application of the model to the executive

Within the parliamentary-presidential system, the government should be the central political body accountable to the parliament. The executive should have the following functions:

- define state policy priorities;
- implement these policies;
- mobilize the society and the ruling elite in support of its policies;

To perform these functions, the government must:

- develop and pursue domestic and foreign policies;
- enforce laws and carry out decisions of the parliament and directives of the president;
- coordinate work of ministries and other governmental agencies;
- draft budgets and monitor their implementation and be accountable to parliament for budget performance;
- prepare and propose bills to the parliament;
- ensure security, law and order.

The government, or the Cabinet of Ministers, consists of the prime minister and ministers. The cabinet's program, structure and expenditure to maintain government apparatus are subject to parliamentary approval and are included as a separate budget spending item. To perform its functions, the cabinet should be modestly staffed, relatively inexpensive and politically independent.

The president's choice of prime minister needs parliamentary majority approval. The president selects a prime minister in consultation with leaders of parliamentary factions. Once the candidate receives parliamentary approval, the president formally appoints him/her as prime minister. On appointment, the head of government nominates members to his/her cabinet, presents the cabinet's program and asks the Sojm to approve the head of government by a vote of confidence.

If the prime minister loses the vote, or fails to form the cabinet, or if his/her program does not receive majority support in the parliament, the Sojm nominates a new prime minister and members of the cabinet who need support of an absolute majority in the parliament. Subsequently, the president formally appoints a new prime minister and cabinet members. If the newly elected cabinet fails to obtain an absolute majority, the president, following consultation with parliamentary factions, appoints a minority cabinet or dissolves the parliament.

The president appoints and dismisses cabinet ministers nominated by the prime minister. A motion of no confidence may be brought against the cabinet and cabinet members no earlier than 12 months after its formation on the condition that it is supported by at least 20 percent of MPs. The Sojm may vote to remove the prime minister only if it proposes a successor. Following a vote on no-confidence, the Sojm asks the president to dismiss the prime minister. The president must dismiss the prime minister and formally appoint his or her successor. A new no-confidence motion may be initiated no earlier than 12 months after the consideration of the previous one.

The prime minister may ask the parliament to take a vote of confidence on the head of government. If the Sojm rejects the prime minister's motion of confidence, the president may dissolve the parliament at prime minister's request. However, the president should not have the right to dissolve the parliament once the latter nominates a successor by a majority vote.

The prime minister's term of office terminates on the opening of the first session of a newly elected Sojm.

The cabinet must resign if its program has been rejected twice by the Sojm or if the latter votes to remove the prime minister and selects his or her successor.