

Transformation of Lukashenka's system of government: the draft of Belarus's new constitution

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On 20 January, Alyaksandr Lukashenka issued a decree scheduling a constitutional referendum to be held on 27 February. The vote will concern a document attached to a decree containing changes to dozens of articles of the present constitution. The voters may answer 'yes' or 'no' to the question: "Do you accept the changes and additions to the Constitution of the Republic of Belarus?" The draft of the new basic law was prepared by the constitutional commission which reports to Lukashenka. After it was published on 27 December, it became the subject of so-called public consultations in which citizens and non-governmental organisations loyal to the regime participated, but no significant changes were made to it.

The draft envisages a major reorganisation of the government system. The All-Belarusian People's Assembly (ABPA) which so far has been convened every 5–6 years in the form of a congress of delegates from all over the country, will be granted the status of a constitutional body with up to 1,200 members representing local authorities and communities in each of the seven oblasts, elected for a five-year term. The ABPA will gain extensive competences at the expense of the current prerogatives of the president and the executive. Chaired by a permanently operating presidium, which may be chaired by the incumbent president, it will in fact become a body of executive power, whose recommendations and decisions will be carried out by the parliament, the head of state and the government.

The ABPA will approve strategic documents regarding domestic, social, economic and foreign policy and military doctrine. It will also decide on the introduction of states of emergency or martial law. The assembly will elect the president and judges of the Constitutional Court and the Supreme Court as well as members of the Central Election Commission, which was previously the responsibility of the president. The decisions of the ABPA will have the rank of legal acts of the highest rank. It will thus be able to invalidate laws, decrees and regulations issued by the head of state and the government, but not court decisions. An important prerogative of ABPA is the right to initiate, in cooperation of the Constitutional Court and parliament, the procedure of dismissing the incumbent president in the event of the constitution being violated, treason or another serious crime. The transitional provisions provide for the new government system linked to the establishment of the ABPA being formed within one year of adopting the new constitution and that a special law on the ABPA will have to be passed.

One important modification of the political system is the provision that one person will be allowed to serve as the president for only two consecutive terms. Only a person who has reached 40 years of age, has lived in Belarus continuously for 20 years before the elections and has not had foreign citizenship, can hold the highest position in the state.

The amended constitution envisages immunity guarantees for Lukashenka. If he resigns or ceases to perform the duties of the head of state, he will remain a deputy of the Council of the Republic (the upper house of parliament) for life. In the event of a vacancy in the office of president, his duties are to be taken over by the president of the Council of the Republic, who will also lead the Security Council (under legal regulations currently in force, these are the duties of the prime minister).

The removal of the phrase about Belarus's desire to remain a state free of nuclear weapons marks an important change in the security policy. The provision declaring the desire to be a neutral state was also removed. The new version of the constitution merely emphasises that Belarus rules out military aggression against other countries. In the sphere of historical policy, the special importance of preserving the "historical truth about the heroic deeds of the Belarusian people" during the Great Patriotic War has been emphasised.

Commentary

- The presented proposal for amending the constitution is in line with Lukashenka's declarations on the need for a new division of powers between the various branches of government. Already in February 2021, he stated that the president's powers were dangerously expanded in the face of a possible change in this position, and in particular if he were replaced by a representative of the opposition. At that time, he supported the idea of granting the ABPA the rank of a constitutional body as the highest form of representation of the nation.
- The recently proposed constitutional amendments create conditions for Lukashenka to govern Belarus till the end of his days. The situation may develop in two ways: it seems that he has not yet chosen the final model of state governance. According to the first scenario, once the ABPA has been established, Lukashenka will become the chairman of the presidium (the draft constitution does not contain provisions limiting how long this function may be held). He will thus still be able to make decisions concerning internal and foreign policy, including by initiating legislative changes or invalidating issued legal acts. The ABPA's position vis-à-vis the head of state will be strengthened as it will have the right to appoint judges of the Supreme Court and the Constitutional Court. It will also be up to the ABPA to start the process of impeaching the new president. In the second option, Lukashenka will remain the president and will participate in the next elections, which will allow him to rule even until 2035. Another possible option is that he will hold both positions: the head of state and the chairman of the ABPA presidium. The implementation of the first scenario, allowing Lukashenka to maintain the position of final decision-maker, seems to be a more attractive solution for him. The more so because, although the president will continue to occupy a significant position in the government system, the ABPA may, if necessary, limit his decision-making capacity. The ABPA is supposed to play the role of the regulator of the Belarusian political system and – if necessary – to change the decisions of the executive branch.

- The amendment of the basic law is a propaganda move intended to create the impression of the authoritarian system being replaced by the 'people's' rule, in which the voice of representatives of the Belarusian public will be decisive. Lukashenka reached the conclusion that this change of the constitution will allow him to create the appearance of reforming the political system while ensuring the continuation of his rule. The constitutional amendments are probably also Lukashenka's reaction to pressure from Russia, which is concerned about the scale of the protests in Belarus in autumn 2020 and has encouraged him to modify the political system and take into account the possibility of his resignation or weakening his position. This pressure eased after the suppression of public resistance in Belarus. Therefore, it is worth paying attention to the long transition period for implementing the proposed changes – in most cases, the government has given itself two years to adopt the specific provisions, while the regulations concerning the operation of the ABPA are to be developed within a year. The regime is thus gaining time to refine new systemic solutions in order to minimise the risk of destabilising the government system, including weakening Lukashenka's position. Nor does the draft provide for a snap presidential election, which means that Lukashenka is striving to maintain the status quo as long as possible.
- It is worth noting that the article devoted to national minorities in the new version of the constitution emphasises the development of patriotism in line with "Belarusian traditions" and announces the cultivation of Soviet and modern Russian historiography, as indicated by the special distinction of the Great Patriotic War. This may mean that the government will restrict the freedom of the Polish minority to cultivate their own historical identity. In addition, the chapter on the foundations of the political system contains a provision on the single-state ideology (the version in force so far allows for ideological diversity). This may be an attempt to constitutionally sanction the totalitarian tendencies observed for over ten months in the regime's domestic politics.
- The disappearance from the draft constitution of the definition of Belarus as a country on whose territory no nuclear weapons will be deployed and the removal of the clause on striving for neutrality are a gesture towards the Kremlin. This confirms that Lukashenka has fully accepted the fact that Moscow is creating Minsk's military policy, including with regard to the possible deployment of Russian nuclear weapons in Belarus. At the same time, the assurance that military aggression from Belarusian territory against any other state is ruled out in the amended constitution is intended to create the appearance of the regime's peaceful nature and its readiness to continue the foreign policy that was in place before 2020.
- The referendum will take the form of a special operation and is a major organisational challenge for the regime. The mobilisation of the entire state administration, including at the local level, the armed forces and law enforcement agencies, factory workers and their families, should be expected to ensure the highest possible turnout. It is highly likely that the results of the vote will be rigged. Proof of this may be found in the fact that people who previously worked in internal security institutions are among the members of referendum committees. Representatives of the Belarusian opposition are calling for voters to spoil their ballot papers. Due to the unprecedented scale of repression in Belarus, the calls for boycotts are unlikely to spark a nationwide protest and street

demonstrations.