Federalism, Local Government, and Transition to Authoritarianism in Russia

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Abstract Since the adoption of the Russian Constitution in 1993, the legal regulation of relations between local self-government, the component units of the federation, and the federal centre has undergone many changes. These developments could occur thanks to the Constitution itself, which, in a rather broad way, refers to the federal legislature, the discipline of the organization of local self-government and of the component units of the Federation. However, the analysis from a diachronic perspective of the adopted legislative acts reveals that, primarily since 2014, they have increasingly shaped the relationship between the different territorial levels of government in a way that essentialy serves the consolidation in Russia of an authoritarian State. It is clear that these reforms were shaped under the influence of Tsarist and Soviet legacies, even if reinterpreted and adapted to new situations.

1 Introduction

Russia was first defined as a federation with the introduction of the Soviet political system. Indeed, in the wake of the October Revolution, the Declaration of Rights of the Working and Exploited People of 3 (16) January stated that: 'The Russian Soviet Republic is established on the principle of a free union of free nations, as a federation of Soviet national republics' (Art. 1, para 2). Despite this statement, the first Constitution of the 'Russian Socialist Federative Soviet Republic' (hereinafter RSFSR) of 1918 and the following versions of 1925 and 1937 did not embody the typical features of authentic democratic federations. Instead, the abovementioned Constitutions merely recognised that in specific portions of Russia's territory inhabited by peoples not considered Great Russian it was possible to establish autonomous territorial entities. The autonomy of the same was however essentially implemented from a linguistic and cultural point of view, even though in certain

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M. Nicolini, A. Valdesalici (eds.), *Local Governance in Multi-Layered Systems*, Ius Gentium: Comparative Perspectives on Law and Justice 108,
https://doi.org/10.1007/978-3-031-41792-4_15

periods it became instrumental for recruiting local elites.[1] In fact the realisation of a true political decentralisation could not be harmonised with the socialist form of State, based on the principles of the unity of state power and dual subordination.[2]

The last Russian Soviet Constitution of 1978 still recognised the presence of autonomous republics, autonomous regions, and autonomous areas in territories traditionally settled by non-Russian ethnic groups. Besides them the remaining part of the RSFSR's territory was further divided into territories/*kraj*, regions, and cities at republican level (i.e. 'administrative territorial entities' of higher tier) and districts, cities, urban districts, towns, and rural settlements (i.e. 'administrative territorial entities' of lower tier).

However, between the end of the 1980s and the beginning of the 1990s, along with the process of disintegration of the 'Union of Soviet Socialist Republics' (hereinafter USSR), all the above mentioned autonomous territorial entities and higher tier administrative territorial entities underwent significant changes which led to the establishment of some distinctive features of authentic democratic federations within the RFSFR that in turn had been the main 'founding father' of the USSR.

In fact, in 1989, the Supreme Soviet of the RSFSR was transformed from a unicameral to a bicameral legislature with an upper chamber (the Soviet of Nationalities) representing territorial interests.

Moreover, after the dissolution of the Soviet Union, a Federation Agreement was signed in March 1992 which embodied tenets—later to be constitutionalised—that remodelled the division of responsibilities between the centre and the autonomous republics, and extended this principle to the autonomous regions, autonomous areas, territories/*kraj*, regions, and to the cities of Moscow and the recently renamed Saint Petersburg.[3]

This, in turn, on the one hand, expanded the newly established Constitutional Court's supervision over the normative acts adopted by such entities, following the new division of responsibilities while on the other one made the Constitution more 'inflexible', in that it would no longer be possible to adopt constitutional amendments concerning the federative structure of Russia without the consent of the same entities.

Finally, due to the introduction of the principle of separation of powers in the Constitution, the official denomination of 'Russian Soviet Federative Socialist Republic' was changed to 'Russian Federation /Russia'.

Along with this process, which from 1989 formally recognised all former autonomous territorial entities and all former administrative territorial entities of higher tier as component units of the renewed federation, the principle of self-government/*samoupravlenie* was introduced in the administrative territorial entities of lower tier.

[1] Gronskj (1929); Kis (1973).

[2] Kahn (2004), pp. 74–75.

[3] Lynn and Novikov (1997), pp. 190–192.

In fact, the term *samoupravlenie*, inspired by the English model of 'self-government',[4] had already been in use in Russia as early as the nineteenth century, and it was precisely this idea, as a paradigm of socio-economic organisation, that first influenced the reforms carried out in the Russian Empire at local level, in connection with the abolition of serfdom in 1861.[5] However, following the October Revolution this word did not get into the 'lexis' of the Socialist form of State until after the begin of *perestroika*, when it featured the USSR law of 9 April 1990 'On the General Principles of Local Self-Government (*mestnoe samoupravlenie*) and of Local Economy in the USSR'.[6] A year later the notion of self-government was also inserted, albeit not in its entirety, in the RSFSR Constitution of 1978.[7] Indeed, the last Soviet Russian Constitution, as amended on 21 May 1991, stated that:

> Local self-government shall provide for the autonomous resolution by the population of issues of local significance by means of institutions elected by them or directly acting in the interest of the population, based on the allocated material and financial resources for local self-government bodies.[8]

In addition to this, the same amendments specified that local self-government was only possible in 'districts, cities, towns and rural settlements',[9] that is to say, in the administrative territorial entities of the lower tier. However, the soviets of people's deputies of such territorial entities–even though they had acquired the right to practise local self-government–continued to be considered part of the 'unified system of representative bodies of state power in the RSFSR'.[10] They were formally separated from such a system only thanks to the constitutional revision of April 1992, which consequently categorised them as part of the 'local self-government system'.[11]

[4] Starr (1972), p. 100.

[5] Mironovo (1994).

[6] Yaschuk (2017).

[7] The definition provided by the USSR law of 9 April 1990 was not included in the USSR Constitution, which by virtue of the constitutional revision of December 1990 merely recognised the presence of the 'local self-government system'.

[8] Art. 138, paragraph 2 Constitution RSFSR 1978. In this Art., the soviets of the people's deputies were still asked to guarantee 'the execution of the decisions of bodies of state power made within their scope of competence', which illustrates the difficulty of abandoning the principle of the unity of state power and dual subordination.

[9] Art. 138, paragraph 1, Constitution RSFSR 1978.

[10] Art. 85, paragraph 1 Constitution RSFSR 1978.

[11] Art. 85, paragraph 2 Constitution RSFSR/FR 1978: 'Local soviets of people's deputies–of districts, cities, urban districts, towns and rural settlements–are part of the local self-government system'.

2 Jurisdiction Over Self-Government

The changes introduced by the revision of the 1978 RSFSR Constitution influenced the concurrent drafting of the new Constitution of the Russian Federation.

This Constitution, when approved by a referendum on 12 December 1993,[12] defined Russia first and foremost as a 'democratic, federative, rule of law state with a republican form of government' (Art. 1, paragraph 1) that 'consists of republics (*respublika*), territories (*kraj*), regions (*oblast'*), cities of federal significance (*gorod federal'nogo značenija*), an autonomous region (*avtonomnaja oblast'*), and autonomous areas (*avtonomnyj okrug*), which shall enjoy equal rights as subjects (*sub"ekt*) of the Federation' (Art. 5, paragraph 1). The new Russian Constitution also enshrined some typical tools of democratic federal states such as the division of responsibilities, an upper chamber representing territorial interests, and the right of the subjects (*sub"ekt*) of the Federation (hereinafter 'component units of the federation') to participate in constitutional revision. At the same time, however, the new Constitution introduced some provisions concerning the relations between the federation and its component units, which were still strongly influenced by the legacies of the Soviet period, especially when stating that: 'The federal structure of the Russian Federation is based [. . .] on the unity of the system of State power [. . .]'[13] and that

> Within the limits of jurisdiction of the Russian Federation and powers of the Russian Federation on issues under the joint jurisdiction of the Russian Federation and the subjects of the Russian Federation, federal bodies of executive power and bodies of executive power of Russian Federation subjects shall form a unified system of executive power in the Russian Federation.[14]

Furthermore, the recourse to pre-Soviet elements caused a concentration of power in the Russian President, who would now be able to block any horizontal separation of powers, which is the prerequisite for vertical separation of powers.

Nonetheless the new Russian Constitution still sanctioned the principle of local self-government, raising it to a constitutional foundation in chapter 1 on 'The Fundamentals of the Constitutional System'. After stating that, 'The people shall exercise its power directly, as well as through bodies of state power and local self-government bodies' (Art. 3, paragraph 2), this chapter indeed declares that: 'In the Russian Federation local self-government shall be recognised and guaranteed. Local self-government shall be autonomous within the limits of its authority' (Art. 12, paragraph 1). The same chapter moreover reiterates that: 'The bodies of local self-government shall not form part of the system of bodies of state power' (Art. 12, paragraph 2), which instead includes the bodies of the federation[15] and the

[12] See Henderson (2011).

[13] Art. 5, paragraph 3, Constitution RF.

[14] Art. 77, paragraph 2 Constitution.

[15] Art. 11, paragraph 1 Constitution RF: 'State power in the Russian Federation shall be exercised by the President of the Russian Federation, the Federal Assembly (the Council of the Federation and

bodies of its component unit.[16] By contrast the new Constitution no longer specifies that the bodies of local self-government should form a system of its own as did the amendments introduced in the last Russian Soviet Constitution in April 1992.

In addition to the tenets devoted to local self-government in chapter 1, the Russian Federation's Constitution of 1993 included an *ad hoc* chapter on 'Local self-government' (chapter 8). This chapter provides for a definition of self-government[17] and sets out the basic rules regarding the creation of municipalities, the establishment of local self-government bodies, the issues of local relevance and the funding thereof. The provisions of chapter 8 however are less rigid compared to those inserted in chapter 1.[18] The same must be affirmed with respect to Art. 72, lit. *m* of chapter 3 which states that

> the determination [. . .] of the general principles for the organisation of local self-government shall be under the joint jurisdiction of the Federation and the subjects of the Russian Federation.

Therefore, both the federation and its component units have the right to further intervene in the organisation of local self-government.[19] But, to what extent?

In order to understand that we need to look back to the different statutes adopted over the years by the federal legislature.

In fact, on 28 August 1995, the federal legislature enacted its first law 'On General Principles of the Organisation of Local Self-Government in the Russian Federation'[20] (hereinafter: Law No. 154 FZ). This law regulated many aspects of local self-government but allowed the component units of the federation to establish

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the State Duma), the Government of the Russian Federation, and the courts of the Russian Federation'.

[16] Art. 11, paragraph 2 Constitution RF: 'State power in the subjects of the Russian Federation shall be exercised by the bodies of state power created by them'.

[17] Art. 130, paragraphs 1 and 2 Constitution RF: '1. Local self-government in the Russian Federation shall ensure the independent solution by the population of issues of local importance, of possession, use and disposal of municipal property. 2. Local self-government shall be exercised by citizens through a referendum, election, other forms of direct expression of the will of the people, through elected and other bodies of local self-government'.

[18] The provisions of the chapter 8 could indeed be modified – just as those of chapters 3–7 – through a Law of the Russian Federation to amend the Constitution adopted with at least two thirds of the total number of the deputies of the State Duma, with at least three quarters of the total number of the members of the Council of the Federation and ratified by no less than two thirds of the component units of the Russian Federation. Otherwise, the provisions of chapter 1 – similarly to those included in chapter 2 'Rights and Freedoms of Man and Citizens' and in chapter 9 'Constitutional Amendments and Review of the Constitution'– could only be changed through the approval of a new Constitution. In this respect see: Petersen and Levin (2016), p. 526.

[19] Nikitenko (2014), p. 490.

[20] The federal legislator also intervened in local self-government before the approval of the new Constitution of 1993 when – after the introduction of the term 'local self-government' in the Constitution of the RSFSR of 1978 by the revision of 24 May 1991–a RSFSR law was passed 'On Local Self-Government in the RSFSR' on 6 July 1991, later abrogated by the law of 29 August 1995.

additional types of municipalities and to reshape the responsibilities of the municipal entities with respect to those provided by the same law.[21]

Thus, the component units of the federation adopted rules that often led to 'important regional differences across the federation in the implementation of the 1995 Law and local government reforms in general'.[22]

However, the same law could not prevent conflicts between mayors and governors, on the one hand, and between governors and the Federal centre, on the other. Namely, the governors 'tend to be ardent decentralisers whilst dealing with central government', but act 'as adamant centralisers in relation to local organs'.[23]

In the wake of this development the President of Russia V. Putin proposed to convoke an *ad hoc* commission[24] vested with the comprehensive reformulation of the division of responsibilities between the federation, its component units, and local self-government. Finally, the proposals of the same commission were taken up in the second federal law 'On General Principles of the Organisation of Local Self-Government in the Russian Federation' (hereinafter: Law No. 131 FZ) that was approved on 8 October 2003.

The new law restricted the right of the component units of the federation to regulate local self-government in a more independent manner,[25] as had been sanctioned in prior legislation.[26]

In addition to this, despite having been adopted via ordinary procedure, Law No. 131 was granted particular resilience because it sets forth that the general principles for the organisation of local self-government could only be changed through corresponding amendments to the said law.[27]

Nevertheless, since 2014, numerous new provisions were added to Law No. 131 FZ,[28] aimed at conferring upon the component units of the federation the right to carry out a first selection of the rules concerning the status and the institutions of the municipalities in the territories under their jurisdiction.

[21] Kruzhkov (2005) p. 36.

[22] Ross (2006), p. 645.

[23] Wollmann (2004), p. 122.

[24] On proposals and works of the Commission, named Kozak Commission: Campbell (2008), pp. 264–270.

[25] Bazhenova (2017).

[26] Cfr. Wollmann and Gritsenko (2009).

[27] Art. 4, paragraph 1, Law No. 131 FZ.

[28] Above all on the basis of: Federal Law of May 27, 2014 No. 136-FZ 'On Amendments to Art. 26.3' of the Federal Law 'On the General Principles of the Legislative (Representative) and Executive Bodies of State Power of the Subjects of the Russian Federation' and the Federal Law 'On the General Principles of Organization of Local Self-Government in the Russian Federation' and of: Federal Law of February 3, 2015 No. 8-FZ 'On Amendments to Arts 32 and 33 of the Federal Law 'On Fundamental Guarantees of Electoral Rights and the Right to Participate in a Referendum of Citizens of the Russian Federation' and the Federal Law 'On the General Principles of Organization of Local Self-Government in the Russian Federation'.

However this right was introduced only after the supervision of the Federation over the said units had been strengthened. Thus, the regulation of self-government has become even more intertwined with the recentralisation of powers between the federation and its component units.

3 Structures and Institutions of Municipalities

In conformity with the novelties added to Law No. 131 FZ, the component units of the federation have first acquired the right to select among those listed in that federal law the types of municipalities to establish in their territories.

In this regard, it is also necessary to underline that their choice has been enlarged since the list of the different types of municipalities provided by the federal law of 2003 has been significantly expanded over time. In fact, the original version of this law set forth five different categories of municipal entities, namely: (1) rural settlements (*sel'skoe poselenie*), (2) urban settlements (*gorodoskoe poselenie*), (3) municipal districts (*municipal'nyj raion*), (4) urban areas (*gorodskoj okrug)*, and (5) the intra-urban territory of cities of federal significance (*vnutrigorodskaja territorija goroda federal'nogo značenija*). In 2014, two more categories were added, namely (6) the urban area with intra-urban divisions (*gorodskoj okrug s vnutrigorodskim deleniem*), and (7) the intra-urban district (*vnutrigorodskoj rajon*). Finally, in 2019 the (8) municipal area (*municipal'nyj okrug*) was introduced.[29] When comparing these different types of municipalities, it is furthermore necessary to distinguish between municipalities organised on one level and those with two levels (two tier municipalities), such as municipal districts (which can be established on the basis of pre-existing urban and rural centres) and urban areas with intra-urban divisions (which can be established within the boundaries of a pre-existing urban area by introducing new intra-urban districts).

Secondly, the component units of the federation—on their own initiative or that of the municipalities or the federation—can now change the *status* or the boundaries of the municipalities after consulting the interested populations regarding such changes and provided that other requirements defined in Law No. 131 are met.

[29] Alongside these categories of municipal entities available to the component units of the federation, the 2003 Federal law set forth a series of *ad hoc* categories, such as 'science cities', 'frontier territories', the 'territories of the Skolkovo innovation centre', 'advanced socio-economic development territories', 'territories of centres of scientific and technological innovation', the 'territories of the free port of Vladivostok', and the 'closed administrative-territorial formations' which are further regulated by an *ad hoc* federal law, with the exception of the so-called category of 'municipal formations located in the Far North and surrounding territories with limited periods for the delivery of goods'. At same time, Law No. 131 FZ does not make any reference the so called 'national districts' which were reintroduced in three component units of the federation (Republic of Sacha/Jakutija, Republic of Karelija, Territory of Altaj) by means of their regional laws.

In fact, from 2003, both the *status* and the boundaries of many municipalities have been transformed. Overall, from 2010 to 2020, the number of municipalities shrank from 23,907 to 20,846 mostly caused by mergers of settlements, mainly in rural areas.[30] As part of this development, a trend towards fewer two-tier municipalities can also be observed. Indeed, between 2010 and 2020, the number of municipal districts decreased from 1829 to 1673, mainly because they were initially transformed into urban areas and subsequently into municipal areas.[31] Thus, the introduction of the 'municipal area' category by the federal legislature was precisely aimed at limiting the trend among the federation's component unitis of transforming municipal districts with low levels of urbanisation into urban areas. At the same time, the establishment of municipal areas in Russia tended to 'legalise' the trend towards transforming municipal districts into single-tier municipalities.[32] This is also confirmed by the fact that the uptake of the category 'urban area with intra-urban divisions' was likewise minimal,[33] with only three instances in the whole of Russia.

In addition to the right to select the categories of municipalities and to change their *status* or boundaries, the component units of the federation were granted the possibility to select the method of election of the municipal heads. According to Law No. 131 FZ, they may choose one or more (as alternatives) among the following methods: (a) direct election of the head of the municipality, (b) indirect election of the head of the municipality by the corresponding municipal council from among its members, and, as of 2015, (c) indirect election of the head of the municipality by the corresponding municipal council from at least two candidates chosen by an *ad hoc* competition selection board.

Upholding what had previously been stated by courts of ordinary jurisdiction,[34] in December 2015, the Russian Constitutional Court furthermore declared[35] that the component units of the federation might select, among those listed in Law No. 131 FZ, distinct models of the election of the municipal head (with or without alternative) with respect to the different categories of municipalities and also for specific municipalities belonging to the same category, provided that the corresponding choice follows precise criteria outlined in their legislations.[36]

After having obtained the right to choose the method of election of the municipal heads, the component units of the federation immediately showed a clear preference

[30] Data sourced from Kiskin (2020), p. 112.

[31] Accordingly, the number of urban areas rose from 512 to 632, while thirty-three municipal areas were already established.

[32] Bezhenova (2020).

[33] Blagov (2017a).

[34] Shugrina Kutafin (2017).

[35] *Judgement of the Constitutional Court of the Russian Federation,* 1 December 2015, No. 30-P, in www.ksrf.ru.

[36] However, according to the decision of the Russian Constitutional Court, in rural and urban settlements (which are smaller in size and jurisdiction than urban areas) the alternative of direct election of heads of the municipal formations must always be guaranteed.

for the so called 'city manager' model[37] consisting in the indirect election of the municipal head (without executive powers) by the corresponding municipal council among its members with the contemporary appointment by the latter of a local administration head (with executive powers) chosen among candidates (at least two) picked by a competition selection board. The preference for this model was due to the fact that, since 2014, half of the members of the competition selection board have to be elected by the municipal council among its members while the other half are appointed by the head (hereinafter 'governor') of the corresponding component unit of the federation,[38] thus giving the latter the to influence the appointment of local administration heads.

Moreover, since 2015, many legislatures of the component units of the federation decided to move further from the above mentioned 'city manager' model to the so-called 'appointed municipal head' model, which bestows on the governors of the component units of the federation even greater control over municipal heads. In fact, according to the latter model, the head of municipality itself might be 'elected' by the municipal council among candidates submitted (at least two) by a competition selection board whose members shall still be chosen half by the respective municipal council and half by the governor of the corresponding component unit of federation. Additionally, in this case the elected municipal head must also act as local administration head.

To sum up in Russia since 2014, thanks to corresponding decisions of the component units of the federation, the direct election of the municipal heads had to give way to the indirect election of the same first under the 'city manager' model, and then under the 'appointed municipal head' model, which in turn serves better the 'centralising effort of the federal authorities'.[39] For example, the direct election of the local head is yet applied only in 7 (Abakan, Anadyr, Khabarovsk, Novosibirsk, Tomsk, Ulan-Ude, and Yakutsk) out of 85 of the capital cities of the component units of the federation.[40]

Alongside the possibility to choose the method of election of the municipal heads, the component units of the federation were also granted the possibility to select the method of election of the assemblies of the upper tier of the two-tier municipalities (respectively of municipal districts since 2009 and of urban areas with intra-urban division since 2014).[41] Namely, the component units of the federation may opt for an upper-tier municipal council directly elected or composed both by the heads and by

[37] Wollmann and Gritsenko (2009).

[38] This rule is not applied in rural/urban settlements and in intra-urban division, in which half of the members of the competition commission must be respectively selected by the rural/urban council and by intra-urban district council meanwhile the other half respectively appointed half by the municipal district head and by the head of the urban area with intra-urban division to which they correspondingly belong.

[39] Golosov et al. (2016), p. 511.

[40] Noble and Petrov (2020).

[41] Until 2009 only the municipal council of the lower tier were vested with the right to choose the method of election of the assemblies of the upper tier of the two-tier municipalities.

delegates from the municipal councils of the lower-tier municipalities (i.e. urban and rural settlements and intra-urban districts).[42] As a consequence of this given right many component units of the federation preferred the latter option, thus weakening the democratic base for forming the councils of their municipal districts and also urban areas with intra-urban districts.[43]

Finally, the component units of the federation can always influence the composition of the directly elected municipal councils by choosing the electoral system to be applied during local elections, but once again only from the list of options established by the federal legislature. This selection is particularly relevant since, at local level, the range of associations that have the right to contest municipal elections also depends on the chosen electoral system.

Indeed, if a majority-based system is chosen, the right to present candidates is granted not only to political parties, duly registered as such, but also to social organisations which are not registered as political parties. This however is possible only if the latter specified in their founding regulations that their purpose also comprises the proposal of candidates in elections.

Conversely, the abovementioned social organisations may not propose their list of candidates when the proportional system is applied. The federal legislature has attempted to remedy this imbalance by allowing such social organisations to propose to insert their own candidates in the lists of the political parties that compete in the elections. However, considering that the political parties won't have to accept such proposals, the Constitutional Court of the RF in 2011 resolved to prohibit the application of the proportional system in elections to representative assemblies of settlements (urban and rural) with low population density, because this could give rise to a violation of the equality of voting rights of citizens.[44] In conformity with that decision of the Constitutional Court, Law No. 131 FZ was consequently further amended.

The right of the component units of the federations to select the method of election of the municipal heads and the electoral formula for the municipal councils gives them the ability to influence to a large extent the results of the direct election of the governors of the component units of the federation which was reintroduced in 2012. Namely, to run for the corresponding mandate it is necessary to obtain—as stated by federal law—the official support of between 5–10 per cent of municipal deputies and elected municipal heads of the municipalities of the concerned component unit of the federation, i.e. to pass the so-called 'municipal filter'.[45] In turn, the

[42] If the components units of the federation opt for an indirect electoral system, they can furthermore establish the number of delegates that each lower-level municipality can appoint to the upper-tier municipal council.

[43] Pomazanskiy and Sevalnev (2018), p. 1756.

[44] *Judgement of the Constitutional Court of the Russian Federation,* 7 July 2011, No. 15-P, in www.ksrf.ru.

[45] Solovev et al. (2018).

constitutionality of this 'filter' was ascertained by the Russian Constitutional Court that in 2012 stated that:

> the federal legislature, [. . .] taking into consideration the real necessity of the bodies of state power of the components of the Russian Federation to interact, as they are responsible for the social, economic and other development of the territory of the subjects of the Russian Federation, and therefore of any municipalities [. . .], has the right to provide for one or other form of participation by elected officials of local communities as well as of consideration of their opinions in the context of the procedure for replacing the office of supreme official (*governor*) of the subject of the Russian Federation.[46]

4 The 'Issue of Local Significance' and the Statisation (*Ogosudarstvlenie*) of Local Self-Government

According to the Russian Constitution, local self-government[47] shall provide for the independent resolution by the population of those 'issues of local significance' listed in Law No. 131 FZ, including those (few indeed) directly enumerated in the Constitution.

Unlike the previous Law No. 154 FZ, this law no longer delineates such issues in a single list, but in four distinct lists concerning respectively: (1) issues of local significance of urban settlements and those of rural settlements, which as of 2014 have been reduced in number compared to the former, (2) issues of local significance of municipal districts, (3) issues of local significance of urban areas (including urban areas with intra-urban divisions) and of municipal areas; and lastly, (4) issues of local significance of intra-urban districts.

Besides, Law No. 131 FZ sets out that these lists can only be changed by amendments and supplements to said law. Therefore, it appears that Law No. 131 FZ no longer allows the component units of the federation to define issues of local significance on their own terms, as was the case under the previous legislation.

Nevertheless, this right was also restored to the component units of the federation in 2014, albeit only minimally, in that they are permitted to extend to rural settlements some (or all) of the issues of local significance envisaged for urban settlements. They can also allocate further issues of local significance to urban areas with intra-urban divisions.

In addition to this, even if local self-government bodies are not considered part of the system of the bodies of state powers, they have been increasingly affected by the transfer of powers that from the federation reaches the municipalities.

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[46] *Judgement of the Constitutional Court of the Russian Federation,* 24 December 2012, No. 31-P, in www.ksrf.ru.

[47] Art. 130, paragraph 1 Constitution RF: '1. Local self-government in the Russian Federation shall ensure the independent solution by the population of issues of local importance, of possession, use and disposal of municipal property'.

The state bodies of the federation may indeed delegate their powers-within the federal jurisdiction and the joint jurisdiction of the federation and its component units-both to the state bodies of the component units and the bodies of local self-government.

In turn, the bodies of the component units of the federation may delegate to local self-government bodies their powers falling under both their residual jurisdiction and under the joint jurisdiction of the federation and its component units.

As far as the bodies of local self-government do not form part of the system of the bodies of state power, such transfers can only be enacted by a federal law or a law of a component unit of the federation, and not by means of legal regulatory acts, as is the case with the delegation of powers between the state bodies of the federation and the state bodies of its component units.[48] Since 2009, the bodies of federal component units may also 'retransfer' powers of the federation to self-government bodies,[49] if established by law.

Furthermore, the federal laws and/or those of the component units of the federation must strictly specify the methods to be applied by the state bodies to supervise the realisation of the powers delegated to the bodies of self-government. The delegation of state powers therefore engenders a situation in which the bodies of self-government are increasingly subjected to the control exercised by the state bodies (above all by the executive authorities), even if the former ones are not part of the system of the latter. In addition to this, Russian legal scholarship points out that the delegation of powers from state to local self-government bodies is conducive to the statisation (*ogosudarstvlenie*) of local self-government.[50]

According to legal scholars in Russia the statisation of self-governments occurs also *vice versa* through the conferral of powers of self-government bodies to state bodies of the corresponding federal component unit based on a law of the latter.[51] This possibility, introduced in 2014, is qualified by Law No. 131 FZ as 'redirection' (*pereraspredelenie*) of powers (*polnomočie*),[52] although such redirection is always 'unidirectional' as far as it always takes place bottom-up.[53] Moreover when such

[48] E.g., the delegation of powers between the executive organs of the federation and those of its component units is mainly governed by edicts of the President of the RF and decrees of the Government of the RF.

[49] Since the possibility of the bodies of the federation to delegate their powers is governed by different sector-specific federal laws, the Ministry of Justice furthermore constantly updates a 'List of duties of the Russian Federation which have been transferred by means of federal laws to federal subjects' bodies vested with state power or to local self-government bodies'. This list also specifies which powers of the bodies of the federation can be retransferred from the bodies of the component units of the federation to the bodies of local self-government.

[50] M- Zubarev (2018).

[51] It is nonetheless impossible to distribute the duties of local self-government bodies towards bodies of state power regarding a few issues, such as the management of municipal property, the protection of public order, the definition of the structure of local self-government bodies and the alteration of boundaries of the territories of the municipal formation.

[52] Nanba and Alimov (2020), pp. 139–140.

[53] Shagoyko (2020).

conferral concerns almost all powers necessary for the realisation of a specific issue of local significance, it is possible for such an issue to pass unobserved from the jurisdiction of the municipal entity towards the concerned component unit of the federation.[54]

Finally, the statisation of the bodies of self-government is also prompted by the introduction of issues characterised by predominantly state significance in the new lists called 'Rights of Local Self-Government Bodies for the Solution of Issues not deemed Issues of Local Significance' which were introduced with corresponding amendments in Law 131 FZ in 2014. However, despite their deceptive and unfortunate title, these lists should include issues of local significance that local self-government bodies may manage at their discretion while the issues inserted in the lists called 'Issues of Local Significance' are mandatory.

5 The Finance of Municipalities

The Constitution states that the bodies of local self-government shall independently manage municipal property, form, adopt and implement the local budgets, as well as introduce local taxes and duties. Local taxes and duties however do not allow municipalities to cover all expenditures concerning the above-mentioned issues of local significance that are mandatory and must be financed at the expense of local budgets. Therefore, municipalities have to rely on targeted inter-budget transfers, called subsidies, which are aimed at co-financing expenditures related to the exercise of the powers of the local self-government bodies concerning 'issues of local significance'. The total amount of these subsidies and the corresponding quota to allocate to each municipality are established in the budgetary laws of the component units of the federation. However, the bodies of local government have to further sign an agreement with the corresponding component unit of the federation in order to receive the subsidies for the co-financing of its issues of local significance.

By contrast, the tusks which are delegated by the bodies of the federation and its component units to the municipal entities, as stated in the Constitution, must be totally financed respectively by the federation or its component units through targeted inter-budget transfers called 'subventions'.

In addition to this, as mentioned above, local self-government bodies have the right to address issues that are included in the list of 'Issues not deemed Issues of Local Significance' and, also, other issues which do not fall within the competence of local government bodies and are not excluded from their competence by federal and regional legislatures. These are considered optional and must be financed at the expense of the local budget.[55]

[54] Cfr. Babun (2020).

[55] Blagov (2017b).

Finally, municipalities may also receive 'non-targeted inter-budget transfers' as fiscal equalisation grants, grants to support measures to ensure budget balance, and other grants.

6 Supervision of State Power Bodies over Local Self-Government Bodies

Against this background, the governors of the component units of the federation assume an ever-more relevant role in the supervision of local self-government bodies.

Indeed, the governor of a component unit of the federation—as the Russian President can in respect of him—may remove a municipal head or a local administration head at least in two cases. The first relates to the enactment by the municipal head or the local administration head of a 'normative legal act' in conflict with superior sources of law. The second case refers to certain actions carried out by the same (included the enactment of a 'non-normative legal act') which results in: a serious breach of the rights and freedoms of men and citizens; a threat to the unity and territorial integrity of the Russian Federation (hereinafter RF); a threat to national security and defence; a threat to the unity of the legal and economic systems of the RF; a misuse of inter-budgetary transfers having targeted purpose, or of loans; and a violation of the conditions attached to inter-budgetary transfers and budgetary loans, received from other levels of government of the Russian Federation. The removal is enforced if these violations are ascertained by the relevant court, and the concerned public official does not take the measures to implement the court's decision within the limits of his/her authority.[56] In its ruling of 16 July 2013, the Constitutional Court emphasised that the bestowal upon the governor of a component unit of the right to dismiss municipality heads and local administration heads derives from their special status in terms of constitutional law.[57]

The governormay also ask the respective municipal councils [58] to remove the municipal head, whenever the conditions provided for by federal Law No. 131 FZ are met.[59] In addition to this, if the same request is raised by at least one third of

[56] Kozhevnikov and Meshcheryakov (2020), p. 95.

[57] *Ruling of the Constitutional Court of the Russian Federation,* 16 July 2013, No. 1219, in www.ksrf.ru.

[58] Astafichev (2018).

[59] Specifically, a head of a municipal formation may be revoked if: (1) his/her acts or actions lead to an excessive debt ratio of the municipal formation with regard to the permitted level, or he/she misused funding related to the transfer of single duties of state power; (2) for three months or longer, he/she has not exercised the duties set forth by federal law on local self-government, by other federal laws or by the statute of the municipal formation, or he/she has not upheld obligations to solve issues of local importance and/or he/she has not guaranteed the execution by local self-government bodies of the state duties transferred to them by means of federal laws and laws of the

municipal council deputies, it is still necessary to hear the opinion of the governor. Moreover, the opinion of the governor turns from mandatory to binding if the municipal council's request of dismissal precisely concerns the improper or failed execution by the municipal head of any state duties, transferred from the bodies of state power, as well as in other cases provided for by federal law.

However, the governor of a component unit of the federation may not directly remove the municipal heads because of 'loss of confidence', as the President of the RF can, conversely, decree against a governor.

In addition to this, the President of RF under specific conditions established by federal law, can also directly dissolve the legislatures of the component units of the federation. Instead, the governor of a federal component unit may only ask the legislature of the same to adopt a bill concerning the dismissal of the representative bodies of the municipalities [60] that: (a) have adopted a normative legal act that breaches the law, and if they have not remedied or cancelled the relevant normative act within three months of Court judgement ascertaining the violation; (b) did not hold a meeting in duly constituted form for three consecutive months and within three months after the court decision that ascertained the said fact; and (c) have not adopted a local legal act for the implementation of a decision taken by local referendum.[61]

Finally, when exercising delegated state powers at the expense of subventions provided to local budgets, bodies of local self-government have permitted the expenditure of budgetary funds for other than designated purposes or in violation of superior sources of law as established by the corresponding court, the governor of a component unit of the federation shall introduce a temporary administration with the simultaneous withdrawal of the corresponding subventions.

Federation's subject; (3) he/she has not received a positive assessment regarding his/her activities two times in a row in the context of the presentation of their yearly report to the representative body of the municipal formation and lastly; (4) if he/she or other bodies and officials of local self-government have committed mass violations of the securities set out by the state in terms of the safeguarding of the rights and freedoms of humans and citizens, or have restricted laws or committed discrimination on the basis of race, nationality, language or religion, engendering discord among ethnicities and religions and have encouraged the rise of conflicts between ethnicities and religions.

[60] Cf. Kurmanov (2004); Kolosova (2008).

[61] Kolosova (2008).

7 Intergovernmental Relations and the Constitutionalisation of the Principle of the Unified System of Public Power

The main novelties introduced by Law No. 131 (as interpreted by the Constitutional Court) were finally constitutionalised thanks to the Law of Russian Federation on amendments to the Constitution of the Russian Federation of 14 March 2020 No. 1-FKZ 'On improving the regulation of certain issues of the organisation and functioning of public authorities',[62] which was approved by an *ad hoc* procedure with respect to that set out in the Constitution for amending chapters 3–8.

The adopted amendments continue to recognise the predominant role of the federal law in shaping local self-government since they introduce a reference to it in all Art.s of chapter 8 'On local self-government' where previously not yet stated, except for Art. 130.

In fact, the new wording of Art. 131, paragraph 1 of the Constitution precisely welcomed the relatively new stance in favour of the reduction of smaller municipalities by repealing the constitutional obligation of creating rural or urban settlements and definitively assigning the determination of the different categories of municipal entities to the federal legislature.[63]

Secondly, the amended Constitution on the one hand still admits that

> the modification of the borders of the territories of local self-government' must be implemented taking into account 'the opinion of the population of the corresponding territories', but on the other hand it further subordinates this process to the 'modalities established by the federal law'. (Art. 131, paragraph 2)

So far, however, the federal law has significantly reduced the cases in which this opinion can be expressed directly by referendum.

Thirdly, the amendments specify that 'The local self-government bodies may be vested by a federal law and by a law of a component unit of the Russian Federation with certain state powers' (Art. 132, paragraph 2) [64] while previously the Constitution more generally declared that 'The local self-government bodies may be vested by law with certain state powers'.

Fourthly, the constitutional provision which originally affirmed that 'the structure of local self-government bodies must be defined independently by the population'

[62] Bazhenova (2020), pp. 31–32.

[63] Art. 131, paragraph 1, indentation 1 Constitution RF: '[...] local self-government shall be exercised in the municipal formations, the categories of which are set forth by federal law [...]'.

[64] Art. 132, paragraph 2 Constitution RF: 'Local self-government bodies may be vested by federal law and by a law of a component unit of the Russian Federation with certain state powers and receive the necessary material and financial resources for their implementation. The implementation of the delegated powers shall be controlled by the State.' However, with the revision of Art. 132, paragraph 1 of the Constitution of the RF, local self-government bodies at the same time lose their right to 'protect public order'.

was further supplemented with: 'in compliance with the general principles on the organisation of local self-government in the RF set out by federal law'. [65]

Fifthly, the new provision that constitutionalises the 'interference' of state bodies in the 'life' of self-government bodies also introduces a reference to federal law. -Indeed, itstates as follows:

> The bodies of state power may participate in the establishment of local self-government bodies, in the appointment and removal of local self-government officials according to the methods and cases provided for by federal law'. (Art. 131, paragraph 1.1)

Besides, the wording of this new constitutional provision does not specify whether such bodies are those either of the federation or of its component units, thus admitting the possibility for the intervention of both, according to what the federal legislation stipulates.

Moreover, the same content of this new constitutional clause seems to be in contrast with the wording of Art. 12 of the Russian Constitution, which, as mentioned, provides that the self-government bodies are not part of the unified system of the bodies of state power.

However, the Russian legal scholars already at the beginning of the nineties recognised that the bodies of State power (of the federation and of its component units) and the bodies of municipalities may interact with each other since they are equated with the exercise of 'public power' as it follows from Art. 3, paragraph 1, Constitution FR which states that: '[. . .] the people shall exercise its own power directly, including through bodies vested with state power and local self-government bodies'.[66]

The same Constitutional Court relies on this concept to justify the interaction between state and local self-government bodies. Furthermore, in its judgment of 1 December 2015 stated that the determination of the general principles of organisation of State and local self-government bodies falls under the joint jurisdiction of the federation and its component units with the aim 'to guarantee the unity of the system of public power (*edinstvo sistemy publičnoi vlasti*) in the Russian Federation'.[67]

Promoting the approach of the doctrine and jurisprudence, the President of RF, Vladimir Putin, in its message to the Federal Assembly of 15 January 2020 in turn affirmed that he

> [. . .] consider(s) necessary to consolidate in the Constitution the principles of a unified system of public power (*edinaja systema publičnoi vlasti*) and to build effective cooperation

[65] Art. 131, paragraph 1, indentation 3 Constitution RF: '[. . .] local self-government shall be exercised in the municipal formations, the categories of which are provided for by federal law. The territories of municipal formations shall be defined in consideration of their historic and other traditions. The structure of local self-government bodies shall be defined independently by the population in compliance with the general principles of organisation of local self-government provided for by federal law'.

[66] Babichev (2021), p. 52.

[67] *Judgment of the Constitutional Court of the Russian Federation*. 1 December 2015, *supra*.

> between state and municipal bodies. At the same time, the powers and real capabilities of local self-government - the level of authority closest to the people - can and should be expanded and strengthened'.[68]

Therefore, and in full conformity with this presidential proposal, the amendments of 1 March 2020 also provides that

> Local self-government bodies and state power bodies make up part of the unified system of public power (*edinaja systema publičnoi vlasti*) and interact to achieve their duties in the most efficient manner and in the interest of the populations who reside in their respective territories'.[69]

In addition to this, the same President of the Russian Federation was directly tasked with guaranteeing the correct functioning of the unified system of public power, that in the opinion of legal scholars should also include the 'power of civil society'.[70] In fact, according to the amendments, the Russian President instead of ensuring, as previously stated, only the

> agreed functioning and interaction between bodies of state power, has now to ensure the 'agreed functioning and interaction between bodies that make up the unified system of public power'. (Art. 80, paragraph 2)

However, in the light of the further horizontal concentration of powers in the hands of the President provided by the same amendments, in Russia it seems to be no more possible to reconcile the principle of unified system of public power with the effective implementation of the division of powers between the federation and its component units and the realisation of self-government as understood in liberal-democratic States.

Finally, the 'definition of the general principles of the organisation of the system of bodies of state power and of local self-government' still falls, as mentioned before, under the joint jurisdiction of the federation and its component units (Art. 72, lit. n/ex m). Otherwise, the new task of the 'organisation of public power' was not inserted in the list of matters falling under the joint jurisdiction of the Federation and its component units, but in the list of matters under the jurisdiction of the Federation (Art. 71, lit. d).[71] In addition to this, the amended Russian Constitution does not directly provide for the definition of 'unified system of public power'. Instead, the corresponding definition was enshrined in the new federal law 'On the State Council' of 19 December 2020. To realise that principle was further adopted

[68] Teague (2020), pp. 312–313.

[69] Art. 132, paragraph 1.1 Constitution RF.

[70] As emphasised by Chertov (2020), p. 20: 'The exclusion of social power (*obščestvennaja vlast'*) from public power undermines the very essence of public power, which is based on the principles of people's power and this power belonging to the people'.

[71] Art. 71, letter d Constitution of the RF: 'The jurisdiction of the Russian Federation shall comprise the organisation of public power, the determination of federal bodies of legislative, executive and judicial power; the relative methods of their organisation and activities; the establishment of federal bodies of state power'.

the new federal law 'On General Principles for the Organisation of Public Power in the subjects of the Russian Federation' of 21 December 2021.[72]

8 Conclusion

Local self-government was introduced in Russia not 'from below', but 'from above'[73] with the aim to break the vertical chain of command that was realised in the socialist form of State based on the principle of unity of state power. Therefore, it was recognised as a fundamental principle in chapter 1 'On Fundamentals of the Constitutional System' and further governed in chapter 8 'On Self-Government' of the 1993 Russian Constitution. In the beginning, the development of self-government was characterised by steps backward and forwards. However, the approach undertaken during 2002/2003 by the federation not to refer to local self-government for outweighing and limiting the power of its component units involved the simultaneous start of a process of re-centralisation concerning the former. Influenced by pre-Soviet and Soviet legacies, this process transformed the bodies of the component units of the federation in 'transmission belts' of decisions adopted at federal level. At the same time, the local self-government bodies have become functional to the legitimation of these decisions. It is therefore precisely in this sense that the conduct of elections at local level should be understood in the absence of the establishment of an effective multi-party system.

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[72] Correspondingly, the draft of a new federal law 'On General Principles for the Organization of Local Self-government within the System of Public Power' has been also introduced in the State Duma. This law should replace Law No. 131 FZ.

[73] Pomazanskiy and Sevalnev (2018), p. 1755.

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