

ПОЛИТИЧЕСКИЙ ПРОЦЕСС В СОВРЕМЕННОЙ РОССИИ

DEVELOPMENT OF THE RUSSIAN MODEL OF FEDERALISM: RELATIONSHIPS OF CENTER AND REGIONS IN 2007—2016*

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This article was written by Yuriy Pochta for the Council of Europe and was published in the spring of 2016 in the collection: *Regionalisation trends in European countries 2007—2015. A study by members of the Group of Independent Experts of the European Charter of Local Self-Government / Editor: Prof. Francesco Merloni. Strasburg, 2016.* Yuriy Pochta is a member of a group of independent experts of the Congress of Local and Regional Authorities, which is the pan-European political assembly representing local and regional authorities from the forty-seven member states of the Council of Europe. The Congress entrusted the Group of Independent Experts on the European Charter of Local Self-Government with the task of producing a comparative academic study. This study is based on information from Council of Europe member States affected by the regionalisation process and on recent regionalisation developments in Europe. The intention is to review the situation regarding regionalisation since the 2007 report of the European Committee on Local and Regional Democracy (CDLR). Following on from this, the idea is to achieve a broader understanding of the phenomenon from both the legal and institutional angles. The main aim of this study is to evaluate regionalisation trends, towards both more and less regionalisation, in individual countries and consequently in Europe as a whole. At the same time it seeks to determine whether the various countries considered actually have regional institutions as defined by the 2009 Council of Europe Reference Framework for Regional Democracy.

In preparing his section on Russia, Yuriy Pochta proceeded from the fact that the modern Russian state emerged relatively recently — at the turn of 1980—90-s. of the 20th century and its formation, including its federal structure continues. It is shown that since 2007 the process of regionalization of the Russian Federation is developing successfully. Having opted for the creation of a democratic society, post-Soviet Russian Federation borrowed Western model, adapting it to its own circumstances. The impact of these conditions leads to the fact that it is quite difficult to relate the existing Russian federal system to the classic Western model. On this occasion Russian and Western scholars partici-

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pate in a lively debate about the nature of Russian federalism — whether it is real or a simulation, whether it is in the crisis. But in 2014, in connection with the entry of the Crimea and Sevastopol to the Russian Federation, Russian federalism issues become even more urgent, raising a number of questions about the evolution of Russian federalism, the possibility of the organic integration of the two new subjects in the federation in a situation of sharp complication of Russia's relations with the West, led by the United States, caused by the political and socio-economic crisis in the Republic of Ukraine.

Key words: Russian Federation, federalism, federal subject, region, democracy, federal center

Introduction

The current Russian state structure emerged relatively recently, during the 1980s and 90s. The process of its development, including its federal structure, is continuing. With few exceptions, Russian politicians and scientists agree that the federation is currently the most appropriate form of the state-territorial structure for Russia. Having decided on the creation of a democratic society, the post-Soviet Russian Federation borrowed the Western model, adopting it to its own circumstances.

Under the 1993 Constitution, the Russian Federation (“RF”) is a federal state comprising 89 subjects (after 2008 some of them were merged and their number decreased to 83; and in March 2014 the number increased to 85, with the incorporation of the Republic of Crimea and Sevastopol as federal subjects of the Russian Federation). The federation subjects are regional, one of the three levels of administrative and political organization of the country, along with the federal and municipal ones.

The federal level covers the central authorities and their regional subdivisions. The regional level of government embraces the legislative and executive power in the regions, with their powers established by the Constitution of the Russian Federation.

The local government level covers the authorities responsible for issues of local importance. Under the Constitution, the first two levels (the federal and regional ones) are referred to as ‘government’ and, therefore, are public bodies. The third (local) level falls into a special category of public authority — that of local government, as stated by Article 12 of the Constitution of Russia: “The bodies of local government shall not be part of the system of state authorities”. The representative body of the municipality (the city council) and the municipal administration participate in the implementation of federal and regional laws. The city council, as a representative body of local self-government, has control and normative functions (the adoption of municipal legal acts within existing competences).

Historically, since the establishment of the Soviet Union as a federal state (1922) and the Russian Federation (since 1991) the establishment of federation subjects takes place on the basis of two principles: national and administrative-territorial ones. Therefore, the subjects of the Russian Federation include 22 national republics, 46 regions, 9 territories, 4 autonomous regions and 1 area and 3 cities with federal status. Almost a third of the federation subjects are established on the national basis, and the remaining two-thirds are established on the administrative-territorial one.

The difference between these two principles of distinguishing the federation subjects is manifested in the fact that regions which are formally equal founded on this basis

have actually unequal rights, both domestically and with regard to international relations. Like other multi-national democratic federations, the Russian Federation is an asymmetric one.

The tension between the centre and the regions (primarily national autonomies), with the regions striving to obtain more rights, was an important aspect of the USSR disintegration process and the formation of the new state, the Russian Federation, in 1990—1993. As a result of these processes the relations between the regions and the federal centre considerably changed in the new state.

In this process there was a clash of two positions concerning the understanding of the nature of the federation, which is the division and delegation of powers between the federation and the regions. This could be done either on the basis of treaties or constitutions. As a result, in Russia in 1990—1993 there came into existence a federation model, combining both the constitutional and contract approaches.

On coming to power in 2000, President Vladimir Putin announced that he would consolidate the political power into the so-called vertical power structure throughout Russia, seeking to limit the regions' political autonomy. This was necessary to overcome the tendency of unmanageable regionalization and the establishment of authoritarian political regimes in some regions. The country was divided into seven federal districts, each encompassing many federal subjects and headed by a presidential envoy (Central, Northwestern, Southern, Volga, Ural, Siberian, Far Eastern). In 2010 one more federal district was created, the eighth federal district, the North Caucasian one. In March 2014, after the establishment of the new subjects within the Russian Federation — the Republic of Crimea and the federal city of Sevastopol — there was formed a ninth one — the Crimean federal district.

The head of a federal district is an official appointed by the President of Russia. He/she ensures the implementation of the constitutional powers of the President within the federal district. This institution is not provided for by the Constitution and was established by a presidential decree (May 13, 2002 № 849 “On the Plenipotentiary Envoy of the President of the Russian Federation in the Federal District”). The Russian Presidential envoys have done much to eliminate the contradictions between the federal and regional legislation. Federal districts, along with the federation subjects, have become an important part of the country's regional system and have made a considerable contribution to the evolution of Russian federalism.

In particular, since 2000 much has been done to limit the political autonomy of the regional elites in regard to the federal centre. The former partnerships of regional leaders (mostly of presidents of the national republics and governors) with the federal centre have been transformed into subordinate relationships. Besides, in 2007 the federal centre introduced the system of criteria in order to evaluate the work of governors on managing their regions.

Significant changes in the status of regional power bodies, by strengthening the federal centre at the expense of regional power bodies, were introduced by the Federal Law on Amendments and Additions to the Federal Law “On General Principles of Organization of Legislative (Representative) and Executive Bodies of State Power of Subjects of the Russian Federation (2003)”.

Furthermore, the Russian government created special ministries dealing with the regions' problems. Thus, in 2004 there was created the Ministry of Regional Development of the Russian Federation. This was a federal executive body exercising functions of state policy formulation and legal regulation in the spheres of the socio-economic regional development, federal and inter-ethnic relations, division of powers in the areas of joint jurisdiction of the Russian Federation and the regions, local government, the implementation of cross-border cooperation, the development of the Far North and the Arctic, the protection of national minorities' rights and the original habitat and traditional lifestyles of indigenous peoples and ethnic communities. In September 2014 the Ministry of Regional Development was abolished under the pretext of optimization of the federal bodies of state executive power. The functions of the Ministry were distributed among five other ministries.

In 2012 there was established the Ministry of the Russian Federation on the development of the Far East (Presidential Decree of 21 May 2012, № 636 "On the Structure of the Federal Bodies of Executive Power"). The head of the ministry is at the same time the Presidential Plenipotentiary Envoy to the Far Eastern federal district. A Presidential Decree of 31 March 2014 introduced one more federation ministry on regional issues — for the Crimea, which was responsible for the development of the new Russian regions — Crimea and Sevastopol.

The Ministry for Crimean Affairs was created in order to increase the effectiveness of the federal agencies on the integration of the Republic of Crimea and the city of Sevastopol in the economic, financial, credit and legal system of the Russian Federation. The Ministry has been assigned duties, in particular, for developing projects of state programs for the development of the peninsula, as well as for the execution by the regional authorities of the powers transferred from the centre. The Ministry has developed a federal program for the development of the peninsula until 2020. However, one year and three months later, President Vladimir Putin supported a proposal by Prime Minister Dmitry Medvedev to abolish this ministry. The head of state signed a decree on the liquidation of the Ministry of Crimea on 15 July 2015. The objectives for the development of the peninsula were transferred to the Trade and Economic Development Ministry and a government commission for the Crimea and Sevastopol was created. The governments of Crimea and Sevastopol will include a number of federal deputy ministers. According to Dmitry Medvedev, the Ministry for Crimean Affairs had fulfilled all its tasks. "At the moment all the legal issues are closed, it is not just about changing the constitution, which was done, and the full integration into the legal field of the Russian Federation... In this sense, we can assume that the Ministry of Crimea has fulfilled its purpose". Putin added that in this way it will be possible to ensure greater independence of the regional authorities of Crimea and Sevastopol. The abolished ministry had as one of its objectives the establishment of a special economic zone of the Crimea, which would allow the peninsula to follow a special liberal development model. This task has now been removed, and the current federal target program considers the peninsula as a regular recipient of the Russian budget. The sole executor of the federal target program for the development of the Crimea after the liquidation of the Ministry will be the government of the Republic.

As a result of this activity the centralized system of state governance has been strengthened. The effectiveness of governance was improved in the conditions of serious challenges to the national security of Russia. At the same time, however, regional representation in the federal government bodies was weakened. The democratic principles of regional life were limited by the ban on direct elections of regional governors, as well as by the ban on the creation of regional political parties as well as parties on the basis of ethnic or religious affiliation.

The ban on the creation of regional parties was considered to comply with the Constitution of the Russian Federation by the Constitution Court ruling of 1 February 2005. The Constitution Court supposed that, in the current specific historical conditions of the establishment of democracy and rule of law in Russia, this limitation was necessary for ensuring such a constitutional value as the country's unity. The Court emphasized that the restriction was temporary and might be removed later.

In 2012 it was decided to restore direct elections of regional governors. The first such elections took place in 2014. In 2014, again (after the ban in 2006 — Federal Law on Amendments to Certain Legislative Acts of the Russian Federation in the form of the cancellation of voting against all candidates (against all lists of candidates), 12 July 2006, № 107-FL) the State Duma decided to introduce the possibility of voting “against all”, at the elections at municipal level but not at the regional level or in the elections of the State Duma deputies. The regions are free to decide whether to permit this possibility for local elections or not. Besides this, the minimum threshold in the proportional electoral system at the regional and municipal levels was reduced (Federal Law of the Russian Federation, 4 June 2014, № 146-FL).

The regions have certain powers in regard to local authorities within their territories (legislating on separate questions of the organization and competence of local authorities; determining the financial resources of local authorities; supervising; substituting), but most regulation is enacted through federal laws. In the charters of some regions there are norms guaranteeing the system of all executive authorities, management and control bodies, local authorities located and operating in the region, including the nature, types and the main contents of the administrative relationship between them.

The Budget Code of the Russian Federation (31 July 1998, № 145-FL, Articles 8 and 9) establishes the basic principles of the competence of state power of the Russian Federation subjects and local authorities in the field of regulating budgetary relations. There are separate budgets of the regions and municipalities. In relation to local budgets, the regional authorities have substantial competence (Article 8 of the Budget Code of the Russian Federation): the distribution of regional revenues between the regional budget and local budgets; the division of powers on expenditures with regard to the implementation of the regional budget and local budgets; defining the procedure and conditions for granting financial assistance and budgetary loans from the regional budget to local budgets and providing financial assistance and budgetary loans from the regional budget to local budgets.

In accordance with Federal Law “On General Principles of Local Self-Government in the Russian Federation” (16 September 2003, № 131-FZ) (the current version of 30 January 2014), the state authorities provide the regions with minimum local budgets

and minimum required expenditures of local budgets, on the basis of minimum standards of fiscal capacity. The problem is that their own sources of revenues of local budgets, in the form of local taxes and dues, do not cover their expenses in most regions of the country. Although the revenues for local budgets from federal taxes are considerable, they are insufficient. In most regions there is a considerable budget deficit that complicates the activities of local governments. As a result, the inter-budget transfers to local budgets related to financial security of local government powers to address local issues in 2011 totalled 48.3% of the total own revenues of local budgets. At the municipal level, there is a common problem of “unfunded transfer of authority”. For example, in 2013 the federal legislation (Federal Law of 22 October 2013, № 284-FL) entrusted the heads of cities and municipalities with responsibility for inter-ethnic conflicts. However, funding for these powers, now transferred to the municipal level, is not provided.

In this regard, the financial position of municipalities is largely dependent on the financial capacity of the regions, on the size of the inter-budget transfers and tax revenues transferred from the regional budgets to the local budgets, as well as on the effectiveness of their distribution mechanisms between the budgets of municipalities.

INSTITUTIONAL AND ADMINISTRATIVE ORGANIZATION

The regional level of government in Russia is recognized in the Constitution of the Russian Federation (Article 5), which states that the Russian Federation consists of republics, territories, regions, cities of federal importance, autonomous regions and areas which are equal subjects of the Russian Federation. They have their own constitution or charter and legislation. The federal structure of the country is based on the unity of the state authority system, the division of authority and powers between the bodies of state power of the Russian Federation and bodies of state power of the subjects of the Russian Federation. In relations with federal bodies of state authority all the subjects of the Russian Federation are equal. However, the Constitution of the Russian Federation has supreme juridical force, direct application and is used on the whole territory of the Russian Federation. The laws and other legal acts adopted in the Russian Federation cannot contradict the Constitution of the Russian Federation (Article 15 of the Constitution).

The system of state power bodies in the subjects of the Russian Federation is exercised by them in accordance with the principles of the constitutional system of the Russian Federation and the general principles of the organization of representative (legislative) and executive bodies of state authority established by the federal law.

The Federal Law “On General Principles of Organization of Legislative (Representative) and Executive Bodies of State Power of Subjects of the Russian Federation” (6 October 1999, № 184-FL) determines that the system of state power bodies of the Russian Federation is constituted by the legislative (representative) body, the supreme executive body, other bodies of state power of the Russian Federation subject, formed in accordance with the constitution (charter) of the Russian Federation subject (Article 2 of the Act).

To the latter ones there can be attributed constitutional (charter) courts, magistrates, human rights ombudsmen, chambers of control and accounts and other specialized bo-

dies. Besides, in accordance with Federal Law no. 67-FL “On Basic Guarantees of Electoral Rights and the Right to Participate in the Referendum of Citizens of the Russian Federation” dated 12 June 2002 (amended on 21 February 2014) election commissions of the subjects of the Russian Federation have been set up (Article 23 of the Act).

The Act (№ 184-FL) is amended almost every year, reflecting the rapid changes in the social relations regulated by the law. In 2013 the Act was amended 18 times. In 2013 a law was adopted banning persons who hold public office in the Russian regions and their family members from opening and keep accounts (deposits), and from storing cash and valuables in foreign banks located outside the Russian Federation and (or) using foreign financial instruments (Art. 2.1, paragraph 3).

The RF subjects form their own legislative bodies, different in name and structure, based on historical, national and other traditions. The system of regional executive bodies consists of senior officials of the RF subjects (heads of the republics, governors, and heads of administrations of other subjects), as well as the government (Cabinet, administration). In 2010 amendments were made to Federal Law № 184-FL, prohibiting regional leaders from being called presidents. Instead the regions themselves can choose another title for their heads in accordance with their historical traditions. Tatarstan is the only subject of the Russian Federation, which has yet to resolve the question of renaming the president. In the Russian Federation elections are held at three levels — federal, regional and municipal. At the regional level there are direct elections to the legislative (representative) bodies and direct elections of senior officials (heads of the highest executive bodies of state power) (since 2012). According to Art. 73 of the Constitution of the Russian Federation, the subjects of the Federation possess full state authority, including in matters relating to the electoral system used in the elections, as well as specific parameters of electoral procedures and institutions in accordance with the peculiarities of the region, while meeting the standards of citizens’ electoral rights, which are fixed in the Constitution and federal laws. However, Federal Law № 67-FL “On Basic Guarantees of Electoral Rights and the Right to Participate in the Referendum of Citizens of the Russian Federation” of 12 June 2002 (amended on 21 February 2014) has limited the opportunities of the regions in addressing these issues on their own. It is a framework law, which applies to all elections held in the country. In accordance with this law, the elections of heads of higher executive bodies of the subjects of the Federation are based on the majoritarian electoral system, requiring an absolute majority.

According to paragraph 16 of Art. 35 of the Federal law, as many as 25% of seats in the legislative bodies in the region or in one of its chambers are distributed between the lists of candidates nominated by electoral associations, in accordance with the number of votes received by each of the candidates’ lists. This means that through federal legislation in all regions a mixed (majoritarian-proportional) electoral system has been introduced, which enhances the electoral activity of political parties.

Since 2008 Russia's electoral system has been modernised at the initiative of the Presidents of the Russian Federation, Dmitri Medvedev and Vladimir Putin.

In 2008—2009 provisions were introduced in the Russian electoral legislation on the right of the political party that won the regional parliamentary elections to submit to the head of state nominations for the position of the regional highest official (the head

of the highest executive body of state power). These were in force until 2013. Amendments were also made relating to the registration of electoral associations and candidates of election campaigns (the number of signatures required for registration for the election of deputies to the State Duma was reduced; in addition to the parties represented in the State Duma, parties which formed fractions in more than one-third of the legislative bodies of the Russian Federation were no longer required to collect signatures).

In April 2012 a federal law was passed providing for the return of direct elections of regional leaders after the interruption from 2004 to 2011. In 2013 the law was amended to provide for the right of the regions, along with direct elections of regional leaders, to elect governors by regional parliaments. In 2013 four of the North Caucasus republics (Dagestan, Ingushetia, North Ossetia and Karachay-Cherkessia) took advantage of this opportunity and decided not to conduct direct elections of their leaders. In March 2014 the Republic of Crimea also decided not to elect directly the head of the republic. He was elected by the parliament on the basis of the Russian President's recommendation, similar to the decision of some North Caucasian republics. However, most Russian regions have decided to preserve the procedure of electing governors by direct vote.

We have already noted that Federal Law № 67-FL takes precedence over the local laws on elections of deputies of legislative assemblies. From 2007 to 2014 the State Duma made amendments in the law annually. Therefore the dynamics of change in the regional electoral legislation is dictated by the dynamics of the "framework law" changes. But amendments are often made also in the regional electoral laws, based on the regional legislators' own decisions.

These changes can be illustrated by the example of important rules of the electoral system at the election of regional deputies such as the legal electoral threshold (minimum percentage of votes received), which can be established by the regional laws at the elections of deputies for admission of candidates to the distribution of deputy mandates. The percentage of this barrier up to 2005 ranged from 3 to 10%, and in 2009 more than half of the regions established a 7% barrier. This corresponds to Art. 35 of Federal Law № 67-FL, according to which the minimum percentage of voters cannot be more than 7% of the number of voters who took part in the vote. The Federal Law "On Amendments to the Federal Law "On Basic Guarantees of Electoral Rights and the right to participate in a referendum of citizens of the Russian Federation", 5 May 2014, № 95-FL has lowered the electoral threshold in the regional and municipal elections from 7% to 5%. Today there is no legal turnout threshold for elections to bodies of state power. However, some have questioned the legitimacy of elected bodies, which are elected in elections with voter turnout of less than half of the number of voters included in the lists of voters. There are legislative proposals to establish a minimum threshold for voter turnout — at least 50% of voters included in the electoral lists at the federal and regional elections. This figure will be considered when declaring the elections invalid. An exception is provided for elections to local self-government.

The subjects of the Russian Federation are independent in the legal regulation of implementing their own powers in this rapidly developing sphere of public relations. However, major reforms to improve the management of the regions are carried out by

the federal authorities in the form of administrative reform (c.f. The concept of the administrative reform in Russia in 2006—2010, approved by the RF Government Decree of 25 October 2005, № 1789-p (amended on 9 February 2008, 28 March, 2008 and 10 March 2009).

In 2007, in the framework of the administrative reform, it was planned to introduce anti-corruption expertise of draft laws, other regulations, as well as the implementation of administrative reform programs in the subjects of the Russian Federation. In this context, Federal Law of 25 December 2008, № 273-FL “On Combating Corruption” was adopted, followed by the National Anti-Corruption Plan, which was approved by the President of the Russian Federation on 31 July 2008 (№ Pr-1568). Most subjects of the Russian Federation have begun work on the development and approval of their regulatory acts on conducting the anti-corruption expertise. The final obligation of conducting the anti-corruption expertise was established in the Federal Law of 17 July 2009, № 172-FL “On Anti-corruption Expertise of Legal Acts and Draft Regulations”.

From 2008 to 2012, at the initiative of the federal government, the implementation of basic standards of public services and administrative regulations was carried out. In 2012 the regulation of public services was completed. 540 administrative regulations of services (functions) of the federal bodies of executive power were approved. More than 9,000 and 15,000 administrative regulations were approved at the regional and municipal levels respectively. The administrative regulations of the state (municipal) functions and services enabled the powers of public authorities to be systematized, the regulatory gaps in the legislation of the Russian Federation to be filled and administrative procedures to be normalized.

The information support for the administrative reform was associated with the federal special-purpose program “Administrative Reform 2005—2010”. The section “Program Management at the Regional Level” included the development of a sample program of the regional administrative reform and the creation of a sample program of the administrative reform for implementation at municipal level.

An important role in the implementation of the administrative reform was played by the “Concept on Reduction of Administrative Barriers and Improvement of Access to Public and Municipal Services for 2011—2013” (approved by Presidential Decree of 7 May 2012, № 601 “On the Main Directions of Improving Governance in the Russian Federation”).

These reforms contributed to the division of powers between the federal and regional executive authorities, as well as enhancing the fiscal capacity of local budgets, ensuring the stability of the volume of regional funds of financial support and the co-financing of municipalities. As a result of these measures, the powers between the federal level, the regions and municipal authorities were redistributed, although the powers of local government bodies are still not adequately provided for in financial terms.

COMPETENCES

The Russian Constitution contains the provision that the state power in the subjects of the Russian Federation is exercised by the bodies of state authority created by them (Article 11.1). The division of authority and powers between the state power bodies

of the Russian Federation and those of the subjects of the Russian Federation is implemented by the Constitution, federal and other treaties on the delimitation of the authority and powers. Under the Russian Constitution, each of the types of the Russian Federation subjects has its own specific constitutional and legal status. A republic is characterized as a state, whose status is determined by the Constitution of the Russian Federation and its own constitution. It has the right to establish its own state languages. The status of such subjects of the Russian Federation as a region, area or city of federal importance is determined by the Constitution of the Russian Federation and its charter, adopted by the regional legislative (representative) body.

The status of an autonomous region is defined by the Constitution of the Russian Federation and its charter, adopted by the legislative (representative) body of the autonomous region. It is also possible to adopt federal laws on autonomous regions.

The Constitution of the Russian Federation resolves the issue of sovereignty in the following way: the Russian Federation has sovereignty, but its subjects do not. The sovereignty of the Russian Federation extends to its whole territory (Article 4.1). The subjects have no right to secede from the Russian Federation.

Under the Constitution of the Russian Federation, federal bodies with executive power may create their own territorial bodies and appoint corresponding officials in order to exercise their powers. In agreement with the bodies of executive power of the subjects of the Russian Federation, the federal bodies with executive power may delegate to them the exercising of a part of their powers, and vice versa — in agreement with the federal bodies of executive power, the bodies of executive power of the subjects of the Russian Federation may delegate to them the exercising of a part of their powers.

The Constitution of the Russian Federation contains an explicit reference to the administration of the subjects of the Russian Federation, the joint jurisdiction of the Russian Federation and the subjects of the Russian Federation (Article 72). The regions as the subjects of the Russian Federation have autonomy (full state authority) when solving only their internal issues which are beyond the authority and the powers of the Russian Federation on the issues of joint jurisdiction of the Russian Federation and the subjects of the Russian Federation (Article 73).

It is known that the regional authorities do not always have sufficient tools to fully influence the system of government in the regions. It is the process of decentralization of government that may help to solve this issue. That is why in 2011 the Russian President established two governmental working groups, headed by Deputy Prime Ministers Dmitry Kozak and Alexander Khloponin, to solve issues relating to the decentralization of power, as well as the division of powers between the centre and regions. The key aim of both groups is to improve and reauthorize federal relations between the public authority bodies at the federal, regional and municipal levels.

In addition to these commissions, the Federal Ministry of Regional Development has also worked on the division of powers on the joint jurisdiction between the federal executive bodies, the executive bodies of the Russian Federation subjects and local government bodies. The regulation of inter-ethnic relations is also an important aspect of its activity.

Outside the jurisdiction of the Russian Federation and the joint jurisdiction of the Russian Federation and the subjects of the Russian Federation, the regions exercise their own legal regulation, including the adoption of laws and other regulations. In case of any contradiction between a federal law and a regional regulatory act, it is the federal law which prevails.

FINANCIAL INDEPENDENCE

Under the Russian Constitution (Article 71), federal taxes and dues are the exclusive jurisdiction of the federal government. The joint jurisdiction of the Russian Federation and the regions includes the establishment of general principles of taxation and dues in the Russian Federation.

The “Budget Code of the Russian Federation” of 31 July 1998, № 145-FL (the current version is dated 1 January 2014) (Articles 8 and 9) establishes the basic principles of the competence of state authority bodies of the subjects of the Russian Federation and local authorities in the field of regulation of budgetary relations. In order to expand the scope of legal regulation of their own fiscal competence, the subjects of the Russian Federation adopt the institutional budget legislation, characterized by regional specificity and diversity.

Under the Constitution of the Russian Federation, the Russian federal structure involves the participation of the subjects of the Russian Federation in the development and adoption of federal laws in the sphere of budgeting. Therefore the objects of the law-making process of the sub-federal level are not only laws and other legal acts within the established competence (Part 4 of Art. 76 of the Constitution), but also federal laws and projects to establish common principles of taxation and dues in the Russian Federation (Art. 72, Part 1 of the Constitution).

However, in real legal practice an effective and stable mechanism of the Russian Federation subjects’ participation in the legislative process at federal level has yet to be developed. This is why the issue of coordinating the federal and regional budget legislation is of great importance.

The tax system of the Russian Federation reflects three levels of the budget system of the Russian Federation. Thus, according to the Tax Code of the Russian Federation of 31 July 1998, № 146-FL (Part 1), all taxes and fees are divided into three groups: federal, regional and local. In 1999 a provision establishing a substantially closed list of regional and local taxes was introduced in the Tax Code, which was of fundamental importance for preserving the unity of the tax system. No legislative power bodies of the Russian Federation subject and representative bodies of local government have the right to impose taxes which are not stipulated by the Code. Each year in the Federal Budget Law, standards of allocations of federal taxes and dues to the budgets of lower levels (regional and local) are determined.

Regional taxes are established by the Tax Code of the Russian Federation and the laws of the subjects of the Russian Federation. They are enacted by regional laws and are to be paid on the territory of the corresponding region. Establishing regional taxes, the representative (legislative) authorities determine tax rates on relevant types of taxes

(within the limits established by the Tax Code), tax incentives, procedure and terms of taxes payment. All other elements of regional taxes are established by the corresponding chapters of the Tax Code. Regional taxes are accumulated in the regional budgets and are used by the subjects of the Russian Federation to fulfil their functions.

Local taxes are regulated primarily by federal rather than local laws. In particular, the land tax is established by the Tax Code and legal regulations of the representative bodies of municipalities. It comes into force and ceases to be effective in accordance with the Tax Code and legal regulations of the representative bodies of municipalities, and is to be paid on the territories of these municipalities. Local personal property tax is set by the separate Russian Federation Law “On Taxes on Personal Property” of 9 December 1991, № 2003-1.

Regional authorities have the right to grant tax incentives for regional and local taxes. But given that it comprises just 10—12% of all tax revenues, the possibility of regions to regulate the tax burden is not great. However, this is an additional tool to improve the region's investment potential.

It is important to note that the division of taxes into federal, regional and local does not mean that they are rigidly fixed and should be fully remitted solely to the appropriate budget. The distribution of most taxes between budgets of various levels of government in the Russian Federation is realized by the budget legislation, and is usually made annually when approving the respective budgets.

Each tax share paid in a region is set in the respective budgets, in order to implement the regulation of the revenue base of all budgets during the budget planning in Russia. Changes that reduce revenues from the collection of regional taxes of particular regions may be introduced into the Tax Code by decisions of the federal authorities.

Prior to 2004, 16 taxes and dues had been attributed to the federal taxes and dues, seven to the regional ones and five to the local ones. After 2004 the corresponding figures were eight, three and two respectively. This change resulted in an increase of tax revenues to the federal budget and reduction of the share of tax revenues coming into the regional budgets. The share of revenues from other budgets in the revenues of regional budgets is on average 25% and in 14 regions — more than 50%. Under these conditions, with discrepancies in the overall distribution of collected budget revenues between the levels of the budget system, there is inevitably reproduced the practice of inter-budget transfers. Economically weak regions need regular financial support from the federal budget.

Therefore inter-budget transfers turned out to be the main instrument of the federal government in its relations with regions, as financial redistributive operations became an important element of the state regional policy. This system withstood the test of the economic crisis of 2008—2009. But after the crisis, while preserving the overall centralization of financial flows, there began a process of expanding the regional financial capacity (such as the creation of regional road funds in 2011—2012 on the basis of tax and non-tax revenue sources and the expansion of tax collection at the place of production, through the establishment of mechanisms at the regional level encouraging enterprises to pay taxes at the actual location of production).

Financial support for regions from the federal centre was also provided by the Ministry of Regional Development of Russia. It controlled, within its competence, state support for regions from the federal Investment Fund, provision of subsidies from the federal budget to the regional ones, projects of social and economic development of federal districts, federal special-purpose programs and departmental special-purpose programs in respect of complex territorial development and federal special-purpose programs associated with the economic development of regions and municipalities.

However, the economic stagnation that began in 2012 is reducing the federal budget revenues. Regional budgets, faced with falling revenues on the demand of the federal government to increase social expenditures, risk defaulting. Because of this, regions are increasingly seeking the support of the federal centre. According to the Ministry of Finance, only 10 out of 83 regions did not receive subsidies from the federal budget in the first half of 2013 (Moscow, St. Petersburg, the Moscow Region, the Leningrad Region, Tatarstan, the Tyumen and Sakhalin regions, Nenets, the Yamal-Nenets Autonomous Okrug and Khanty-Mansi Autonomous Okrug). The public debt of the Russian regions in 2014 increased by 20% and exceeded two trillion roubles. In three subjects of the Federation, it has more than doubled, while in 10 regions it exceeding the income of local budgets. The Russian economy is so centralized that the economic independence of regions is difficult to achieve. Regions increase their debts, mainly because they have to finance a significant portion of social commitments (80—85%) while a significant portion of their income comes from the centre. The government continues to provide low cost loans to regions to replace commercial loans, as the territories have to increase debt to fulfill social obligations.

Financial independence of the regional authorities, which receive financial support from the federal budget, is limited by the Budget Code. Subsidization becomes a disqualification criterion for the evaluation of regional authorities. Regions with budgets of which 60% or more depend on financial support from the centre are now under the control of the Ministry of Finance. On the initiative of the federal Ministry of Finance more subjects receiving subsidies for the alignment of budgetary provision from the federal treasury will fall under federal financial control.

The ministry proposes to preserve the right to take foreign loans to pay off debts and finance local budget deficits only for those regions that do not receive subsidies for the alignment of budget security. From 2014, there has been an increase in audit monitoring of financial discipline in both the centre and in all regions. The Ministry of Finance, which is trying to maintain federal control over the regions, would like to be able to dismiss governors of regions with high debt, but this reasonable measure for improving financial discipline after the return of the system of regional leaders' elections does not correspond to the federal character of the Russian state.

CONTROLS

The regions exercise their own legal regulation (adoption of laws and other regulations) only beyond the jurisdiction of the federation and the joint jurisdiction of the Federation and the subjects. Mention has already been made above of the capacity con-

straints of their own regional legal regulation in the areas of taxes and budgets. The Constitution Court of the Russian Federation can consider cases concerning the compliance of federal laws and the president's normative acts and the government with the Constitution of the Russian Federation, at the request of the regional legislative and executive authorities. In addition, the president and the government can request the Constitution Court to consider the compliance of the constitutions of republics, regional charters, the laws and other normative acts of the subjects of the Russian Federation with the Constitution of the Russian Federation, on the issues under the jurisdiction of the bodies of state authority of the Russian Federation, or under the joint jurisdiction of the bodies of state authority of the Russian Federation and the bodies of state authority of the subjects of the Russian Federation (Article 125 of the Constitution).

Regional normative acts adopted outside these two sets of issues are not considered in terms of their compliance with the Constitution of the Russian Federation by the Constitution Court of the Russian Federation, as they are outside the competence of the Federation. The Constitution Court of the Russian Federation resolves disputes on jurisdiction matters between the bodies of state authority of the Russian Federation and those of the subjects of the Russian Federation and between the higher bodies of state authority of the subjects of the Russian Federation.

RELATIONS WITH OTHER LEVELS OF GOVERNMENT

Under the Constitution of the Russian Federation, the source of the powers of local government bodies has a distinct federal structure, which results from the distribution of powers of legislative activity in the sphere of local government between the federation and the regions. The joint jurisdiction of the Russian Federation and the Russian Federation subjects includes the establishment of common principles of organizing the system of bodies of state authority and local government (Article 72, clause "m").

The structure of local government bodies is determined independently by the population (Article 131, Part 1 of the Constitution). Local government bodies independently manage municipal property, draw up, adopt and implement the local budget, establish local taxes and dues and maintain public order. They can be vested by law with certain state powers and receive the material and financial resources necessary to exercise them.

Local government bodies as public authority bodies play a significant role in the regulation of social relations in the region. However, one of the problems with regard to their activities is the delimitation of powers of local government bodies and bodies of state authority. It is difficult to distinguish those issues that should be solved only at the municipal level throughout the Russian Federation. Not being state authority bodies, local government bodies are limited in their capabilities.

The general principles of organization of local government bodies in the Russian Federation are regulated by the Federal Law "On General Principles of Local Self-Government in the Russian Federation" of 6 October 2003, № 131-FZ (the current version is dated 30 January 2014). The Act details the distribution of powers on local government issues between the two levels of government.

The Act contains special articles on the powers of the state authority bodies of the Russian Federation in the sphere of local government, on the powers of regional author-

ities of the Russian Federation in the sphere of local government as well as the jurisdiction of local government bodies. Article 6 of the Act contains a list of thirty issues of local importance. This list may not be reduced by regional legislation, but regional laws can refer some other questions to local issues.

Article 6 of the Act also contains a fundamentally important provision on the right of municipalities to take into consideration issues that are not excluded from their competence and are not within the jurisdiction of other municipalities and public authority bodies. These rules are applied to federal guarantees of local government bodies' independence.

Lawmakers at the federal and regional levels have great potential to determine the legal, territorial, organizational and economic principles of the organization of local government. The possibility of own municipal law-making in these spheres is not excluded. However, basic legal regulation takes place at the federal and regional levels. State authorities are actually entitled to independently establish the scope of their own powers in the field of local government. This refers primarily to the federal authorities, and the regions' powers can be exercised only in those cases where expressly provided by law (Art.6.1 of the Federal Law № 131-FZ).

Law № 131-FZ has contributed to the centralization of a number of regulatory issues of local government, shifting this jurisdiction from the regional to the federal level. Although regions have retained some of their powers, their participation in the regulation of many issues of local government is no longer provided for. Thus, under this law, the federal component outweighs the regional one in the regulation of the general principles of the local government organization, which under the Constitution of the Russian Federation are in the joint jurisdiction of the Russian Federation and its subjects.

However, this does not mean that the regions thereby are prevented from independent (additional) legal regulation of local government. In 2008, the Constitution Court of the Russian Federation formulated the legal position that the regions (subjects) of the Russian Federation can participate in the legal regulation of local government and in those cases where this is not provided by federal law, without violating federal regulations.

One result of the increase of the federal government powers was that, in most regions, the basic regional laws on local government, which had been adopted at the beginning of a wave of liberal reforms of the 1990s, were abolished. The regional constitutions and charters preserved general provisions on local government echoing the federal regulations. It is possible that the regions will adopt new regional laws on local government, in which there will be developed and specified the normative content of federal law with respect to the conditions of particular regions (as an example, the Law of the Republic of Kalmykia on 23 November 2011 № 308-IV-L "On Some Questions of the Organization of Local Government in the Republic of Kalmykia").

Thus, the principle of federalism will be implemented with concrete measures, forming a transition link between the federal and municipal levels of normative regulation, creating a regional level of local government regulation.

In the final resolution of the IV Congress of the All-Russian Council of Local Government (June 2012) it was stated that in some cases the "delimitation of powers in the

federal system is replaced by an administrative delegation of such powers “top down”. As a result, federal relations as well as municipal relations, based on the constitutional independence of local government, are replaced by administrative relations on the implementation of delegated state powers of higher authorities”. This paper proposes another way to define the powers of local government, namely by adopting a federal law that defines the criteria and limits of delegation and sub-delegation of certain federal and regional state powers to the local level.

The regions are also involved in the process of state law-making in the Federation Council, the upper house of the Russian parliament (The Federal Assembly). In accordance with Part 2 of Article 95 of the Constitution of the Russian Federation, the Federation Council is composed of two representatives from each subject of the Russian Federation: one from the representative body and one from the executive body of state power.

The Federation Council is the “Chamber of Regions”, representing the interests of the regions at the federal level, while reflecting the federal nature of the Russian state. Being an institution of integration and consolidation of the regions, the Federation Council provides a balance of federal and regional interests when making decisions aimed at implementing strategic development goals.

The procedure for forming the Federation Council has been changed several times by federal laws and regulations. From January 1996 to December 2001 the governors (heads of regional executive authority) and the heads of regional Legislative Assemblies were members of the Federation Council *ex officio*. From January 2002 to December 2012, on the basis of the reform proposed by President Putin, the governors and heads of the legislature were replaced by designated representatives, who are to work in the Federation Council on a regular and professional basis (in this case one of them is appointed by a governor, and the other — by the regional Legislative Assembly). Heads of regional executive authorities were thus deprived of the opportunity to independently engage in lobbying their interests in the capital and participate in the party and political activities at the federal level. As a sort of “compensation” for regional leaders, in 2000 by decree of President Vladimir Putin, there was established an advisory body, the State Council of Russia. This body, which meets periodically and with the president’s participation examines the pressing issues of the country, has no constitutional status. It is an advisory body, which assists the presidential powers on issues of coordinated cooperation between state authorities. As envisioned by Vladimir Putin, the State Council should become a political body of strategic purpose.

Since 1 January 2013, a new procedure for the formation of the Federation Council of the Federal Assembly of Russia has been put into practice (Federal Law of 3 December 2012, № 229-FL “On the Formation of the Federation Council of the Federal Assembly of the Russian Federation”) (Article 1, paragraphs 1—4). The federal legislation introduced the principle of election to the formation of the Federation Council, avoiding the need for any amendments to the Constitution of Russia. The authors of the new procedure for forming the Federation Council had to abandon the earlier idea of introducing direct elections for senators by the regions’ populations. As a result,

a compromise version prevailed that enables the will of the regional population to be taken into account. Moreover, the new procedure for the election of senators is written on the basis of the principle of the non-partisan basis of the Russian parliament upper house.

The new procedure for the election of senators should enhance the stability of the chamber activity as a whole, because regional authorities have lost their prerogative to groundlessly withdraw and change their representatives in the Federation Council. Now only a deputy of this body can be a representative of the regional legislative authority. As for a senator, who is a representative of the regional executive body, he/she will actually be elected, together with the governor.

OVERALL ASSESSMENT

Indeed, in Russia there is a third element, the region as the subject of the federal structure of power. Russia continues its development as a federal state. By trial and error, Russian society is seeking its own model of federation. In the period from 2007 to the present, the democratization of the Russian Federation has continued in the form of regionalization. The Russian regions are becoming an important part of the political space of the country.

In the context of the power vertical creation initiated by Putin in 2000, the federal centre continues to unify the political regimes at the regional level. Therefore, the period 1991—1999 can be called the period of decentralization, whereas since 2000 we have been witnessing a process of re-centralization. However, the varied policy of the federal centre towards the regions, due to the diversity of economic, geographical and socio-cultural conditions of development, inevitably reproduces their diversification.

To understand the process of regionalization in Russia, we need substantive interpretation of the notion of a democratic political regime, with the analysis of specific government practices. That is, it is necessary not only to clarify the formal correspondence of the Russian political regime to democracy norms, but also to analyse the actual dynamics of the configuration of power at the regional level, and to take into account the political culture of the population.

While analysing the relations between the centre and regions, we must take into account the important role played by informal institutions in the political life of Russia. There is also a tendency towards the deformalization of formal institutions, as well as an instrumental understanding of federalism as a means of regulating inter-elite relations. The political autonomy of the regions is sometimes used by regional elites as a means of bargaining with the centre in the “political market”.

The continuing policy of re-centralization of power in the country has been dominated by an administrative approach to the issues of federal relations development. The objective of achieving the financial autonomy of the regions has not yet been achieved, as in the period since 2007 there has been a tendency to increase the federal budget by reducing the regional budgets. However, only a small number of regions were self-sufficient and were donors, while the remaining ones were recipients.

The most important conclusion is that while the state policy vacillates between centralization and decentralization, the political autonomy of the regions exists formally

and in practice. However, further development of the society is undermined by the fact that federalism has not become a core value of political culture. The results of public opinion polls (2010—2012) show a lack of meaningful and systematic request for federalism as a part of everyday political discourse.

The regions still show great interest not in social and democratic federalism, but in an ethnic one. In the dominant political culture of the Russian society (among the elite and the masses of the population), the ideas of political pluralism and autonomy of subjects of the political process are less important than ideas of centralism, unitarianism and the personalization of power. According to political scientists, the current federal state system of Russia, with all its advantages and disadvantages, is quite consistent with the level of the socio-economic development of the society and the political culture of the elite and the population as a whole.

Currently, much attention is given to the bargaining between the centre and the regions over the division of powers and budget distribution to equalize the level of the regions' development. However, prospects for further development consist in combining the activities of the centre and the regions to achieve the public good on the basis of increasing regions' financial autonomy and competitiveness. The centre has created the political and economic mechanisms of interaction with the regions that allow it to keep the situation relatively stable, but constrain opportunities for regional development. The situation is complicated by external economic and political circumstances (low oil prices, the introduction by Western countries and their partners of economic sanctions against Russia after the annexion of the Crimea with Russia⁵⁵ and Russia's solidarity with Donbass as well as the active participation of Russia in solving the Syrian problem). It is no accident that, on 3 December 2015, in his annual address to the Federal Assembly, President Vladimir Putin was forced to point out the need to give incentives to the regions to increase their own revenues without reducing federal funding.

The incorporation of two new entities — the Republic of Crimea and Sevastopol city — into the Russian Federation in March 2014 is a major challenge to the political, economic and social stability of the state. This step may require increased attention to the problem of improving the federative structure, dividing competences between the centre and the regions and substantially strengthening local government.

РАЗВИТИЕ РОССИЙСКОЙ МОДЕЛИ ФЕДЕРАЛИЗМА: ОТНОШЕНИЯ ЦЕНТРА И РЕГИОНОВ В 2007—2016 ГГ.

Ю.М. Почта

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Ю.М. Почта является членом группы независимых экспертов Конгресса местных и региональных властей, который является общеевропейской политической Ассамблеей в составе Совета Европы, представляющей местные и региональные органы власти из сорока семи стран —

участников Совета Европы. Конгресс доверил этой группе независимых экспертов задачу проведения сравнительного научного исследования на основе информации, полученной из государств — членов Совета Европы, затронутых процессом регионализации и на информации о недавних процессах регионализации в Европе. Намерение состояло в том, чтобы изучить процессы регионализации, имевшие место после доклада Европейского комитета по вопросам местной и региональной демократии 2007 г. Исходя из этого идея заключается в том, чтобы добиться более глубокого понимания явления регионализации со стороны юридических и институциональных аспектов. Основная цель данного исследования заключается в оценке тенденций регионализации как формы демократизации общества, в направлении как большей, так и меньшей регионализации в отдельных странах и, следовательно, в Европе в целом. В то же самое время оно стремится выяснить, действительно ли различные изучаемые страны имеют региональные институты, как это определено в 2009 г. в Рамочном документе Совета Европы по региональной демократии.

При подготовке раздела о России, автор исходил из того, что постсоветская российская государственность возникла на рубеже 80—90-х гг. XX в. Важнейшим аспектом продолжающегося процесса ее становления является федеративное устройство государства, взаимоотношения регионов (субъектов Федерации) и федерального центра. Показано, что с 2007 г. процесс регионализации Российской Федерации успешно развивается. Сделав выбор в пользу создания демократического общества, постсоветская Россия заимствовала западную модель федерации, приспособив ее к своим условиям. Влияние этих условий приводит к тому, что отнести существующую российскую федеративную систему к классическим западным достаточно сложно. По этому поводу среди российских и западных исследователей идет оживленная дискуссия о природе российского федерализма — истинный он или является имитационным, не наблюдается ли его кризис. Но с 2014 г. в связи с вхождением Крыма и Севастополя в состав Российской Федерации проблематика российского федерализма становится еще более актуальной. Возникает целый ряд вопросов о характере эволюции российского федерализма, о возможности органичной интеграции двух новых субъектов в состав Федерации в условиях резкого осложнения отношений России с западным сообществом во главе с США в контексте политического и социально-экономического кризиса в Республике Украина.

Ключевые слова: Российская Федерация, федерализм, субъект федерации, регион, демократия, федеральный центр