

**Institution building of local self-government in Russia:
between the legal design and power politics**

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This article¹ on institution building of local self-government in Russia is guided by the following premises:

- The article focuses on the *institutional* dimension of local self-government, in other words, on the *polity* as the institutional setting within which local *politics* and *policy* making and implementation take place.¹ As the institutional setting is largely laid down in *legal* provisions, the treatise will be primarily concerned with *legal rule-setting*.
- As the institution building evolves in a sequence and process of *institutional choices* made by the relevant actors, we are also particularly interested in *the factors* which, methodologically speaking: as *independent variables*, influence the process and result of *institutional choice* (as *the dependent variable*). In the debate on how to adequately conceptualize and hypothesize these phenomena, two schools of thought may be distinguished.² On the other hand, the analytical emphasis is placed on *structural* factors which, lying in their origin and compellingness largely beyond the reach and discretion of the actors, may shape the institution building process. In analyzing the system transformation of former socialist countries the institutional (such as centralism) and also mental (such as “legal nihilism”) “legacies” may be seen as such *structural* factors which, being still embedded and entrenched in the institutional fabric (as well as in the actors' minds) may produce an inertia and persistence prone, in what has been termed “*path-dependency*”,³ to condition, if not determine the “corridor” institution building is going to follow. Such institutional and mental *legacies* or *path-dependencies* may be particularly salient because of the formidable institutional and mental imprints with the 70 years long Communist regime, particularly during its Stalinist over-centralist and totalitarian period, and, reaching back into Russia's pre-Communist history, the centralist and authoritarian Tsarist rule have left. On the other hand, the conceptual lens may be focused on *actors-related* factors which, highlighting the “contingency” of the action space and the discretion of the actors, relate to the “will and skill” of the actors, their political goals, concepts, interests and strategies.⁴ Needless to say, that, in the brevity of the paper, such “causal analysis” is liable to be hardly more than sketchy.
- Following from its *genetic* approach the paper will go through the various stages the institutionalizing of Russia's local self-government has passed through from the late stage of the Soviet Union until now.

The Communist (post-Stalinist) regime of the 1980s: First cracks in the centralist edifice

At the outset, it should be useful to briefly recall some basic features of the former Soviet State in order to mark the “starting point” of the secular institutional transformation that was to follow.

- *Unity of the state*: Laid down in the Constitutions of the Soviet Union of 1977 and of the RSFSR of 1978, the principle of unity of the State was geared to safeguard the centralist Party supremacy and to strike out any degree of regional or local autonomy, as, in the centralized power system the regional (*oblast'*) level acted as the regional backbone of the centralist State and the administration in the towns and rural localities served as its bottom line.⁵ All levels below the Soviet Union central government (and the Union republics) level were termed “local”. The centralist rule was organized first of all around the (industrial) “branch principle” and was exercised by vertical structures running from each central (branch) ministry to its local level unit in an overlapping of responsibilities which was sometimes referred to as the “Russian doll” principle.⁶ As the “branch principle” thus prevailed on all levels, the function of the lower levels, particularly of the towns and villages, of bringing comprehensive “territorial principle”

¹ I have to thank Lena Gritsenko, Andreas Heinemann-Grüder and Tomila Lankina for valuable comments. The mistaken, needless to say, remain main.

was marginalized.

- *Double subordination*: While the local “executive committees”, as the collegiate executive authority *was formally* elected by the local councils and *formally* accountable to them. They were, *in fact*, appointed by the regional and local Party leadership, recruited from the Party's *nomenklatura* elite and, under the principle of “double subordination” which was as essential lever of *democratic centralism*, strictly subordinated and accountable to the higher level executive committees (and the respective Party structures).
- In real terms, the local elected councils, thus, played an all but perfunctory role, while their executive committees as local executive arm of centralist government were the local power-holder.

It should be noted, though, that since the “De-Stalinisation” of the Soviet system, repeatedly (short-lived) initiatives were taken by the Party leadership to make the overcentralized and overbureaucratized post-Stalinist Communist system more flexible and maneuverable particularly by strengthening the role and the responsibilities of the local councils as advocates of the territorial principle” and its comprehensive concerns as challenging and rectifying the “branch principle”.⁷ In this context, mention should be made of *Khrushchev's* campaign to revive the local councils and, in explicitly conjuring the Marxian and Leninist tenets of the “waning of the state”, to pass state functions on to “public organizations”.

Moves on the Soviet Union level: local self-government under *Gorbachev*

After *Mikhail Gorbachev* was on 11 March 1985, elected the new Secretary General of the KPSS, his drive to modernize the Soviet system addressed the local level particularly on two scores:⁸

As the state structures, in general, should be strengthened in their functions and autonomy with regard to the Communist Party, they were to be decentralized particularly by enhancing the functions of the local, that is, the district, town and village level. On the local level the elected councils should play a stronger role.

Whereas these *perestroika* measures seemed to be pursued by *Gorbachev* still mainly in a “top-down” manner targeted at modernizing the overcentralized and petrified Soviet system “from above” and “from within”. The elections held on 4 March 1990 to the Supreme Soviets of the Union republics, including the Russian Federation, and to the regional, county, town and village councils, conducted for the first time on a competitive multi-candidates formula, unleashed an unprecedented political groundswell and dynamics “from below” which was to profoundly remould the country. On the republican and regional level new political elites were swept into the Soviets and were prepared to fight for more autonomy, if not, as in the cases of the Baltic Republics, for becoming independent and leaving the Soviet Union. On the local level, particularly in the larger cities, such as in Moscow and Leningrad, reformist Communists and independents won the majority of the council seats and immediately challenged the conservative Party *nomenklatura* still well entrenched in the local “executive committees”.⁹ In many cities a virtual “double rule” emerged between the elected councils and the “executive committees” in the struggle for political leadership in the city.¹⁰

Thus, it was on the background of a conflict-laden situation and dynamics in many localities that the Supreme Soviet of the Soviet Union, on 5 April 1990, passed a Union law on “on the principles of local self-government and local economy”¹¹ in which some bold and innovative changes in the legal setting of local self-government were introduced.

- For one, the dogma of the “unity of the state” which was at the core of the centralist Communist State was significantly challenged¹² by legally defining local self-government as the “self-organization of the citizens” who “decide, either directly or indirectly, on matters of local significance that follow from the interest of the population and the particularities of the respective administrative-territorial unit”. While, in for the first time introducing the “general competence clause”, the Soviet Union legislation caught up with an international (“Western”)

standard formula on local self-government, its reference to the “self-organization of citizens” might well be also interpreted as reminiscent of the reform efforts, particularly under Khrushchev, and possibly also of its underlying Marxian vision of an increasingly “societal” dimension of the “waning” State.

- Furthermore, in a remarkably bold move, the “double subordination”, being a corner stone of the centralist Communist State was conspicuously weakened, as the local executive committee was to be made accountable, for matters of local significance, solely to the local council. It must be added, though, that such thinning out, if not dissolving the “administrative hierarchy” and centralist control chain was, perhaps in view of the “double rule” situation reigning in many localities, apparently assessed by the central leadership, including Gorbachev, as too risky¹³ that, in a striking centralist turnaround, the “double subordination” was reinstalled by the Union legislation of 13 October 1990.¹⁴
- The position of the elected council in relation to the “executive committee” was strengthened, although, as was just said, the direct subordination of the latter to the upper level authorities (“double subordination”) was restored.
- The law fell in line with the Soviet tradition by still counting the regions, beside the towns/villages and districts, among the “local” entities. The mounting pressure from the regions to upgrade their political status was, at that point, obviously still not seriously considered (or was ignored) by the Supreme Soviet of the Soviet Union legislators.
- As the law did not assign specific competencies and tasks to the town, district and regional levels, it still followed the “Russian doll principle” with its centralist and “branch principle” implications.

While the new Union law was meant to be followed and complemented by legislation of the Union republics, including the RSFSR, it went into force in the entire country and immediately impacted on local level institution building as local councils began to adjust to the new federal legislation. Local actors started to refer to and employ the new legal provisions in the relations and conflicts horizontally between the elected council and the executive committee and (vertically) between the town, district and regional levels. The local budgets 1991, for instance, were prepared and passed under the new law.¹⁵

Development in the Russian Federation until October 1993: Local self-government between legislative design and executive truncation

While the Supreme Soviet of the RSFSR, in late 1990, went about drafting the bill “on local self-government in the RSFSR” and, on 6 July 1991, finally passed it, particularly three political battle lines influenced the legislative process.

- The fierce fight which the Russian Federation waged against the Soviet Union about becoming a “sovereign” state (and which should greatly contribute to the dissolution of the Union at the end of 1991), had its crucial *institutional* dimension and component in the Russia's determination to build a State of its own. In the pursuit of state building and constitution formation important changes were effected on Russia's central level when the position of the directly elected President was introduced, on 17 March 1991, by referendum, followed by Yeltsin's election, on 12 June 1991. The enactment of the RSFSR legislation on local self-government was another important move in institution and constitution building. As, thus, its local level was put under *Russian* legislation while the *Soviet Union* legislation was largely superseded and practically, if not legally replaced.
- In view of the conflicts which were waged in many localities between the reformist members of the local councils and the conservative nomenklatura holding out in the executive committees. The reformers' camp in the Supreme Soviet pushed the new legislation obviously with the intention to resolve the often deadlocked local conflicts particularly by introducing the direct election of the local head of administration and, thus, terminate the institutional and political

existence of the executive committees. The introduction of the position of the directly elected mayor in Moscow and Leningrad by local referendums on 17 March 1991 and the subsequent election of the reformers *Popov* and *Sobchak* as new mayors on 12 June 1991 were resounding examples, in the eyes of the reformers, of the political success of this strategy.¹⁶

- To some extent mirroring the situation in which the Soviet Union found itself vis-a-vis the secessionist mood rampant among the Union republics, the RSFSR, too, was internally confronted with mounting demands, particularly of its (“ethnic”) republics, but increasingly also of the regions, for independence, if not “sovereignty”. In view of this development the enactment of RSFSR-wide legislation on local self-government could be seen as a “unifying” act in terms of putting the local level, on the entire territory of the RSFSR, on a “unitary” legal footing.

Some key points of the law of 6 July 1991 shall be highlighted.

- Local self-government was guaranteed, in adopting the “general competence clause”, as the right of the local population to decide (all) “matters of local significance”.
- The principle of local self-government was laid down for the “districts, towns, town-districts, villages and rural settlements” (Art. 2 section 2). The districts were, hence, explicitly recognized as local self-government units, whereas the regions were not counted any more among the “local” authorities, thus recognizing the internal “federalization” of the RSFSR that was in the making.
- By assigning different tasks, in long catalogues, to the towns, rural localities and the districts the new law, for the first time, gave up the “Russian doll principle” which so far was part and parcel of the centralist State.
- As to the control and oversight, by the state authorities of the local level the new law was still somewhat undecided, since, on the one hand, it abolished the “double subordination” as the key mechanism of the past centralist administrative system, while, on the other, it held the lower level councils, to a certain degree, still “accountable” to higher ones (articles 29, 87).¹⁷
- The most dramatic institutional change was effected in the (horizontal) arrangement of functions and powers between the local elected council and the local executive position.¹⁸ In a “division of power” and “checks and balances” concept,¹⁹ the local elected council as the supreme local representative organ was to act essentially as a deliberative, rule-setting and controlling body, while the directly elected head of administration was, in a monocratic position, to perform a self-standing *executive* function and responsibility (article 30 section 4). Within the local “checks and balances” system, the head of administration had the right to veto decisions of the council, if, in his view, they contradict legal provisions or are “financially, material-technically and organizationally unviable” (Art. 34 section 1), while the elected council could overrule the veto by a majority vote of its members. If the veto of the head of administration was on legal grounds, he could take the issue to the court. The council also had the right to initiate, with a two-thirds majority, a recall procedure against the head of administration that was to be decided by local referendum (Art. 35). Furthermore, the council was permitted to have some personnel staff of its own “in order to organize its work and to fulfill its tasks” (article 26). In being premised on a strong local executive the legislative design looked like a local analogy of the presidential system which at that point was just installed on the central level of the Russian Federation and had resemblance also with the “strong mayor”, for instance, model in place, in some states in USA and in the German *Laender*.
- According to the introductory ordinance the elections of the local heads of administration were to be held on 1 November 1991, thus terminating the existence of the executive committees.

In the wake of the abortive putsch by Party conservatives between 18 and 21 August 1991, the further fate of the new law and its implementation was shaped by an array of adverse circumstances and events.

- In order to push “radical economic reforms” against the reluctance and opposition particularly in the rural (and politically conservative) regions and municipalities, Yeltsin turned to creating

an *executive vertical* which, besides the net of the presidential representatives, whom he installed immediately after the putsch as his personal regional watchdogs, was essentially based on the vertical chain of centrally and hierarchically appointed regional and local heads of administration. On 1 November 1991, he wrested from the Supreme Soviet such appointment powers as well as the suspension of the elections of the local heads of administration for that very scheduled day. In filling the newly created positions of the monocratic local head of administration by hierarchical (personal) appointment instead of having them, in due democratic procedure, locally elected Yeltsin deprived Russia's new legislative local self-government model of its conceptual and political – democratic as well as decentralist – key elements. Imbued with the centralist power logic that was part and parcel of Russia's and the Soviet Union's administrative and local tradition in an all but “path-dependent” imprint, the centrally appointed and controlled local executive was retained and continued as an essential feature of local level administration well into 1995 and 1996.

- The appointment of the local heads of administration not only executively truncated and administratively centralized local self-government in a crucial formative stage. It also politically impacted upon the local institution building and consolidation process, as the power struggle which, since late 1991, was ever more fiercely waged on the Russia's central level between President Yeltsin and his reformist camp, on the side, and the conservative majority in the Congress of People's Deputies, on the other, had its political reflection and repercussion in many localities, particularly in the larger cities – with the local councils backing the People's Congress and the local mayors supporting the President's cause.
- In addition, the process of the “federalization” of Russia was bound to change the intergovernmental status and stature of the local level. Responding and bowing to the secessionist threat posed by national (“ethnic”) republics (particularly Tatarstan and Chechnya) and also by some regions, the central government, on 31 March 1992 concluded the Federal Treaties by which Russia was constitutionally and formally the *federation* with (89) “federal subjects”. Whereas in the Communist era the districts, cities, towns and rural localities were faced with and subordinated to the regional level as the *administrative* regional backbone of the Soviet central government, they were now confronted with regions that insisted on, and employed their elevated constitutional and political status *as, federal subjects* and as federal players who tended to be ardent *de-centralists* in dealing with the federal/central government, but to act as adamant *centralists* vis-a-vis the local level, particularly when it comes to distributing and controlling ever scarcer budgetary resources. In a way, the intergovernmental status of the local level got, as a result of, “federalization”, from bad to worse.
- Moreover, the socio-economic situation deteriorated in the wake of the “radical economic reforms” which added to formidable political, social, financial and economic challenge and problem-load confronting the fledgling local self-government.

Although, thus, standing up against enormous institutional, political, financial and socio-economic problems, Russia's incipient local self-government did make some remarkable advances during this period. The local councils started to actively engage in coping with the manifold local problems, including the arduous process of “small privatization” which local government was charged with. In order to achieve they employed their own staff and acted particularly through their “small councils” which were formed out of the larger “plenary councils” and were made up of local deputies acting on a full-time and salaried basis.²⁰ Thus, defying the adverse circumstances and its institutional truncation, local self-government, during this period, noticeably contributed to the “active transformation of the life in the localities”,²¹ particularly in the larger cities, less so in the rural areas in the “province”.²² Without much exaggeration, one might speak of an (albeit short-lived) political and institutional “spring time” of Russia's local self-government.

The “October 1993 events” and their aftermath: “all power to the executive”

The institutional and political development of local self-government was profoundly disrupted when President Yeltsin decided to resolve the deadlocked power struggle with the Congress of People's Deputies by eliminating it by military force on 3 and 4 October 1993 in what has euphemistically been termed the "October events". Along with the People's Congress the entire structure of regional and local councils that were elected in March 1990 for four years was dissolved by Yeltsin's decree of 6 October 1993. At the same time, he laid down the legal blueprint of a severely reduced local self-government system.

- The very label *soviet* smacking of the antecedent local government system was banned and replaced with a terminology (*duma*, *mestnoe sobranie* = local assembly) which somewhat conjured the *zemstvo* tradition of Tsarist Russia. Likewise, the local heads of administration were called *mer* in the cities and towns and *starosta* in the smaller (rural) localities.
- The number of the deputies of the local councils was significantly reduced depending on the population size.
- The powers of the local councils were drastically curtailed. For budgetary decisions they needed the consent of the local head of administration.
- Corresponding the powers of the local head of administration were enlarged. He was to convene and to chair the sessions of the council.
- Elections to the new local councils were scheduled between December 1993 and June 1994. Setting the concrete dates was left to the governors. (As most of the governors were slow in calling local elections and because, due to the widespread electoral apathy of the local population, a second round of election was needed in many cases to bring the councils up to the required composition, the local councils in many regions started to (formally) operate not earlier than late 1994.²³ So the "council-less" period of the local level lasted from October 1993 well into 1994).
- The question as to whether, the local head of administration should in the future be elected by the local population or appointed by the governor was also left to the "federal subjects" to decide. (In fact, except for a few regions where local heads of administration were elected already in 1994, such elections did not take place until 1995 and 1996).²⁴
- In the presidential decrees, no mention was of the districts with regard to local self-administration, which implied that they entirely turned into (regional) state administration.²⁵
- Insofar as the provisions of the RSFSR local government legislation of July 1991 contradicted the restrictive presidential regulation, they were nullified.
- Within the presidential blueprint the governors were to spell out further details in executive ordinances of their own.

Thus, in the aftermath of the "October events" Russia's new local self-government system was shaped by the *executive law*²⁶ laid down in presidential decrees and in subsequent ordinances of the governors. In the absence of elected regional and local representative bodies (regional assemblies began to be elected in early 1994, local councils, as was mentioned, still later), the political and administrative power on the regional and local levels was almost entirely concentrated with the executive ("all power to the administration"). The executive power hierarchy was topped and domineered by Yeltsin, while the governors of the regions, due to the political concessions which Yeltsin had to make to them before, during and after the October events", were given extended control over the local level,²⁷ as, within the power hierarchy, the appointment of the local heads of administration was practically left to the governors who, in turn, continued to be appointees of the President. It was only in 1995 that the *executive law* and its harsh regulation of the local level was gradually replaced with *legislative law* more conducive to local self-government. While the "logic of (executive) power" was writ large in shaping the local institution in the aftermath of the "October events", the new Federal Constitution which adopted on 12 December 1993 in a country-wide referendum by a slim, perhaps even doubtful majority exhibited a somewhat contradictory and ambivalent face. On the one hand, in carving out an overpowering institutional position of the President the Constitution was bluntly tailored to Yeltsin's power interests and political will. On the

other hand, however, in what seems a striking contradiction,²⁸ the Constitution hints at guaranteeing an advanced model of local self-government. Just a few highlights.

- In the Constitution, local democracy and local self-government are given prominent visibility, as, under the programmatic heading “fundamentals of the constitutional order”, the provision on “the power of the people” stipulates that “the people exercises its power directly and through the organs of the state power and the *organs of local self-government*” (article 3 section 2, see also article 12, italics mine). Article 130 section 1 further prescribes that through local self-government the population be ensured the right to autonomously decide (all) “matters of local significance” and to “possess, utilize and dispose of municipal property”, these powers being exercised “through referendum, elections and other forms of direct participation as well as through elected and other organs of local self-administration” (article 130 section 2).
- In defining the status of local self-government in the overall constitutional fabric article 12, as a conspicuous novelty, introduces the notion that the “organs of local self-government do not constitute a part of the state bodies”. While in the political and academic debate which has been evoked by this constitutional provision it is generally agreed that it does away with the former dogma of the “unity of the state”, much controversy reigns about its conceptual and political implications (as will be explained a little later).
- Furthermore, the Constitution, also for the first time, adopts the concept of a *dual function* of local administration in that, beside carrying out the matters of local significance as their primarily responsibility, the local authorities may be put in charge, by legislative act, of performing state tasks delegated to them, in which case they need to be “provided with the necessary financial resources” (article 132, section 2).²⁹
- In conformity with the Federal Treaties of March 1992 the Constitution ranks “the regulation of the general organizational principles of local self-government” among the legislative items that fall to the joint competence” of the Federation and the “federal subjects” (article 72 section 1 letter n). (Not surprisingly, this constitutional provision gave cause to considerable legal and political uncertainty and strife about the scope and limits of the respective legislative competence of the two levels).

While these constitutional clauses stood like a beacon signaling a return to local democracy and self-government as a keystone of Russia's constitutional state, the local reality, it should be recalled, continued to be dominated by the restrictive “executive law” well into 1995, before it was replaced with legislative law prone to make the pendulum swinging back.

Federal legislation on local self-government: The pendulum swinging back?

On the federal level, the “Union of Russian Cities”, in April 1994, took the initiative in coming forward with a draft bill on local self-government.³⁰ While Yeltsin, siding with the governors, kept stalling such federal legislation (neither he nor the governors had an interest in seeing the reign of their “executive law” to be terminated by legislative law”),³¹ a group of State Duma deputies, on 20 June 1994, introduced a bill which, in the parliamentary lingo, was labeled “deputy variant”.³² This move prodded the government to also work out a bill which, when introduced by Yeltsin to the Duma in December 1994, came to be nicknamed “presidential variant”.³³

The two legislative drafts differed in some crucial conceptual and political premises and implications.

The “presidential variant” hinged on the “settlement principle” and was premised on the strict conceptual as well as institutional distinction between the existing territorial-administrative layers of towns, villages and districts, on the one hand, and the settlements, on the other, the latter forming “local communities” as the basic units of local self-government, regardless of the existing “territorial-administrative” boundaries and units. Hence, the districts were not recognized as level for local self-government, but taken as an integral part of state administration (of the *federal subjects*). In conceptually drawing such a strict line between the territorial-administrative” and the

“settlement” structures, the proponents identified the latter explicitly with the *zemstvo* tradition of Tsarist Russia and its “non-state” roots. (One might as well detect some conceptual continuity with the non-state/societal clues in the Soviet Union legislative act of April 1990). By contrast, the initiators of the “deputy variant” aimed at combining the territorial-administrative and the “settlement” principles, the implication being that the districts should serve as the upper layer of local self-government in a two-tier local self-government structure.

Whereas the “presidential variant”, at first sight, had the conceptual and political attraction of opening to local self-government some “grass root” and “societal” dimension, the subsequent political debate and practice revealed that it was fraught with the re-centralizing and de-politicizing implication of having most public tasks performed by the state structures proper and restricting “local/societal democracy” to local trivialities. After a lengthy and controversial legislative battle,³⁴ the State Duma, in August 1995 (with a broad parliamentary majority ranging from the Communist Party to the Yabloko party) passed a bill which largely bore the handwriting of the “deputy variant”, while making noticeable concessions to the “presidential variants” and hence carrying uncertainties and ambiguities that are typical of such (dilatatory) compromises in legislative decision-making. The Federation Council vetoed the bill, as the governors still rejected the bill, particularly because they loathed the legislative recognition of districts as local self-government level, which, in their eyes, conjured the specter of ungovernability of the state.³⁵ After the State Duma overruled the veto of the Federal, President Yeltsin surprisingly signed the bill without further ado, probably having in view the pending decision of the Council of Europe on admitting the Russia as a new member. The federal law “On local self-government in the Russian Federation” has been signed on 28 August, and went into effect on 1 September 1995. The following key provisions should be briefly highlighted.

- On the crucial issue: “*territorial versus settlement*” principle (with its far-reaching implication on the status and function of the districts) the new law exhibits some uncertainty which hints at an underlying (dilatatory) compromise. On the one hand, it stipulates that local self-government be realized in “urban, rural settlements (and) settlements united by a joint territory, parts of settlements” (as well as) other settled-upon territory as provided for in this act” (article 1 section 1), without explicitly mentioning the *districts*. Furthermore the notion of “municipal formation” (*munitsipal’noe obnrazovanie*) is introduced as a new generic term for the basic local self-government units. These provisions could support the interpretation that the new law is tipping towards the “settlement principle”. On the other hand, the subsequent article 12 section 1 identifies the “municipal formation” with “the towns, villages, districts and other units”, thus explicitly mentioning the districts among the local self-government units. Furthermore, it should be noted that the text of the new law shuns the term “local community”, obviously essential to the “presidential variant”. All this could back up the interpretation that, in this crucial conceptual and institutional issue, the new law follows the base line of the “deputy variant”. Small wonder that the strife about “territorial versus settlement” principle and about “district local self-government versus district state administration” loomed large in the ensuing political debate and practice.
- In line with articles 3 section and 130 section 2 of the Federal Constitution the citizens are guaranteed the right to have local self-government and to exercise it through “referendum, elections and other forms of direct participation and also through elected and other organs of local self-government” (article 3 section 1). Almost emphatically the legislation urges and stipulates that local population “must not be deprived of their right to have local self-government” (art. 12 section 1).
- While confirming, in line with article 130 section 1 of the Constitution, the “general competence clause” (“matters of local significance” of local self-government), the new law goes on spelling out a competence catalogue of considerable length and detail (some 30 items, see article 6 section 1). The competencies and discretion of the local elected councils are strikingly broad in the power to regulate, by local charter within the frame of (federal as well as regional)

legislation a wide gamut of local constitutional matters (such as the size and duration of the council, the – direct or indirect – modality of the election of the mayor, the details of the procedure of *recalling* him/her by local referendum, and the like, see articles 15 following).³⁶ The local charter needs to be “registered” by the State authorities whose supervision is restricted to checking its legal compliance (article 8 sections 3 and 4).

- In line with article 12 of the Constitution, it is confirmed that the organs of local self-administration are not part of the state structures. Because of its grave conceptual, political and institutional implications the provision has raised much controversy among academics and practitioners.³⁷ On the one side, it has been hailed as finally recognizing (and legitimating) the self-standing status and autonomy of local self-government, all the more as it hints at its non-state, if not societal quality.³⁸ Not surprisingly, the municipalities and their representatives, such as the *Association of (big) Cities*, are among the staunchest advocates of this interpretation.³⁹ On the other side, this concept has been criticized of ushering “an artificial distinction of two power channels”⁴⁰ and of lending itself to and legitimating an overly wide interpretation and practice of local autonomy, thus, in the last resort, inviting the “ungovernability” of the state. Needless to say that in the political arena the governors have been first to adopt and propagate this view.
- In conformity with article 32 of the Constitution the law departs from a double function of the local authorities in that, besides carrying out local matters, they may, by legislative act be put in charge of carrying out state tasks delegated to them, if “provided with the necessary financial resources”. This provision, too, has become a much debated theme in the legal and political discussion, as the distinction between local and state matters has been left quite unclear and “inconsequential”,⁴¹ while the enabling legislation still being blocked by the Federation Council.
- As to the scope and modality of the supervision, by the state authorities, of the local government level, the new legislation has decidedly replaced the former (centralist) system of hierarchical and *administrative* control with a procedure essentially based on *legal* review and, in the last resort, on *court* proceeding.⁴² Similar to the “registration” process of local charters, decisions made by the local authorities on local matters can be challenged by the state authorities only on legality grounds and must, if objected, be turned to the courts. Local heads of administration can be removed, on legal grounds, only as a result of a court decision (or, politically only as in a recall referendum voted upon by the local population). In a similar vein, citizens can seek court protection, if they feel violated, by a state or local authority, in their right to have local self-government (article 46).

Yet, after having somewhat surprisingly signed the bill into law, Yeltsin struck back only three weeks later on 17 September 1995 when, invoking article 80 section 2 of the Constitution, he ordered by decree that all regional and local elections, including the local heads of administration, be postponed to the end of 1997. In a striking parallel to late 1991 when he stripped the 1991 legislation of its key component by then suspending the election of the local head of administration and by, instead, enforcing their appointment, he did it again with the 1995 legislation.⁴³ Finding itself in a “lame duck” situation just shortly before the upcoming Duma election on 17 December 1995, the Duma protested only meekly against the presidential decree, whereas the newly elected Duma, practically accepting Yeltsin's power move, agreed that the new legislation should enter into force not before the end of 1996. It should be noted, however, that, revealing the checkered political geography and the “haphazardness” of the relations between Yeltsin and the governors depending on the latter's political and economic clout, in some *federal subjects* regional as well as local elections, including mayoral elections, were held in this period.

In the field of federal legislation the State Duma continued to push for further federal provisions needed to complement the federal law of August 1995, but was faced with the persistent opposition of the Federation Council (that is, particularly of the governors in its midst) to pass such legislation. Among the relevant bills which were enacted finally the laws “On the financial principle of local

self-government in the Russian Federation”⁴⁴ and “On the principles of municipal service/employees”⁴⁵ loom large. Yet, the important piece of federal legislation (under article 132 of the Constitution) to regulate the delegation of state tasks to local authorities has (until now) been stalled by the Federation Council, probably first of all because of the constitutionally required financial compensation of the local authorities in the case of such delegation.⁴⁶

Legislation of the "federal subjects": Institutional variance of local government systems and creeping re-centralization

As representative assemblies were elected, during 1994, in the *federal subjects* thus ending the “parliament-less” period since October 1993, most of them were quite slow in elaborating their own legislation on local self-government replacing the governor's “executive law” (some obviously had difficulties to cope with the new legislative competence and responsibility, *inter alia*, on local government matters,⁴⁷ others seem to have waited for the federal legislature to take the lead,⁴⁸ in many cases they probably bowed to the pressure from the governor and his „party of power”, dominant in their midst, to delay legislative actions and to prolong the legislative “vacuum”).⁴⁹ Only a few of the *federal subjects* came forward, as early as 1994, with local self-government legislation of their own.⁵⁰ Most of them passed such legislative acts during 1995, particularly following the federal legislation of August 1995, and a few acted just recently.⁵¹

Although the legal regulations of the *federal subjects* on their respective local self-government system differ greatly, the following legislative types and patterns may be distinguished mainly by the criterion on which level local self-government (characterized by an elected local council and an elected local head of administration) has been institutionalized:

1) *Two-tier local self-government model*: Local self-government is installed, in a two-tier structure, on the town/village as well as on the district levels. This can be seen as a “full-blown” local self-government model which comes closest to the original “deputy variant” and to the most extensive interpretation of the legislative scheme as assuming local self-government to be installed on the town/village and the district levels. So far the *two tier* model has been introduced and retained only in a *federal subjects*, such as in *Moscow Oblast'*, *Kaluga Oblast'*.⁵²

2) *One tier local self-government model on the (smaller) town and village level*. In this scheme (sometimes labeled settlement model) local self-government is put in place only on the level of the (smaller) towns, the intra-city districts (of larger cities) and the rural localities, whereby the local self-government units (in terms of “municipal formations” in the legal sense) are based on “settlements” rather than on the existing towns and villages. By contrast, the larger cities and the districts are incorporated into the State administration in serving as the lower level of (regional) state administration with their heads of administration being appointed by the governor and their administrative divisions being directly subordinated to the respective divisions in the regional administration. Thus, almost ironically, the larger and big cities that are usually seen the prime (and most potent) candidates for full-fledged local self-government do not possess, in this model, a local self-government function proper. It should be noted, however, that in the larger cities and in the districts local councils are elected which, *inter alia*, the governor in appointing the local head of administration must consult. This (somewhat bewildering) hybrid type of state administration is sometimes referred to as “local state power”. In functional terms, in this version of a state-centered one-tier self-government system, most of the important tasks are carried out by the state administration, while only trivial local matters are left to the *settlements* on the town and village level and state tasks are hardly delegated to them. In drawing a clear institutional and functional line between the state and the settlement levels, the *settlement model*, as it is suggested by its very nickname, comes close to the original “presidential variant”. As, functionally speaking, the important public tasks tend to be carried out (and absorbed) by the state administration, while local self-government is functionally and financially thinned out, this model is likely to produce effects of re-centralization, “etatization” and de-politicization. It has been put in place in most (“ethnic”)

republics (such as *Udmurtiia*, *Severnaia Osetiia* and *Komi*), but also in some other regions (such as *Novosibirsk Oblast'*, *Kursk Oblast'* (until 1999)).⁵³

3) *One-tier local self-government model on lire level of the districts and of the larger cities*. In this scheme (sometimes termed the district model), local self-government in the legal sense is institutionalized only on the level of the (larger) cities and districts. By contrast, the (smaller) towns, intra-city districts and rural villages do not have local self-government in the legal sense, but are left with a profile of minor activities which is termed "public self-government" (*obshchestvennoe samoupravlenie*) and may be described as forms of neighborhood and self-help activities. As local self-government is put in place, under this model, in the larger cities and the districts it seems to entail a significant political and administrative potential, all the more if complemented by delegated state tasks (and provided with the necessary financial resources). By contrast, in the (smaller) towns and rural villages the overture of "public self-government" can hardly be seen an adequate substitute for the loss of local self-government proper. The *district model* has been installed, for instance, in the *Irkutsk Oblast'*. In a modification thereof in some regions a special lower layer of state administration has been installed (with administrative units each comprising several districts), thus reducing the functional significance of the latter, while strengthening the reach of state administration. This pattern has been established, for instance, in *Sverdlovsk Oblast'*.⁵⁴

4) *"Truncated" local self-government model*. Recently, in an increasing number of *federal subjects* the governors have been pushing for practically (re-introducing the executive power vertical through appointing the heads of administration of the districts as well as of the towns and villages and by directly subordinating administration of the latter to the regional ("federal subject") administration, while the elected local councils are allowed to operate (in an executively truncated function and a largely perfunctory manner). Such moves of the governor to "re-etatization" the entire district and town/village administration have been, in some cases, already approved by the regional legislatures and (remarkably enough) also in subsequent local referendums.⁵⁵ There are cases in which the governor decided to place an individual town under a "special administrative regime" by putting the local administration (for a limited, but unspecified period) under his direct command.⁵⁶ In a similar vein, governors have tried to (administratively) *dismiss* local heads of administration in bypassing the legal procedure laid down in the federal legislation on the removal of local heads of administration and requiring "due legal process", that is, a court proceeding.⁵⁷

Across the different types of local self-government a trend can be observed to change from the *direct election of the local head of administration* (by the local population) to an *indirect election* (by the local council), that is, a change, as it were, from a (local) *presidential* to a *parliamentary* system.⁵⁸ In demanding such shift it has been argued that city mayors, once they have been directly elected, have begun to act, in an arrogance of power, like "small tsars";⁵⁹ reproaching the mayors of "excessive independence" and discretion has indicatively come particularly from the governors. In some regions, the indirect election of mayors has been introduced recently (such as, in *Krasnodar Krai*).⁶⁰

The process of local government legislation in *the federal subjects* and particularly the recent trend towards re-centralization and "etatization" of local self-government has been accompanied by a lively controversy between the advocates of installing and retaining an advanced concept and model of local self-government, on the one hand, and the proponents of a state administration-centered, functionally and politically reductionist local self-government model. In an extensive interpretation of the federal constitution and legislation on local self-government, the defendants see an advanced model of local self-government being constitutionally and legislatively ensured that stipulates a two-tier local self-government structure with the districts constituting the upper layer of local self-government. Judged by this measuring rod, most of the regulations so far enacted by the *federal subjects* have been viewed as falling short, to a larger or lesser degree, of the legal requirements laid down in the federal provisions.⁶¹ In its much-quoted recent decision, of 24 January 1997, on the "Udmurtiia case", the Constitutional Court has taken a somewhat ambivalent position when the

federal judges were called upon to constitutionally review a legislative act of the Udmurtia Republic by which in the (larger) cities and districts local self-government was turned into state administration, particularly through having their heads of administration appointed by the governor. While the Court, on the one hand, declared the legislative act as unconstitutional on the ground that it violated the constitutional right of the citizens to have local self-government, including the local mayors elected, the federal judges, on the other, recognized the right of the federal subjects to establish state administrative structures not only on the central, but also on the “peripheral” (that is lower) levels, implying that the Constitution does not exhaustively regulate the matter, but leaves the federal subjects significant discretion thereon.⁶²

Leaving aside legal interpretation, there can be no doubt that the regulations enacted by the federal subjects on their local self-government systems and pertinent implementation have been marked by a centralist and state administration-prone tendency and bias which unmistakably carries the handwriting of the governors and their interest to retain and expand their power over the local level. Particularly their recent moves to recentralization and “etatization” of the local self-government structures by executively integrating and truncating them can be seen as a steps to re-install or retain the type of *executive vertical* which was introduced by Yeltsin in late 1991, stepped up in October 1993 and in fact reaches back, in a path-dependent continuity, to the former centralist and authoritarian Communist system. These continuity critics have obviously in mind when they warn, in view of the vertical power grip of the governors on local government, against the re-appearance of a “totalitarian regime”.⁶³ While between 1993 and 1995 Yeltsin had given the governors a free hand over local government as a price paid to them for supporting him during and after the “October events”, he later, somehow ironically, switched sides and backed the municipalities in their conflicts with the governors with the patent intention to win them as allies in his struggle with the latter².

In the face of the centrifugal, if not disintegrating tendencies which Russia experienced during the late 1990s under Yeltsin’s more and more erratic political leadership, Vladimir Putin who became President in March 2000 set upon pursuing the goal to make Russia “a strong state” particularly by tightening the centralist power vertical³. As to the “federal subjects”, mention shall be made, at this point, only of the formation of seven “federal districts” (*federal’nye okruga*), each comprising several regions and republics⁴. The “federal districts” are headed by “plenipotentiary representatives of the President” who are appointed by Putin and act as his watchdogs to oversee the operations of regional and local government authorities⁵. Towards the local level Putin showed himself determined to further reduce what has been left of local-self government. While he failed to put a bill through the State Duma to have the mayors of all cities with more than 50.000 inhabitants appointed from above⁶, he succeeded getting the crucial article 49 of the federal act on local self-government of 1995 amended in that the causes were extended for which a local head of administration could be removed from office⁷. Still more legislation that would significantly curb local self-government, particularly at large city and town levels, appears to be in the bushes foreboding further weakening particularly of the democratic elements of local self government⁸.

² See Gel’man in this volume

³ see Lankina, Tomila, The Central Uses of Local Government in Russia, 2001, unpubl. ms.

⁴ see Brown, Archie, Vladimir Putin and the Reaffirmation of Central State Power, *Post-Soviet Affairs*, vol. 17, no.1, p. 45-55

⁵ see Reddaway, Peter, Will Putin be able to Consolidate Power?’, *Post-Soviet Affairs*, vol. 17, no. 1, pp. 23-44

⁶ see Lankina, *ibid.*, p. 24

⁷ see Reddaway, *ibid.*

⁸ see Romanova, Lyudmila, Mery budut nad kontrolem, *Nezavisimaya Gazeta*, electronic version, 5 July 2001

Local self-government in local practice

The current reality of Russia's local self-government may finally be sketchily characterized as follows:

- The number of local self-government units in the legal sense (municipal formations) has been significantly reduced from about 28.000 in 1990 to some 12.000 for several reasons.⁶⁴ First, in the regions which introduced the *one-tier district model* of local self-government in the multitude of small towns rural localities local self-government disappeared. Secondly, in the regions with the *one-tier settlement model* the existing towns and local localities were functionally amalgamated as each of the “municipal formations” as new basic local government units may comprise several small towns and villages. Thirdly, in an apparently growing number of cases, the local councils of small (particularly rural) localities decided to dissolve themselves and to functionally merge their locality with the district.⁶⁵
- Functionally and politically local self-government still plays a substantive role at least in the larger cities and districts within the *one-tier district model*. By contrast, in the *one-tier settlement model* the large cities do not act as local self-government proper, while the small towns and rural localities that formally make up the only level of local self-government have been functionally and substantively marginalized, all the more as the conduct of local matters has been administratively absorbed by the districts or turned over by the localities themselves, due to the lack of resources, to district administration.⁶⁶
- In coping with their local self-government matters the municipalities continue to be financially and budgetarily almost entirely dependent of the federal and, even more so, of the regional levels. The financial plight and dependence of the municipalities is still worsening, as local revenues have recently been further reduced, while their expenditures have risen.⁶⁷ In the crucial issue of financial re-compensation for carrying out delegated state tasks the legal provisions required by article 132 of the Federal Constitution have still not been enacted.
- As was argued earlier in this article, local self-government, back in the early 1990s, experienced a virtual political and institutional “spring” with a new generation and cohort of local council members elected in March 1990 and with the local councils starting to play an active and also effective political role, even after the *executive vertical* was imposed by Yeltsin in late 1991. In the wake of the “October events”, this development was sharply disrupted, as the local councils were dissolved and power concentrated in the hands of the executive. When finally local councils were again elected, they turned out to be just shadows of their former (short-lived) vitality.⁶⁸ After 1995, under the new federal legislation and regional legislation, local self-government seemed to recover from the setback in embarking upon “a process of gradual reinstallation”.⁶⁹ Recently, however, under the impact of the creeping, if not rampant, “etatization” and re-centralization, local self-government appears to be heading again for another institutional and political retraction and “impasse”.⁷⁰

The institutionalization of local self-government in Russia: the pendulum swinging between the “principle of law” and the “logic of power”

In reviewing the institution building of Russia's local self-government since the late 1980s, there can be no doubt that, on the one hand, it has made conspicuous advances in overcoming the centralist and authoritarian structures of the Communist state and the “principle of power” embodied by and enforced by the One Party in power, while moving towards becoming the key element of a democratic decentralist Constitutional State and towards being guided by the “principle of law” as setting the institutional frame and the “rules of the game” in conflict resolution. This evolution in institution building has strikingly surfaced in the local government legislation of July 1991 as well as in the Federal Constitution of 1993 and the federal legislation of August 1995.

On the other hand, the institutional development has been marked and marred by grave political and institutional setbacks and disruptions which were shaped by the disposition and will of powerful central and regional actors to turn institution building into a weapon in the ongoing power struggle,⁷¹ thus somewhat continuing and reviving the legacy of “institutional disdain” and “legal nihilism” that was characteristic of the “power principle” in the Soviet (if not Russian) tradition. Certainly a fatal blow was dealt to institution building as a continuous long-term process as Yeltsin dissolved the institutional setting of local self-government altogether in the wake of the “October events”. When the pendulum started to swing back towards putting local self-government again on viable institutional feet, it was the power aspirations of the *federal subjects* and their governors that have been eager to reinforce the re-centralization and “etatization” grip on the local level.

Finally, some forecasting or at least “informed guessing” shall be ventured on the future course and fate of local self-government. While an *actor-centered* conceptual and analytical lens tends, in a kind of “one actor and hero in history” perspective, to accentuate and (probably exaggerate) the role of centrally positioned actors, their “will and skill” and “power logic” and tends, by the same token, to focus on (and presumably magnify) the personalized drama and (seemingly) singular effect of the single events, a *structural* conceptual lens is prone to take into view and emphasize the contextuality of events, the complex setting of the actors and the array of institutions⁹ that all may have different “natural” interests of their own, but most likely have one interest in common, namely to maintain and retain the existing constitutional and institutional arrangement and its underlying “constitutional logic”, thus lending some robustness, inertia and pertinacity to the institutional arrangement in place. Notwithstanding the intermittent “power logic”-driven interventions of overruling actors Yeltsin and Putin as well as the governors, Russia’s political reality does provide evidence of the existence and salience of such countervailing and counterbalancing actors, institutions and stakeholders. In the case of local self-government reference may be made to the President/ Duma cleavage which, despite the recent acquiescence of the State Duma’s recent with Putin’s volition to strengthen centralist power vertical, still showed when the Duma rejected further-going centralist demands of Putin’s. Mention should also be made of the Constitutional Court that has acted as a guardian of the Constitution, while exhibiting the readiness to seek (“Salomonic”) compromises with the “power logic” of the President and the governors, as the Udmurtia case manifested. Furthermore, interest groups need to be mentioned, such as the Association of Cities, as countervailing influence.. Finally, during recent years controversial debates on constitutional and institutional matters, including local self-government, have caught roots among academics, professionals and journalists who are prone to turn into “advocacy coalitions”¹⁰ and “discourse coalitions”¹¹ supportive of the constitutional state and “constitutional logic”.. Last not least, notice should be taken of the international context in which Russia is positioned and in view of which the central government, including the President, are eager to gain and retain international respectability and confidence, particularly in the stability and reliability of Russia’s constitutional state, whereby an external stabilizing factor for local self-government can be seen in Russia’s membership in the Council of Europe that acts internationally as a promoter and guardian of local self-government. On the basis of such (contextual and structural) considerations it seems plausible to predict that, notwithstanding intermittent “power logic”-inspired interventions of strong-positioned actors like Yeltsin and Putin,

⁹ This argument alludes to the neo-institutional debate in which essentially two variants can be discerned, to wit, an *actors-centered* (suggesting the “contingency” of decision-making) and a *structural* one (suggesting the restrictions and “boundedness” in decision-making). For an overview of the variants see Peters, Guy, Political institutions, old and new, in: Goodin, R./ Klingemann, H.-D. (eds.) A new handbook of political science, Oxford, Oxford U Press, 1995, pp. 205 -220

¹⁰ For the concept of “advocacy coalitions” see Sabatier, Paul, An Advocacy Coalition Framework of Policy Change and the Role of Policy-Oriented Learning Therein, in: Policy Sciences, vol. 21, pp. 129-168

¹¹ For the concept of “discourse coalitions” see Wittrock, Björn/ Wagner, Peter/ Wollmann, Social science and the modern state: Knowledge in Western Europe and the United States, in: Wagner, Peter/ Weiss, Carol/ Wittrock, Björn/ Wollmann, Hellmut (eds.), Social Sciences and Modern States, Cambridge: Cambridge U Press 1991, pp. 28 ff.

Russia will continue on her trajectory towards building a democratic constitutional. state, including viable local self-government – unless the present constitutional order, in a political and constitutional rupture which would go beyond the “October 1993 events”, were toppled and turned back to a bluntly authoritarian (pre-perestroika) state¹² .

¹² For a similar argument see Gel'man, Vladimir, *Po tu storonu sadovogo kol'tsa: Opyt politicheskoy regionalistiki Rossii*, Peterburg 2001, unpubl. ms.

¹ In juxtaposition polity, politics and policy reference is made, of course, to a terminological triad often employed in political science and particularly in policy research literature.

² See Hellmut Wollmann, Institution building and decentralization in formerly socialist countries: the cases of Poland, Hungary, and East Germany, *Government and Policy*, 15, no.4 (1997): 463-480.

³ On the path-dependency concept and its employment in the research on countries in transition and transformation see Terry Lynn Karl and Philippe Schmitter, Modes of Transition in Latin America, Southern and Eastern Europe, *International Social Science Journal*, 43, no.128 (1991): 269-284.

⁴ Of course, rational choice theory is most radical in seeing the actors' decisions solely guided by the gain-maximizing and loss-minimizing calculation.

⁵ See Mikhail Piskotin, "Local Self-Government in Russia. Law and Practice", in *Local Government in Transition. Evolving Government in Former Eastern Europe*, ed. Krister Stahlberg (Helsinki: Association of Finnish Cities, 1993), 72.

⁶ See Georgii Barabashev and Konstantin Sheremet, "Pravovaia baza obnovleniia mestnykh Sovetov", *Sovety narodnykh deputatov*, 1988, no.9, 16.

⁷ See Sabine Kropp, *Systemreform und lokale Politik in Russland*, (Opladen: Leske + Budrich, 1995), 52ff.

⁸ For the spectacular and influential resolution, which, on 25 July 1986, was passed by the Central Committee of the Communist Party of the Soviet Union, the Presidium of the Supreme Soviet of the Soviet Union and the Council of Ministers of the Soviet Union, see Barabashev and Sheremet, *Ibid.*, 9; Kropp, *Ibid.*, 117ff. The resolution was meant "to raise the role and to strengthen the responsibility" of the Soviets of all levels.

⁹ See Kirk Mildner, *Lokale Politik und Verwaltung in Russland* (Basel and New York: Birkhauser, 1996), 83ff.

¹⁰ For a case study on the city of Yaroslavl', see Jeffrey W. Hahn, "Local Politics and Local Power in Russia: the Case of Yaroslavl'", *Soviet Economy*, 7, no.4 (1991): 322-335.

¹¹ See *Izvestiia*, 14 April 1990.

¹² See Mikhail Krasnov, "Mestnoe samoupravlenie: gosudarstvennoe ili obshchestvennoe?" *Sovetskoe gosudarstvo i pravo*, 1990, no. 10, 82.

¹³ See Boris Gabrichidze, "Sovet, prezidium, ispolkom: sootnoshenie i razgranichenie funktsii", *Sovetskoe gosudarstvo i pravo*, 1991, no. 3, 76-86.

¹⁴ See Kropp, *Ibid.*, 203.

¹⁵ For a case study on the city of Vladimir, see Kropp, *Ibid.*, 245ff.

¹⁶ See Mildner, *Ibid.*, 87ff.

¹⁷ See Kropp, *Ibid.*, 297.

¹⁸ See Vladimir Kria znikov, "Mestnoe samoupravlenie: pravovoe regulirovanie i struktury", *Gosudarstvo i pravo*, 1992, no.1, 20.

¹⁹ See Vladimir Fadeev, *Munitsipal'noe pravo Rossii*, (Moscow: Iurist, 1994), 94.

²⁰ See Tamara Aleksandrova, "Nado nachinat", *Rossiskaia Federatsiia*, 1995, no.21, 49.

²¹ See Ivan Ovchinnikov, "Aktual'nye problemy formirovaniia mestnogo samoupravleniia v Rossiskoi Federatsii", *Gosudarstvo i pravo*, 1997, no.5, 31-33; Vladimir Gel'man and Olga Senatova, "Political Reform in the Russian Provinces. Trends since October 1993", in *Contemporary Political Studies. Proceedings of the Annual Conference of the Political Studies Association of the United Kingdom*, eds. Joni Lovenduski and Jeffrey Stanyer, 1 (1995): 435-444.

²² See Mildner, *Ibid.*, 115.

²³ See Gel'man and Senatova, *Ibid.*, 436-438; Birgit Jacobsen, *Local self-government in Russia. A decade of change* (Oslo: Research Council of Norway, 1998), 177.

²⁴ Mildner, *Ibid.*

²⁵ See Mildner, *Ibid.*, 120.

²⁶ See Fadeev, *Ibid.*, 75.

²⁷ See Vladimir Gel'man, "Federal'naia politika i mestnoe samoupravlenie", *Vlast'*, 1997, no.9, 75; also Gel'man's chapter in this volume.

²⁸ See Gel'man, "Federal'naia politika", 75.

²⁹ Among the "Western" local government systems, the dual function model is characterized of the German-Austrian administrative and municipal tradition, which institutionally combines the discharge, through local

administration, of local as well as (“delegated”) state matters.

³⁰ See Valerii Kirpichnikov, “Aktual'nye problemy formirovaniia mestnogo samoupravleniia v Rossiiskoi Federatsii”, *Gosudarstvo i Pravo*, 1997, no.5, 30.

³¹ See Tamara Aleksandrova, “Samostoia tel'nost. Chto zhe ostanetsia ot nee na dele?” *Rossiiskaia Federatsiia*, 1995, no.20, 48.

³² For the text, see *Rossiiskaia Federatsiia*, 1995, no.6, 17ff.

³³ For the text, see *Rossiiskaia Federatsiia*, 1995, no.15, 31ff.

³⁴ On the legislative process, see Peter Kirkow, “Local Self-Government in Russia: Awakening from Slumber?”, *Europe-Asia-Studies*, 49, no.1 (1997): 43-58; Nikolai Solia nik, “Vyzhit' legche vmeste”, *Rossiiskaia Federatsiia*, 1995, no.9, 24-26. See also Gel'man's chapter in this volume.

³⁵ See Aleksandrova, “Samostoia tel'nost”, 49.

³⁶ It should be noted that in these “constitutional” local matters the discretion of the local councils is significantly wider under the 1995 federal law than in most “Western type” local government systems which tend to define the institutional scheme and frame of local self-government/administration in a more detailed and binding manner.

³⁷ See Nina Mironova, “Vlast' v Rossii edinaia , no funktsii u kazhdogo ee urovnia raznye”, *Rossiiskaia Federatsiia segodnia*, 1998, no.4, 44.

³⁸ See Konstantin Sheremet, “Aktual'nye problemy formirovaniia mestnogo samoupravleniia v Rossiskoi Federatsii”, *Gosudarstvo i pravo*, 1997, no.5, 38.

³⁹ See Kirpichnikov: “Article 12 is one of the highest legal achievements of recent years. It provides amazing stability and the chance of developing effective power in the state” (quoted from Mironova, *Ibid.*, 44).

⁴⁰ See Suren Avak'ian, “Obosnovannaia kritika luchshe naveshivaniia iarlykov”, *Rossiiskaia Federatsiia segodnia*, 1998, no.8/9, 37.

⁴¹ See Vladimir Pylin, “Problemy nadeleniia gosudarstvennymi polnomochiia mi organov mestnogo samoupravleniia”, *Gosudarstvo i pravo*, 1999, no.9, 15.

⁴² See Sergey Mitrokhin, “Iuridicheskoe nevezhestvo”, *Rossiiskaia Federatsiia segodnia*, 1999, no.19, 21.

⁴³ See Gel'man, “Federal'naia politika”, 77.

⁴⁴ For the text, see *Rossiskaia Gazeta*, 30 September 1997.

⁴⁵ For the text, see *Rossiskaia Gazeta*, 16 January 1998.

⁴⁶ In the absence of this federal law, the President as well as the governors have been regulating the administrative delegation, in violation of the constitution, by executive ordinance. See Pylin, *Ibid.*, 15.

⁴⁷ See Ovchinnikov, *Ibid.*, 32.

⁴⁸ On the legal and political controversy about the interpretation of the “joint competence” clause see Sergei Fabrichnyi, “Voprosy ostaiutsia”, *Rossiiskaia Federatsiia*, 1995, no.21, 47. One of the crucial issues of constitutional law is as to whether *the federal subjects* may go ahead with their legislation in the absence of federal legislation or whether they have to wait until federal legislation has moved to set the legislative frame.

⁴⁹ See Iulia Abramova, “Vakuum prava”, *Rossiskaia Federatsiia segodnia*, 1998, no.5, 32-33.

⁵⁰ For example, on Voronezh Oblast', see Hellmut Wollmann, “Kommunale Selbstverwaltung in Russland seit 1990”, *Osteuropa*, 48, no.7 (1996): 690ff.

⁵¹ For example, in Severanaia Osetiia only in November 1998. See Vasilii Golubev, “V obkhod zakona”, *Rossiiskaia Federatsiia segodnia*, 1999, no.13, 23.

⁵² See Vsevolod Vasil'ev, “Munitsipal'naia Geografiia”, *Rossiskaia Federatsiia segodnia*, 1999, no.16, 29.

⁵³ See Kirpichnikov, *Ibid.*, 30.

⁵⁴ See Kirpichnikov, *Ibid.*, 30; see also Matsuzato's chapter in this volume.

⁵⁵ See Golubev, *Ibid.*, 23.

⁵⁶ See Vasilii Popok, “Zhestkoe reshenie”, *Rossiiskaia Federatsiia segodnia*, 1998, no.7, 49.

⁵⁷ For cases of Vladivostok and Ulan-Ude, see Kirpichnikov, *Ibid.*, 30.

⁵⁸ On the debate on this issue, see Mildner, *Ibid.*, 132ff.

⁵⁹ See Sergey Pozhiviiko, “Krasnodarskii krai: zakonodatel' govorit „net!””, *Rossiiskaia Federatsiia segodnia*, 1999, no.19, 30.

⁶⁰ In some other regions, the mayoral candidates among whom the local council can choose are proposed by the governor. For example, in in *Severnaia Osetiia*, see Poziviiko, *Ibid.*, 30, and in *Voronezh Oblast'*, see Roshchupkin, *Ibid.*, 25.

⁶¹ In an analysis conducted by the Ministry of Justice of the Russian Federation in 1996, only 4 of 68 regional laws regulating local self-administration were seen in full agreement with the Constitution. See Aleksandr Voronin, "Poka lish' – chetyre zakonnykh zakona", *Rossiiskaia Federatsiia*, 1997, no.6, 30. See also Kirpichnikov, *Ibid.*, 30.

⁶² For the ambivalence of the decision of the Constitutional Court, see Gel'man's chapter in this volume. In a later decision (on the Basic Law of the Republic of Komi) the Constitutional Court went even further in confirming the right of the federal subjects to decide on which level to establish state administration, thus, as Vasil'ev noted, "signaling to federal subjects a way how to restrain local self-government" (see Vasil'ev, *Ibid.*, 29).

⁶³ See Valerii Roshchupkin, "Karavan idet ne tuda", *Rossiiskaia Federatsiia segodnia*, 1999, no.21, 25.

⁶⁴ See Vasil'ev, *Ibid.*, 28; According to Shirokov, the number has come down even to some 8000. See Aleksandr Shirokov, "Aktual'nye problemy formirovaniia mestnogo samoupravleniia", *Gosudarstvo i pravo*, 1997, no.5, 26-28. In Briansk Oblast', for instance, the number of local self-government units was reduced from 400 to 40. See Roshchupkin, *Ibid.*, 25.

⁶⁵ See Vasil'ev, *Ibid.*, 28; Valentin Kudinov, "Luchshe ekonomit' na vlasti...", *Rossiiskaia Federatsiia segodnia*, 1999, no.9, 37.

⁶⁶ See Mildner, *Ibid.*, 251.

⁶⁷ See Roshchupkin, *Ibid.*, 25. The share of local government revenues out of the totality of public revenues fell, in 1998, from 29 to 20 percent, while the share of expenditures rose from 27 to 32 percent. See Voronin, *Ibid.*, 27.

⁶⁸ A local practitioner, at that time, observed: "The situation of the local government could not be worse. In some regions (by the end of 1994) have not been elections to the councils... But also where councils have been elected the situation is not better... The council is an appendix of the administration". See Valerii Troeglazov, "Prezident daet „krasnyi svet“, *Rossiiskaia Federatsiia*, 1995, no.21, 48. Another local practitioner noted: „In essence we have returned to the times of the all-mighty executive committee which usurped the powers of the council". See Aleksandr Kostiukov, "Prokurstovo lozhe", *Rossiiskaia Federatsiia*, 1994, no.10, 26.

⁶⁹ See Ovchinnikov, *Ibid.*, 32.

⁷⁰ See Roshchupkin, *Ibid.*, 26.

⁷¹ See Vladimir Gel'man, Regime Transition, Uncertainty and Prospects for Democratisation: The Politics of Russia's Regions in a Comparative Perspective, *Europe-Asia Studies*, 51, no.6 (1999): 939-956.