

Local Self-Government in Russia:
between de-centralisation and re-centralisation

Hellmut Wollmann/ Elena Gritsenko

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1. Task, scope and concept of the article

The article is meant to highlight key features of the recent legislation in the Russian Federation (in the following abbreviated as: RF) on *local self-government (mestnoe samoupravlenie)* (in the following abbreviated as: LSG)¹ that was enacted on October 3, 2003 under the legislative title “on the general principles of the organisation of local self-administration in the RF”² (in the following abbreviated as *federal law 2003*)³.

¹ In the Russian legal and legislative parlance since 1990 the term *mestnoe samoupravlenie* has been employed which, in the literal translation, means „local self-administration“. This is analogous to the pertinent terminology which is used in Continental European countries, for instance in Germany (“kommunale Selbstverwaltung” = municipal *self-administration*) and in France (“libre administration” = “free administration”). Although, it may be more appropriate to speak, with regard to Russia, also of “self-administration”, we shall use the “local self-government” which, derived from the British/English tradition, is more familiar in the international communication.

² „Ob obshchikh printsipakh organizatsii mestnogo samoupravleniya v Rossijskoj Federatsii“

³ In the official registration of RF legislation this act is identified as federal law „No 131- FZ“ which points at the sequence of legislative enactments during the State Duma’s respective legislative period. Accordingly, in pertinent Russian literature it is mostly referred to as (*federal*) *law 131*. Because of the historical and developmental approach we pursue in this article we prefer to speak of *federal law 2003* in order to set it „sequentially“ apart from earlier pieces of legislation..

Our account and analysis will be guided particularly by three objectives.

First, one of the focal interests of the article is to place the *federal law 2003* in a *developmental* perspective, that is, to explore whether and in which crucial aspects its links up with earlier stages of legislation on LSG and where it deviates from them. It is such *historical* and *developmental* approach that should offer insights in the direction – between decentralisation and (re-)centralisation – Russia’s legislative and institutional system of LSG has been moving.

Thus, reference will be made

- to the law “on local self-administration in the RSFSR” adopted on July 6, 1991 by the Supreme Soviet of the Russian Federation (RF) (at that time still “Russian Soviet of the Russian Socialist Federation of Socialist Republics”, RSFSR, and member of the Soviet Union, SSSR, until the latter’s dissolution in December 1991) (in the following abbreviated as *federal law 1991*),
- to the *Federal Constitution* enacted on December 12, 1993
- and to the federal law “on the general principles of the organisation of local self-administration” enacted on August 28, 1995 (in the following abbreviated as *federal law 1995*)⁴.
- At some points mention will be also made of the law “on the principles of local self-administration and local economy”⁵ which was adopted by the Supreme Soviet of the Soviet Union (SSSR) on April 5, 1990 as a SSSR-wide legislative regulation (in the following abbreviated as *SSSR law 1990*);

Second, the article will be structured by sequentially singling out and discussing crucial aspects of the regulation and institutionalisation of LSG in order to identify the developmental trajectory within each sequence.

Third, where it appears appropriate the paper will put the legislative development, particularly the federal law 2003 in an internationally comparative perspective, including references to the *European Charter of Local Self-Government* (abbreviated in the following as *European Charter*) was adopted by the Council of Europe in 1985. It was ratified by the RF State Duma on April 1998⁶ and went in force in Russia on September 1, 1998⁷.

⁴ In the official registration of RF legislation this legislative act is identified as *no. 154-FZ*.

⁵ „*Ob obshchikh nachalakh mestnogo samoupravleniya i mestnogo chozyajstva v SSSR*“

⁶ The *European Charter Of Local Self-Government* was adopted by the *Council of Europe* on October 15, 1985. The RF *State Duma* ratified the *Charter* in April 1998 by adopting *federal law no 55-FZ* „o ratifikatsii khartii

1. *The competency and scope of legislation on LSG*

The history of legislation on LSG in the “late-*perestroika*” Soviet Union was opened by the SSSR law of (April, 5) 1990 which, in an unprecedented move, broke with the Soviet doctrine of the “unity of the State” by, for the first time, recognising and introducing the notions of LSG (*mestnoe samoupravlenie*) and of “questions of local significance” (*voprosy mestnogo znacheniya*) as a self-standing level and responsibility. It was obviously conceived as a federal “frame” law which was intended to leave legislative scope to member republics and regions. (For a short period which came to an end with the dissolution of the SU in December 1991 the SSSR law of 1990 went into force in the entire SSSR and actually have some immediate application and impact on the local level⁸

The *federal law 1991* which was passed by the Supreme Soviet of the RF (at that time still: RSFSR) on July 6, 1991 was marked by the political will and intention of the RF leaders, first of all *Boris El'tsin* to employ it as a tool of “nation building” in that, on the one hand, it was meant to supersede the (rivalling) SU legislation and, on the other, to put the establishment of LSG, in view of the rising “internal federalisation” of the RSFSR, on a common legal footing throughout the RSFSR⁹. To achieve this the *federal law 1991* went into detailed regulation.

mestnogo samoupravleniya“. *Nota bene*: In the official Russian legislative wording the Charter's original (English language) term *local self-governmen* has been translated as „local self-administration“.

⁷ Among Russian legal experts there is some disagreement on whether, through its „ratification“ by the Duma, the *Charter*“ has, within the RF legal order, become directly binding and applicable law (as it might be gathered from article 15, 4 *Federal Constitution* and article 4 *federal law 2003*. However most agree that, by virtue of the ratification, the federal parliament and authorities are held to comply with the principles laid down in the *European Charter* (for a detailed discussion see Elena Gritsenko, “Universal'nye evropejskie standarty mestnogo samoupravleniya v rossijskoj pravovoj sisteme, *Sravnitel'noe konstitucionnoe oborzenie*, 52, no. 3 (2005), 127-134

⁸ For case study on the City of *Vladimir* see Sabine Kropp, *Systemreform und lokale Politik in Rußland* (Opladen: Leske + Budrich, 1995), 245 ff., Hellmut Wollmann and Natasha Butusowa, Natasha, “Local self-government in Russia. Precarious trajectory between power and law”, in *Local Democracy in Post-Communist Europe*, eds. Harald Baldersheim, Michal Illner and Hellmut Wollmann (Wiesbaden: VS Verlag für Sozialwissenschaften 2003), 211- 240 for further references

⁹ see Hellmut Wollmann, “Institution Building of Local Self-Government in Russia: Between Legal Design and Power Politics”, in: *The Politics of Local Government in Russia*, eds. Alfred B. Evans and Vladimir Gel'man (Roman & Littlefield 2004), 108

In the wake of *El'tsin's* power coup of October 3 and 4, 1993, along with the central level Congress of People's Deputies, the regional and local councils that had been elected in March 1991 were dissolved and the *federal law 1991* was largely suspended.

The *Federal Constitution of 1993* put LSG on surprisingly progressive general rules. With regard to future legislation on LSG the *Federal Constitution* incorporated a compromise which had been struck between the federal level, that is *El'sin*, and the regions, that is the regional *governors*, in the Federal Treaties of March 31st, 1992 in which important legislative matters, including legislation on LSG (see article 72, 1 letter n Federal Constitution), were declared to be “shared legislative powers” (*sovmestnoe vedenie*) to be exercised either by the federal level or by the regions (having been elevated to the status of *Federal Subjects*). Small wonder that, due to the generality and vagueness of this constitutional provision (typical of such “dilatatory compromises” between rivaling actors) its interpretation was prone to become a bone of contention in the continuing struggle between the federal and the regional levels¹⁰.

The *federal law 1995* which was enacted on August 28, 1995 after a protracted legislative process and controversy¹¹ can be largely seen as a “frame law” in that the federal level made noticeably restrained use of the “shared legislative power” (of article 72, 1 letter n) and left considerable legislative scope in the regulation of LSG to regional legislation by the *Federal Subjects*.

During the late 1990s, also benefiting from the federal level's power erosion in the late *El'tsin* era, the regions (*Federal Subjects*) made ample use of their “shared legislative powers” – with a spree of regional legislative provisions on LSG many of which were seen as violating constitutional law meant to protect and ensure LSG^{12, 13}. Perceived as taking “the

¹⁰ see footnote 16 below

¹¹ for details and references see Wollmann, 2004, op. cit. 2004, 113 ff.

¹² In an analysis conducted by the RF Ministry of Justice in 1996 only 4 of 68 regional laws regulating LSA were seen in full agreement with the Constitution, the rest in blatant or partial contradiction, see Aleksandr Veronin, “Poka lish chetyre zakonnykh zakona” in *Rossijskaya Federatsiya Segodnya*, no 6 (1997), 30, Valerij Kirpichnikov, „Aktual'nye problemy formirovanija mestnogo samoupravlenija v RF“, in *Gosudarstvo i Pravo*, no.5, (1997), 30, see also Wollmann and Butusova 2003, op. cit.. 231 for further references

¹³ In its much-quoted decision of January 1997 on the *Udmurtiya case*, the RF *Constitutional Court* took an ambivalent position in reviewing a legislative act passed by the Udmurtiya Republic according to which the local organs of larger cities and districts were to become part of State administration. For details of the Court's reasoning see Wollmann 2004, op.cit.119. See also footnote 24 below

character of a chain reaction”¹⁴ this wave of regional regulation on LSG contributed to what was a kind of “legal separatism” foreboding a disintegration of the Federation¹⁵

Having been elected President on March 26, 2000, *Vladimir Putin* embarked upon re-establishing the RF as a “strong state” by re-asserting the federal (central) governments influence and control over the regional and local levels¹⁶. Hence, in preparing and adopting the *federal law 2003* the federal government level turned, in stark contrast to the previous *federal law 1995*, to make very extensive use of the “shared legislative powers” (of article 72, 1 letter n) by laying down detailed regulations that left only scarce legislative scope and leeway to the *Federal Subjects*. The copious use federal legislation has made of the Constitution’s “shared legislative powers” (at the cost of the *Federal Subjects*) has been criticised as “excessive” and “exceeding the (constitutional) limits”¹⁷.

3. Intergovernmental setting and territorial structure of LSG

3.1. LSG as a self-standing (non-State?) level

The SU law on LSG of April 5, 1990 was, as was already highlighted, first, in an unprecedented move, to break away from the Soviet doctrine of the “unity of the State” and to recognise LSG (*mestnoe samoupravlenie*) as a self-standing political and administrative level within the State’s interorganisational setting.

In article 12 the *Federal Constitution* of 1993 gave conspicuous expression of the notion that, in the subsequently much-quoted formulation, “the organs of LSG are not part of the organisation of state organs”¹⁸. In article 14, 5 the *federal law 1995* literally adopted this

¹⁴ see Leonid Polishchuk, *Rossijskaya model’ „peregovornogo federalizma: politiko-ekonomika v regional’nom izmerenii*, M-SPB: Letnij Sad (2000), 88-108

¹⁵ see Wollmann and Butusova 2003 op.cit. 231 with further references

¹⁶ For details on the exercise of the legislative powers by the Federal Subjects (which cannot be pursued in this article) see federal law 184 of October 6, 1999: „on the general principles of the organisation of legislative and executive organs of State power in the Federal Subjects of RF“

¹⁷ see Elena Gritsenko, “A new stage of local self-government in Russia and the German experience”, in *Kazan Federalist*, no 4, autumn 2003, 12. On the distribution, between the RF and the Federal Subjects, of legislative competence on LSG see also Elena Gritsenko, “Problemy razgranicheniya polnomochij v sfere pravovogo regulirovaniya organisatsii mestnogo samoupravleniya v RF na sovremennom etape federativnoj i munitsipal’noj reformy”, in *Kazan Federalist*, no. 1-2 (17-18), 2006, 111-120

¹⁸ „Organi mestnogo samoupravleniya ne vkhodjat v sistemu organov gosudarstvennoj vlasti“

provision and added the stipulation that the conduct of LSG matters by State authorities was not permitted¹⁹.

Not surprisingly the idea to assign the LSG level a status distinct and separate from the State evoked a lively conceptual (and, in its core, political) debate. On the one hand, the cities and their representatives as well as many academics hailed article 12 of the Federal Constitution as legitimating LSG and its autonomy²⁰ and as hinting at the quality and potential of LSG as a “non-state” and societal sphere²¹, also reminiscent of the *zemstvo* tradition of tsarist Russia²². On the other hand, the concept was criticised by some as ushering in “an artificial distinction between two power channels”²³ and as conjuring up the risk of the State becoming “ungovernable”.

The *federal law 1995* has literally adopted this constitutional provision (in article 14, 5) and almost emphatically added that the conduct of LSG matters by State authorities was “not admissible”²⁴. The *federal law 2003* continues to adopt article 12 *Federal Constitution* (in article 34, 4).

Hence, on the one hand, the current legislation upholds the bold claim (and vision) that LSG is “not part of the State organisation”.

In the international comparative debate a conceptual distinction has been made between a “separationist” and a “integrationist” type and model of local government²⁵. While the former hints a conceptual and institutional “separation” between the local and the State levels, the latter is to capture the local authorities being institutionally linked with, and “integrated” in the State structures.

On the face value of its conceptual claim to a “non-State” status of LSG, the LSG model envisaged in article 12 *Federal Constitution* could well be ranked as a “separationist” scheme.

¹⁹ „Osushchestvlenie mestnogo samoupravleniya organanmi gosudarstvennoj valasti ... ne dopuskaetsya“.

²⁰ see Nina Mironova, „Vlast' v Rossii edinaja, no funktsii u každogo ee urovnja raznye“, in *Rossijskaja federacija segodnja* (1998) 44)

²¹ see Konstantin F. Sheremet, „Aktual'nye problemy formirovaniya mestnogo samoupravleniya v RF“ in *Gosudarstvo i Pravo*, no.5 (1997) 38

²² see Kirk Mildner, *Lokale Politik und Verwaltung in Rußland* (Basel/New York: Birkhäuser 1996). 15 ff-

²³ Suren Avak'jan, „Obosnovannaja kritika luchshe navesivaniya iarlykov“, in *Rossijskaja federatsiya segodnja*, no. 8-9 (1998) 37

²⁴ Osushchestvlenie mestnogo samoupravleniya organanmi gosudarstvennoj valasti ... ne dopuskaetsya.

²⁵ see A.R. Leemans, *Changing Patterns of Local Government* (IULA: The Hague 1970), Hellmut Wollmann, “The development and present state of local government in England and Germany“, in *Comparing Public Sector Reform in Britain and Germany*, eds. Hellmut Wollmann and Eckhard Schröter (Houndmills: Ashgate 2000) 125 f.

However, as it will be shown below, resulting from the “dual function” scheme (article 132,2 Federal Constitution) under which the local authorities may be put in charge, besides fulfilling LSG tasks in the narrow sense, of carrying out tasks “delegated” to them by the State (*peredannye polnomochiya*), the local authorities operate, in the conduct of such “delegated” tasks, under tight instruction and control by the State authorities. This brings them close to acting as “part of the State structures” and of being “integrated” in them – in conspicuous contradiction with the “non-state” vision of article 12.

At this point, it should be noted that a new concept and term “*publichnyy*” (“public”) has been coined (at first in jurisprudence) to legally capture the status of LSG. The conceptual and terminological repertoire dating back to the Soviet era was characterised by the dichotomy between State-related (*gosudarstvennyy*) and “societal” (*obshchestvennyy*) whereby, under the doctrine of the “unity of the State”, any “public” sphere outside the State was politically inadmissible and, hence, conceptually “unthinkable”. In the meantime Russia’s post-Soviet jurisprudence has developed the notion of “public” (*publichnyy*) particularly with regard to LSG²⁶ in order to legally qualify its status as being neither “State” (in the narrow institutional sense) nor “society” (as a sphere of “societal” actors, including “non-governmental organisations”, NGO’s).

3.2. Territorial organisation

The *SU law of 1990* still fell in line with the Soviet tradition of regarding the *Federal Subjects*, besides the towns/villages and districts (*rayony*), among the “local” (*mestnoe*) entities²⁷ By contrast, the *RSFSR law of 1991* ceased to count the regions as “local” which mirrored the then already accelerating process of “internal federalisation” of the RSFSR that resulted in the Federal Treaties of March 1992 according to which the regions were elevated to status of *Federal Subjects*, including the Cities of Moscow and (then still) Leningrad.

In the legislative debate about *federal law 1995* the territorial structure of LSG was one of the most controversial issues. While a strong group of deputies advocated (in the so called *deputskiy variant*) that a full-fledged two tier LSG structure be legally prescribed (thus

²⁶ see Konstitutsionnyi Sud RF 1997, Postanovlenie ot 24 yanvarya 1997 g. no 1-P po delu o proverke konstituyionnosti Zakona Udmurtskoj Respubliki “O sisteme organov gosudarstvennoj vlasti v Udmurtskoj Respublike, in: *Vestnik Konstitutsionnogo Suda RF*, no. 1 (1997). In the decision LSG was called „a form of realizing public power“ (*sposob osushchestvleniya publichnoj vlasti*).

²⁷ see Wollmann and Butusowa 2003 op.cit. 215

assigning LSG also to the districts, *rajony*), President *El'tsin* (in the *presidentskij variant*) pushed LSG to be established only on the “settlement” (*poselenie*) level, while the districts should be solely units of State administration. The finally adopted *federal law 1995* showed the ambivalence of a (“dilatatory”) compromise in which the detailed regulation of the territorial structure was left to the regions²⁸ In the ensuing spree of regional legislation on the territorial structure essentially three patterns emerged²⁹

In most (that is in 46) *Federal Subjects* the single-tier district (*rajon*) type was put in place – with LSG established only in the districts (and some large cities), while the bulk of towns and villages was left without LSG.

- In about 20 regions the single-tier “settlement” type was introduced – with LSG established only on the level of the towns and villages, whereas on the district level was turned over to State administration.
- In about 20 regions (Federal Subjects) the full-fledged two-tier LSG system was installed (as envisaged in the “deputy variant”).

The great variance which the regional legislation manifested regarding the territorial structure of LSG was exemplary of the institutional heterogeneity which characterised Russia’s subnational/regional/local space since the mid-1990s, particularly during the late *El'tsin* era.

This process of territorial and functional restructuring under the imprint of regional legislation resulted in a significant reduction of the number of LSG units in terms of elected local authorities. Their number fell, country-wide, to 12.000 by 1998 as compared to 28.000 in 1990 – for a number of reasons³⁰ First, in thousands of towns and villages elected local government came not to pass, as in half of all regions the single-tier district type of LSG was introduced that barred the lower level municipalities to have LSG. Second, in regions with the single-tier settlement type of LSG an increasing number of towns and villages decided, for lack of administrative and financial resources, to merge with others to form larger LSG units. Finally, in view of their administrative and financial plight single-tier settlement-based

²⁸ for details see Wollmann 2004 op.cit. 113 with references.

²⁹ for date and comment see Kruglyi stol, „Problemy i perspektivy razvitiya territorial'nykh osnov mestnogo samoupravleniya“, in: *Materialy Kruglogo stola Soveta Federatsii*, Vypusk 14 (Moskva 2001), Wollmann 2004 op.cit. 117 ff. with references

³⁰ see Wollmann 2004 op.cit. 120 f. with references

local authorities decided to dissolve themselves and to pass their functions on to the district (State) administration³¹

In view of the extreme heterogeneity of the territorial, organisational and functional LSG structures across regions and because of Putin's will and intention to territorially and organisationally streamline and "uniform" (*unifikatsiya*) the local level structures and to thus make them more amenable to central level guidance and control, the territorial and functional reform of LSG was a key piece in *federal law 2003*.

The legislative territorial and organisational schemes hinges on three types of LSG units (*raznostatusnost'*) and on certain organisational criteria to be applied throughout the Federation.

- Lower level municipalities (*munitsipal'nye obrazovaniya nizhnego urovnya*)³², either rural municipalities (*selskie poseleniya*) and urban municipalities (*gorodskie poseleniya*), are to be established as lower level LSG units whereby in all settlements with a total of at least 1.000 inhabitants such LSG unit (with an elected local council etc.) must be formed (see article 11, 1 (6) *federal law 2003*) In view of the fact that since the mid-1990s elected local authorities on the town and villages levels had disappeared in half of the regions due to the establishment of single-tier districts (*rajon*) LSG regime, *federal law 2003* has a remarkable "democratic" effect in making it obligatory for these regions to install a two-tier LSG system with elected LSG authorities on the local level³³
- At the upper level, for one, *municipal districts* (*munitsipal'nye rajony*) are to be formed as a (two-tier) local authority the territory of which comprises the lower level rural and urban municipalities and are often identical with the former administrative districts (*rajony*). They can be institutionally and functionally compared to the German *Kreise* and to the British/English *counties*.
- Moreover, at the upper level, in urban and metropolitan contexts *urban areas* (*gorodskie okruga*) are to be established as (single tier) elected local authorities which combine district and municipality functions. The status of *urban areas* (*gorodskie okruga*) has in most cases been geared to regional capitals and similarly large (industrial) cities. In comparative terms, they have an equivalent in the German (single-tier) *kreisfreie Städte* ("county free cities") as well as in the English (single-tier) *unitary local authorities*.

³¹ see Vsevolod Vassil'ev, „Munitsipal'naya geografiya“, in *Rossiskaya Federatsiya Sevodnya*, no, 16 (1999) 29

³² As was already mentioned, the term „municipal formations“ (*munitsipal'nye obrazovaniya*) was first introduced by federal law 1995 as the generic term for LSA units. In order to avoid the linguistic „clumpsiness“ of this term, we shall speak in the following, instead, of „municipalities“ as generic term.

³³ see Gritsenko 2003 op.cit..

Standing in remarkable contrast to its basic thrust to preempt and curb the legislative powers of the regions within the constitutional concept of the “shared legislative powers” (*sovmestnoe vedenie*) the federal law 2003 put the regions explicitly in charge of implementing the massive territorial, organisational and functional reform (see article 85, 1). In setting a legislative schedule with binding deadlines for the various steps and components of territorial and organisational reforms the federal law 2003 gave the regions “extraordinary” powers which amounted, for the immediate “founding” period (*pervyj sosyv*) of the new LSG units, to suspend the “ordinary” legal provisions (relating, for instance, to right of the local population to local boundaries by referendum³⁴ or to right of the local councils to settle, by way of local charters (*ustavy*), the composition of the councils, their duration and the form of local leadership³⁵). These “extra-ordinary” powers of regional legislation pertain particularly to the “newly created municipalities” (*vnov’ obrazovannye munitsipal’nye obrazovaniya*) that are to be established “from scratch” (see article 85, 1 (2) federal law 2003). (At the end some 12.000 out of 24.000 LSG units were “newly formed”, *vnov’ obrazovannye*, with their boundaries and institutional setting, thus, decided “single-handedly” by the regional authorities).

In the meantime (as of October 1, 2006) a total of 1757 legislative acts have been passed by regional assemblies to restructure the LSG levels and units under the mandate of article 85 federal law 2003, resulting in

- 19 904 rural municipalities (*selskie poseleniya*),
- 1.745 urban municipalities (*gorodskie poseleniya*), both constituting the lower level of the two-tier LSG structure,
- 1801 municipal districts (*munitsipal’nye rajony*) which make up the upper level of the two-tier LSG system,
- and 522 urban areas (*gorodskie okruga*) which are the (single tier) local authorities in urban/big city/ metropolitan areas³⁶.
- 236 “inner-municipal areas” in “Cities of federal status” (*vnytrigorodskie territorii gorodov federal’nogo znacheniya*), this is, in Moscow and Sankt Peterburg.

³⁴ see article 11 *federal law 2003*, see also article 131,2 *Federal Constitution*

³⁵ see article 34 *federal law 2003*

³⁶ data from *Ministerstvo regional’nogo razvitiya 2006 op.cit.*, for slightly earlier figures see also Gel’man 2007 *op.cit.* 4 with further references

As a consequence the number of local authorities has about doubled from some 12.000 in 2000 to 24.210 in October 2006. This sharp increase is mainly due to the many “newly formed” (*vnov’ obrazovannye*) municipalities in regions and rural areas where lower level elected local authorities had not be put in place or had been eliminated during the 1990s..

The great number of “newly formed” municipalities hints also at the magnitude of administrative, personnel and financial challenge posed by this massive institutional transformation at the local level. The fact that deadline by which the federal law 2003 should be operative in all its provisions has been postponed several times (now 2009 has been set to be the “ultimate” date) mirrors the (administrative, financial but also political) difficulties which this mammoth restructuring project has encountered.

4. *Functional model of LSG*

Dating back to the RSFSR *law 1991* Russia’s LSG system has been characterised by the “dual function model” according to which, besides being responsible for “questions of local importance” in their own right, the local authorities can be put in charge of carrying out tasks “delegated” (*peredannye*) to them by the State. In adopting the “dual function” model of LSG Russia’s legislation fell in line with (and probably consciously drew on) a strand of (West) European local government tradition since the “dual function” model has been part and parcel of the German-Austrian local government development since the early 19th century and, spreading from there, has characterised the local government development in Central Eastern Europe until 1945³⁷.

(Genuine) local government tasks

In line with notions of LSG (*mestnoe samoupravlenie*) and “question of local importance” (*voprosy mestnogo znacheniya*) that were first introduced by the *SU law* of 1990, RSFSR *federal law 1991* took up the concept of LSG as self-standing local level responsibility which marked the rupture from the Soviet concept of the “unity of the State”. At the same time, by assigning these tasks exclusively to LSG, it broke with “*matrioshka* principle” (“Russian

³⁷ see Wollmann 2000 op.cit. 118 with references

doll” principle) that allowed the higher government levels to intervene in and take over any (local) matters³⁸.

In accordance with *federal law 1995 – federal law 2003* puts forward a differentiated concept and understanding of “questions of local importance”.

On the one hand, it puts forward a general definition of “questions of local importance” (article 2,1) which largely corresponds with what is understood in (West) European (particularly Continental European) countries as the (traditional) “general competence clause”³⁹.

On the other hand, it spells out catalogues of specific tasks assigned to the three types of LSG. This enumeration approach shows some resemblance with the British/England *ultra vires doctrine* according to which the local authorities may only exercise those powers that have been explicitly ascribed to them by act of Parliament⁴⁰. The mix of these two principles in the 2003 legislation (as well as in the previous 1995 legislation) has given rise to legal controversies since the “enumeration” approach has been criticised for making the task assignment “inflexible” and for obscuring the scope of “questions of local importance” as a self-standing source of task definition⁴¹. In fact, the repeated amendments which the “catalogues” have seen hints at the legislative uncertainties they harbour.

It should be noted, however, that the “task catalogues” spelt out in *federal law 2003* show a significant conceptual advance in that some differentiation is made particularly between the tasks ascribed, within the two-tier structure, to the lower level LSG units (settlements, *poseleniya*), on the one hand, and to the upper LSG units (municipal districts, *munitsipal’nye rajony*), on the other (see articles 14 and 15) - with the latter being assigned tasks that go beyond the borders (*vne granits*) of the “settlements”. Whereas in the antecedent 1995 legislation such a differentiation between the LSG level was not made, the 2003 legislative scheme marks still another step, within the two tiers of LSG, away from the Soviet-era *matrioshka* principle.

Delegated (State) tasks

³⁸ see Wollmann and Butusowa 2003 op.cit. 216

³⁹see Wollmann 2000 op.cit. 116. The “general competence clause” has also been stipulated in article 3 of the *European Charter*

⁴⁰ see Wollmann 2000 op.cit. 108

⁴¹ see Gritsenko 2003 op.cit..

The Federal Constitution of 1993 has explicitly laid down the “dual function” model of LSG in laying down that the “organs of LSG can be endowed, by law, with specific state tasks”⁴² (article 132, 2) – with the crucial addendum and proviso: that such transfer of tasks should/must go “along with the transfer of the material and financial resources required for the discharge thereof”⁴³

In an important organisational innovation and shift *federal law 2003* has linked the prescription of the Federation-wide two-tier LSG system to the provision that only the upper LSG units, that is the (two-tier) *municipal districts (munitsipal’nye rajony)* and (single-tier) *urban/metropolitan areas (gorodskie okruga)* carry out “delegated (State) tasks”. Thus, it is by the local authorities in the (522) urban areas (which are essentially constituted by the regional capitals and other big – industrial – cities) and the 1081 municipal districts (which are largely identical with the earlier administrative districts, *rajony*) that the delegated (state) functions are discharged.

“Statelisation” (*ogosudarstvlenie*) through the delegation of functions?

Under the constitutionally confirmed the “dual function” model Russia’s LSG system has been exposed to the tension and contradiction which the (West) European local government systems that follow the “dual function” track (such as Germany) have been familiar with for a long time⁴⁴

- The (“genuine”) LSG matters fall to responsibility of the elected councils, in exercising them the local authorities stand under the legal review by the State authorities as a “mild” form of state control, as rule only legality review (in German: *Rechtsaufsicht*). One may speak of a *separationist* model⁴⁵ that institutionally and functionally distances the LSG levels and units from the State. Article 12 Federal Constitution that declares LSG not to be “part of the State” would express the *separationis*” idea..
- By contrast, with regard to “delegated” (State) tasks the elected local councils have no or minimal influence, while their conduct lies with the local administration and executive. At

⁴² „-Organi mestnogo samoupravleniya mogut nadeljat’sya ispolneniyami gosdarsstvennymi gosdarsstvennymi polnomochiyami“

⁴³ „...s peredachej neobkhodimyykh dlya ikh osushchestvleniya material’nykh i finansovikh sredstva“. For an overview on the regional legislation regarding the delegation of State functions on the local authorities see Anna Madyarova, „Ob obshchikh nachalakh opredeleniya perechnya gosudarstvennykh polnomochij, peredamykh organam mestnogo saoumpraveniya“, in *Konstitutsionnoe i munitsipal’noe pravo*, 2007, no. 2, 27-32

⁴⁴ see Wollmann 2000 op.cit. 117 f.

⁴⁵ see Leemans 1970 op.cit., Wollmann 2000 op. cit. 125 f.

the same time, the discharge of “delegated” tasks is subject to a comprehensive (“administrative”) control by the upper State authorities, pertaining to the “expediency” and appropriateness of local decisions (in German: *Fachaufsicht*). Because of the tight control of the local authorities by the State one may call this an *integrationist* model which may harbour the potential to “statelise” the local authorities⁴⁶.

Since it is categorically stipulated in article 132, 2 (2) Federal Constitution that the “implementation of delegated tasks (takes places) under the control of the State” (article 132, 2)⁴⁷ and as local administration, in the conduct of “delegated” tasks, is significantly tied into and “integrated” in State administration one can see this as an *integrationist* model with a tendency to “statelise” (*ogosudarstvlenie*) the local authorities.

5. *The political institutions and procedures of LSG*

5.1. *The rights of the local citizens*

Dating back to the 1991 legislation the political rights of the local citizens have been given key importance in the definition of local democracy. From beginning, besides electoral rights the direct democratic rights and other participatory forms have been highlighted.

Accordingly, the Federal Constitution of 1993 assigns local democracy a high constitutional rank. After referring to LSG as a basic form in which “the (multi-national) people realizes its “sovereign right... also through organs of LSG” (article 3)^{48,49} and after almost emphatically stipulating that the local citizens “must not be deprived their right to have LSG” (article 12, 1) it goes on to spell out that LSG is exercised by the citizens through referendums, elections, other forms of direct expression of its will, through elected and other organs of local self-government” (article 130,2)⁵⁰.

⁴⁶ As to the „integrationist“ and „statelising“ implication of „delegated“ tasks in the German setting see Hellmut Wollmann and Geert Bouckaert, „State Organisation in France and Germany between Territoriality and Functionality“ in: *State and Local Government Reforms in France and Germany*, eds. Vincent Hoffmann-Martinot and Hellmut Wollmann (Wiesbaden: VS Verlag 2006) 22 f.

⁴⁷ „Realizatsiya peredannykh plnomochij podkontrol'na gosudarstvu“

⁴⁸ „Nositelem suvereniteta i edinstvennym istochnikom vlasti v RF yavlyetsya ee mnogonatsional'nyj narod”

⁴⁹ narod osushchestvlyayet svoju vlast' neposredstvenno, a takzhe cherez organy gosudarstvennoj vlasti i organy mestnogo samoupravleniya”

⁵⁰ „Mestnoe samoupravlenie osushchestvlyetsya grazhdanami putem referendumov, vyborov, drugikh form pryamogo voleis'avleniya, cherez vybornye i drugie organy mestnogo samoupravleniya”

Falling in line with this sweeping democratic profession the *federal law 1995* as well as the *2003 federal laws on LSG* 2003 legislation have gone to great length to lay down the local democratic rights of the citizens..

In fact, judging by the formal letter of the law the repertoire of local citizen rights is more extended than in many (West) European countries, as, for instance, binding local referendums are not provided for in Sweden and Great Britain/England. In a similar vein, the direct election of mayors introduced in Russia, as a principle, in 1991 (see below) has made its entry in (West) European countries only since the early 1990s and has so far been adopted only in Germany and Italy⁵¹. The same applies to the “direct democratic” citizen right to “recall” (*otsyv*) the sitting mayor/head of administration (see below) which has so far been introduced, among (West) European countries, only in Germany⁵² after having been traditionally in place in some US States.

It needs to be added, however, that in the current reality of Russia’s local politics the practical exercise of these democratic local citizen rights often falls woefully behind such legal prescriptions..

5.2. Local councils

Status, composition

In the 1991 legislation an all but paradigmatic change was effected in the (horizontal) arrangement of functions and powers between the elected local council and the local executive position-holders⁵³. In what, with some caution and not without controversy⁵⁴, can

⁵¹ for an overview see Hellmut Wollmann, „Changes, ruptures and continuities in European local government systems between government and governance”, in *Local government and governance in a globalised world* eds. Fred Lazin, Matt Evan, Vincent Hoffmann-Martinot and Hellmut Wollmann (Lexington Press, 2007) (forthcoming). For the Germany see Hellmut Wollmann, “The directly elected executive mayor in German local government”, in *Transforming local political leadership*, eds. Rikke Berg and Nirmala Rao (Houndmills: Palgrave 2005) 29 ff.

⁵² see Wollmann 2005 („The directly elected executive mayor“), op.cit. 35 ff.

⁵³ see Vladimir Kryazhkov, “Mestnoe samoupravlenie: Pravovoe regulirovanie i struktury”, *Gosudarstvo i Pravo*, no. 1 (1992) 20)

⁵⁴ Mention should be made, at this point, of the controversial debate as to whether the concepts of “division of power” and “check and balances” can be applied to the LSG level. From a (*strictly*) *legal point* of view it has been argued that these concepts should be only employed with regard to the State (as the “sovereign” holder of legislative, executive and judiciary powers) and not with regard to the sphere of LSG whose functions, according to this legal reasoning, are essentially *administrative* and standing separate from “the State” (see, for instance, Gritsenko 2001, op. cit., 287-288). From a more *political science-guided* perspective these concepts can interpreted and applied in a broader *functional* meaning and understanding which could comprise the State as well as the LSG spheres. See, for instance, Vladimir Fadeev, *Munitsipal’noe pravo Rossii*, (Moskva Jurist 1994) 94 who speaks, inter alia, of a “system of checks and balances” (“*systema sderzhek i protivovesov*”). Interestingly a similar controversy can be observed in Germany between the (traditional) *legal doctrine* reserving and

be regarded as the local variant of a division of power and checks and balances concept. the local elected council (*predstavitel'nyj organ*) is seen as the supreme local representative organ that essentially acts as a deliberative, rule-setting and scrutinising body, while the administrative function is assigned to local administration directed by the “head of administration” (*glava administratsii*) acting in a “chief executive” (“monocratic”, *edinonachalie*) function⁵⁵

While, as a general principle, all LSG councils are elected directly by the local citizens an exception has been introduced by the 2003 legislation (article 35, 4 (1) for the councils of municipal districts (*munitsipal'nye rajony*). Instead of being directly elected the municipal district councils may be composed, depending on the approval by local referendum, of the heads of the municipalities as well as of “member” municipalities (“settlements”) elected by the councils of “member” municipalities. This modality of composing municipal district councils by way of delegation has been censured in a critical legal debate as violating the constitutional guarantees of LSG (and also the pertinent article 3 European Charter). Currently the composition of 220 district councils (which is 14 percent of total number of 1801 district councils) has come to pass through the delegation mode⁵⁶

Powers and responsibilities of the local councils

According to article 35, 10 federal law 2003 the elected councils possess a remarkably broad scope of powers.

Among these looms large the adoption of the local charter (*ustav*) (see article 35,10 (1), art. 44) in which the local council can determine broad spectrum of questions, such as, within the limit of legal thresholds, the number of council members, the duration of elective mandate of the council etc) – in an array of matters which, *nota bene*, is wider than in most (West) European countries. remarkable even including delegated matters Interestingly the “norm-setting” power of the local councils pertains even, under certain conditions, to “delegated” matters (see article 7, 2 *federal law 2003*) – which is different, for instance, from the German

restricting these (and related) concepts to “the State” proper, on the one hand, and a *political science* view which prefers to take a broader functional stance, thus encompassing the LSG level, on the other (see Hellmut Wollmann, “Kommunalvertretungen: Verwaltungsorgane oder Parlamente?” in: *Kommunalpolitik*, eds. Hellmut Wollmann and Roland Roth, Opladen 1999, 50-67.

⁵⁵ see Wollmann and Butusova 2003 op.cit.: 216 with further references.

⁵⁶ see Ministerstvo regional'nogo razvitiya, *Itogi monitoringa realizatsii Federal'nogo Zakona ot 6 oktobra 2003 No. 131* (Moskva 2006) 15

practice of the “dual function” model on which the elected council does not have any influence).

In addition to these decision-making powers the local council is assigned the pivotal function to exercise “control over the discharge, by the organs of local self-government and its position-holders, of the responsibilities in local self-government matters”⁵⁷ (article 35, 10, (9) *federal law 2003*) Hence, insofar in congruence with the German practice of the “dual function” model, the elected councils (to wit, of the municipal districts and the urban areas to which “delegated” state functions are mainly transferred) are not involved in controlling the their conduct by municipal district or urban area administration. Due to the fact that, in discharging the “delegated” tasks, the district and area administration and their administrative heads, on the one hand, operate outside the control by the local councils and, on other hand, are subordinated to extensive oversight by the State, the trend in municipal district and urban area administration to be drawn into and “integrated” in State administration gains momentum.

5.3. Head of municipality and head of administration

As was already pointed out, in an all but paradigmatic rupture and shift from the previous Soviet State model and in a move premised on a local variant of “division a of power” concept and “checks and balances” principle⁵⁸, the position of the “head of administration” (*glava administratsii*) was introduced as local (“monocratic”, *edinonachalie*) chief *executive* in juxtaposition to the elected local council.

The directly elected “head of administration” made its spectacular entry to Russia’s local government system when, in June 1991, *Gavriil Popov* and *Anatoli Sobchak* were directly elected to the newly creating position of directly elected “head of administration”, called “mayor” (*mer*), of Moscow and (then still) Leningrad which was seen by reformers as a resounding success of the strategy to vote out of power the still ruling “old guard” nomenklaturists and to dismantle “executive committee” (*ispolkom*) which was the local stronghold central State and Party rule during the previous Soviet era⁵⁹

⁵⁷ „Kontrol’ za ispolneiem... polnomochij po resheniyu voprosov mestnogo znacheniya”

⁵⁸ for the controversy as to whether the „division of power“ concept can be applied to the LSG level see footnote 54 above :

The RSFSR federal law of 1991 on LSG, bearing the handwriting of *El'tsin's* reformist camp, followed suit to introduce the directly elected “head of administration” (that, borrowing from the French *maire*, came to be called “*mer*”) as a centre piece in the new post-Soviet local government system with some resemblance to a “local presidential system” - the first round of direct elections of the “mayors” being set to take place on November 1st, 1991. However, as part of his power-struggle with the (“old communist”) majority in the Supreme Soviet and in the attempt to enforce his policy of “radical economic reforms”, *El'tsin*, while retaining them as “monocratic” local position holders, suspended their election and, instead, appointed them, thus eager to turn them into the local cog of his “vertical power” machine⁶⁰

In the wake of *El'tsin's* power coup of October 1993 events the local heads of administration continued to be strictly appointed “from above”, first, within *El'tsin's* “power vertical and second, under the sway of the increasingly powerful regional governors.

The *federal law 1995* held on to the (“monocratic”, *edinonachalie*) position of the head of administration (*glava administratsii*) whereby it was left to the local council to decide (by way of the local charter, *ustav*) whether the head of administration be elected directly by the local citizens or indirectly by the local council.

It was the first time in Russia's history of LSG that, under the 1995 legislation, local heads of administration (*mery*) came to be directly elected in a significant number of municipalities who formed a cohort of self-confident local leaders that posed a challenge to the regional governors but also to the central government⁶¹

The federal law 131 has inaugurated a significant institutional innovation in introducing the distinction between function (and possibly position) of the “head of municipality” (*glava munitsipal'nogo obrazovaniya*) and of the “head of administration” (*glava administratsii*) (see articles 36 and 37 *federal law 2003*), the latter directing the local administration, in a “chief executive” function, on the “single actor” (monocratic) principle (*na printsipach edinonachaliya*) which, as was already mentioned, made its entry into Russia's LSG legislation in 1991.

⁵⁹ see Mildner 1996 op.cit. 87 ff., Wollmann 2004 op.cit. 108.

⁶⁰ see Wollmann 2004 op.cit. 109 ff. for details and references

⁶¹ see Wollmann and Butusova 2003 op.cit. 230 ff for details and references

The function of the “head of administration” can be filled in two ways to be, in principle, laid down in the individual municipality’s charter (*ustav*).

- Either, the “chief executive” function is exercised by the “head of municipality” himself/herself. In case the “head of municipality” resumes the “chief executive” function it is stipulated (mirroring some local variant of “division of power” concept) as a rule that he/she cannot be chairperson of the local council (see article 36, 2 (4) *federal law 2003*). However, in *rural settlements (selskie poseleniya)* the *chief executive* and the *chairing the council* functions may be combined by the *head of municipality* (see article 36,3) which has been laid down in the charters (*ustavy*) of 48,3 percent of the settlements (see MRR 2006: 19).
- Or the “chief executive” function is assigned to the newly introduced position of the “contractual” “head of administration” (*po kontraktu*) appointed by the local council. The “head of municipality” plus “head of administration” arrangement is analogous to the “(elected) mayor plus (appointed) city manager” scheme which is in place in some “Western” countries (such as in some US-States⁶² and since 2000 in the “elected mayor plus city manager” variant among the recently introduced new LSG forms in England⁶³). One of the main legislative intent behind the “contractual” head of administration, no doubt, was to “professionalise” the conduct of local administration.

As a rule, the selection and appointment of the *contractual head of administration* is to be effected by the local council on the basis of a competition (*konkurs*) that is carried out by a “competition committee” (*konkursnaya komissiya*) the members of which are chosen by the municipal council (see article 37, 5 *federal law 2003*).

Reflecting the fact that, under the federal law 2003, the “delegation” of State tasks essentially pertains to, and focuses on the municipal districts (*munitsipal’nye rajony*) and urban areas (*gorodskie okruga*) the regional authorities are given special powers to exert their influence on the competition and selection process (see article 37 *federal law 2003*). This shows particularly in the provision that one third of the members of the crucial “competition

⁶² see James H. Svara, „Institutional form and political leadership in American city government“, in *Transforming local political leadership*, eds. Rikke Berg and Nirmala Rao (Houndmills: Palgrave 2005), 131 ff.

⁶³ see Nirmala Rao, „From Committee to Leaders and Cabinets: The British Experience“ in *Transforming local political leadership*, eds. Rikke Berg and Nirmala Rao (Houndmills: Palgrave 2005), 45. Out of 386 English local authorities the „mayor plus city manager“ option has been put in place only in one case, though, *ibid.* 50

committee” need to representatives of the regional authorities, besides two thirds elected by the local council.

The influence thus opened to the regional authorities to the politically sensitive selection of the *contractual head of administration* is just another example of the institutional mechanisms through which the upper level of LSG units is meant to be “integrated” in State administration.

Small wonder that, when it came to carry out their mandate, under article 85 federal law 2003, to massively restructure the levels and units of LSG, the regional authorities preferred to prescribe and impose the “head of municipality plus head of administration model”, that is, the “city manager model”, upon the local authorities. About three quarters of all LSG units currently operate under the *contractual head of administration* (“city manager”) scheme⁶⁴.

Removal of the head of municipality and/or head of administration

For one, as it was already mentioned the local citizens have the (direct democratic) right to “recall” (*otsyv*) the local elected position holders by local referendum – a provision which has been first introduced in the 1991 legislation and which has been extended, in *federal law 2003*, to all elected local positions, including members of the elected council (71, 2). As was already said, such (formally extended) “recall” procedures can be found only in a few “Western” countries (such as some US States and more recently in Germany)⁶⁵.

The right of the regional and central government authorities to remove an (elected) local “head of administration” has always been a politically particularly touchy issue as it was right at the heart of the central/local level relations.

Under article 49 of the 1995 legislation the removal from office of a local head of administration could be decided by the by the regional assembly only on narrowly defined legal grounds and needed to be confirmed by court decision⁶⁶. Subsequently, on August 8, 2000 this article was amended in significantly broadening the reasons for which regional (and

⁶⁴ see Ministerstvo regional’nego razvitiya 2006 op.cit. 19

⁶⁵ for references see Wollmann 2007 op.cit. (see footnote 51 above)

⁶⁶ see Mitrokhin, Sergei, “Osobennosti realizatsii munitsipal’nogo proekta v Rossii: Nekotorye aspekty federal’noi politiki”, in Sergei Ryzhenkov and Nikolai Vinnik (eds.), *Reforma mestnogo samoupravleniia v*

now also federal) local authorities could take the initiative to put local heads of administration out of office, finally still depending on a court decision, though⁶⁷.

The 2003 legislation continued on this course of making the status of local position holders (including *heads of municipalities* as well as *heads of administration*) still more precarious as the reasons for their removal (*otreshenie*) by the regional authorities have been further extended by amply referring to the violation of federal and regional legislation as well as of local charters whereby the proviso of earlier legislation was, however, retained that a final court decision was needed (see article 74 federal law 2003).

6. State control over the levels and units of LSG

In sum, the federal law 2003 has laid down a number of legal procedures and levers that, in being mutually supportive and complementary, add up to a formidable repertoire of top-down guidance and control.

To just briefly recall them:

- In the conduct of their “normal” LSG responsibilities the local authorities operate under the “ordinary” legality review by the upper level State authorities – whereby the power of the regional authorities to initiate a removal (*otreshenie*) procedure against a local position holder, within the copious enumeration of legal provisions to be complied with (under article 74 *federal law 2003*), may act as a permanent threat and sanction.
- In discharging the delegated functions (*peredannye polnomochiya*) the municipal districts and urban areas are subject to a much more extensive supervision by the upper level State authorities, pertaining not only to a legality review, but also a control over the expediency and appropriateness of their activities. As in most of these units the chief executive function is in the hand of a *contractual head of administration*. the strong hand which the regional authorities have in the latter’s selection, contract, qualification etc. accentuates and reinforces the tendency to subdue the local units to and “integrate” them in the State structure – in conspicuous defiance of the highflying notion of article 12 *Federal Constitution*.

regional’nom izmerenii. Po materialam iz 21 regiona Rossiiskoi Federatsii, (Moscow: Moscow Public Science Foundation 1999) 21

⁶⁷ see Peter Reddaway, Peter, „Will Putin be able to consolidate his power?“, in: *Post-Soviet Affairs*, 17, no. 1,(2001) pp. 23-44

- The afore-mentioned extension and, at the same time, generality and vagueness of reasons laid down in article 74 *federal law 2003*) why and when the regional authority may tip off a removal (*otreshenie*) procedure against local position holders is prone to politically and psychologically enfeeble and intimidate them.
- Still another avenue of top-down intervention (and potential intimidation) has been installed in article 75 *federal law 2003* according to which the regional authorities may temporarily intervene by suspending the power of the local authority and by acting in their lieu, in case the budgetary deficit exceeds the local authority's own revenues by 30 percent. The menace to the status of the LSG levels and units lurking in this provision lies in a budgetary "vicious cycle" in that the federal and regional authorities have been eager to shift expenditure-intensive responsibilities (infrastructural, social policy etc. tasks) to the local authorities while failing to live up to its obligation, formally entrenched in article 132, 2 *Federal Constitution*), that such transfer of tasks should go hand in hand with the transfer of the needed "material and financial resources". Thus, the local authorities find themselves in a budgetary trap which all but forces them to drive up their budgetary deficits. This, however, conjures up the spectre of a "top down" intervention under article 75 *federal law 2003*. On the top of it, article 75 provides an overture to political manoeuvring and "arm-twisting" as the federal and regional authorities may, thus, employ a financial lever to withhold grants to politically "disliked" local authorities and to wilfully drive them further into the budgetary "vicious cycle". Furthermore, an interventionist measure under article 75 may allow "raid-type" actions against local authorities with the aim to portion up municipal property, including real estate, following the pattern of "hostile take-over of enterprises"⁶⁸.

7.Public/ Local government finances

Parallel to the territorial, functional and institutional changes that the 2003 legislation was intended to bring about in Russia's decentral-local world of LSG and which was meant to make it more amenable to central and hierarchical guidance and control, equally the entire tax and budgetary system has been revamped to buttress and support the centralist thrust. Without going into details at this point⁶⁹ it should suffice to highlight the following points.

⁶⁸ see Vladimir Gel'man, „Ot mestnogo samoupravleniia – k „vertikali vlasti“, in: *Pro + Contra* (Carnegie Moscow Center, 2007) (forthcoming)

⁶⁹ for an overview see Gel'man 2007 op.cit. with further references)

On the expenditure side of the LSG level it should be recalled that in recent years the federal government has been pouring out legislation through which the LSG level was continuously and increasingly put in charge of new responsibilities, particularly in the infrastructural and social policy fields, to be carried out as “delegated” tasks. Hence, the local level expenditures have seen a steep growth.

On the revenue side, it is stipulated, it is true, in article 132, 2 Federal Constitution as well as article 19,5 federal law 2003 that the transfer of tasks should be geared to the transfer of the needed resources. Yet, in recent years the federal government has been far from heeding and honouring this constitutional and legal obligation. Insofar as grants were assigned, they have been given as narrowly “ear-marked” (categorical) grants and often on a short-term formula which allows the upper government levels flexibility and also political discretion, while it deprives the local government level largely of the possibility to count on and plan with these resources on a longer-term scale.

Furthermore, through changes in the overall taxation system the share of the local authorities’ own (local) taxes as compared to the total amount of public tax revenues has been reduced, while the share of the federal taxes has increased. This shift reveals a massive re-centralisation of the country’s tax and fiscal system with a pattern of top-down distribution and flow of money which increasingly resembles the “fan scheme” (*veyernaya skhema*) that was characteristic of the centralist Soviet State model⁷⁰..

Evidencing this overall tendency the share of the federal revenues of the entire public revenues grew from 40 percent in 1998 to 66 percent in 2006, while that of the local authorities fell from 27.6 percent in 1999 to 18.7 percent in 2002. Correspondingly, the share of government grants in the local government revenues grew, during this period, from 26.7 percent to 40,9 percent⁷¹

8. Summary: Pendulum of LSG swinging back towards re-centralisation and “statesation”

During the past less than 20 years, that is, in a very short period when it comes to institution-building in the succession to and transformation of the of the centralist State of the Soviet Union, the LSG system has experienced a conspicuous sequence of ruptures and shifts.

Remarkably radical moves were already made by the RSFR law on LSG of July 1991 particularly on two scores. For one, in abandoning the “Stalinist” concept of the “unity of the

⁷⁰ see Gel’man 2007 op.cit. 5

State” the local authorities recognised as being endowed, in the vertical dimension, with self-standing LSG powers. Second, in the local horizontal dimension a kind of local “division of powers”⁷² arrangement was acknowledged with an elected local council (as the local “legislative” decision-making body) and the (elected) (monocratic) “head of administration” (*glava administratsii na printsipach edinonachaliya*). Although the concept of the local “head of administration” fell immediately prey to *El'tsin*'s decision to turn this position into a local appointee in his “vertical power” hierarchy, the basic concept of the “duality” of local council and local executive has become a permanent feature of Russia’ institutionalisation of LSG.

Between 1991 and 1993, under the new legislative scheme (despite its truncation by the suspension of the direct election of the mayors) Russia’s towns and villages saw an unprecedented upsurge of local politics and LSG activities. The elections to the local councils (*soviets*) that were held Soviet Union-wide on March 3, 1990 and were premised, for the first time in SU’s history, on a competitive, multi-candidate, quasi-democratic formula proved a turning point in that, through this election, cohorts of reform-minded people (still in their majority communists) got on the councils and found themselves confronting “old guard” communists, still entrenched in the “executive committees”, *ispolkomy*)⁷³ In short, this period saw an “active transformation of life in the localities”⁷⁴ most noticeably in the larger cities, less so in rural areas⁷⁵ Without much exaggeration one might speak of a political and institutional (albeit, alas, short-lived) “springtime” of Russia’s LSG development after 1991⁷⁶

The institutional and political development of Russia’s LSG was profoundly disrupted when President *El'tsin* turned to resolve his power struggle with the *Chasbulatov*-lead majority of the Congress of Deputies by eliminating that body through the use of military force on October 3 and 4, 1993. Along with the People’s Congress, the entire structure of regional and local councils (*soveti*) that had been elected in March 1990 for four years was dissolved. Hence, the development of LSG suffered a severe set-back.

⁷¹ data from Gel'man 2007 op.cit. with references).

⁷² see footnote 54

⁷³ see Wollmann 2004 op. cit.: 108 for details and references

⁷⁴ see I.I. Ovchinnikov, „Aktual'nye problemy formirovaniya mestnogo samoupravleniya v RF“, in: *Gosudarstvo i Pravo*, no.5 (1997), 31-33. see also Vladimir Gel'man and Olga Senatova, Olga, *Political Reform in the Russian Provinces. Trends since October 1993*, unpublished Ms.(1995)

⁷⁵ see Mildner 1996 op.cit. 115

⁷⁶ see Wollmann 2004, op.cit. 111

The adoption of the *Federal Constitution* of December 2003 and the enactment of the local government legislation of 1995 laid the legal basis for a new start of local self-government development in Russia. It was particularly during the late years of the *Eltsin* era – with the federal power eroding and the power of the regional governors advancing – that, within the variance of regional legislation, local self-government experienced some significant upside, at least in larger cities. Some observers, such as *Sergei Mitrokhin* (who, as a *Yabloko* deputy of the *State Duma*, was among the chief promoters of the 1995 legislation) went as far as speaking a “municipal revolution”⁷⁷

After *Vladimir Putin* became President in 2000 he embarked on a “federal reform” which hinged on a recentralisation of political and financial powers on the federal level and aimed at bringing the regions as well as the local government level back under federal influence and control. Against this backdrop the 2003 legislation exhibited, at the surface of the legislative letter, a conspicuous ambivalence. On the one hand, it continued to subscribe to political and institutional principle of local self-government which have been part and parcel of Russia’s local government schemes since 1991. As far as the stipulation of democratic and participatory rights of the local citizens and the scope of decision-making powers of the elected local council is concerned the 2003 legislation not only falls in line with (West) European local government systems (and with the *European Charter*), but in some respects gives even wider rights and powers to the citizens and the councils. On the other hand, however, the 2003 legislation is imbued with the centralist logic of *Putin’s* “federal reform” which aims at “streamlining” the RF’s entire political and administrative system and to make the local government level amenable to federal political, administrative as well as financial guidance and control. An array of provisions and mechanisms have been inserted in the 2003 legislation which are directed at “integrating” the local government structures in the (federal and regional) state structures. This applies particularly to the upper level of municipal districts (*munitsipal’nye rajony*) and urban areas (*gorodskie okruga*) and to their responsibility to carry out “delegated” (*peredannye*) state functions. In this context it be noted that with regard to newly introduced position of a “contractual” (“city manager”-type) *head of administration* (*glava administratsii*), as distinct from the *head of municipality* (*glava munitsipal’nogo obrazovaniya*) the regional State authorities are given a strong hand in defining the “contracts”, the professional qualifications and in taking part in the recruitment and selection process. Somewhat pointedly these “city managers” might be seen the “Trojan Horses” for

⁷⁷ see Mitrokhin 1999 op. cit...

ensuring additional state influence on LSG, particularly on the upper LSG levels, thus fostering the “statelising” (*ogosudarstvlenie*) trend and potential.

Among the mechanisms that are meant to put the local authorities under state control and possibly discipline and sanction them mention should particularly be made of the comprehensive state control over “delegated” tasks, the extended right of the state authorities to remove (albeit still depending on court’s approval) the heads of municipalities, heads of administration and elected councils and, in temporarily suspending the local authorities, to act in lieu of them. The centralist thrust of the institutional design has been complimented and enforced by similarly centralist changes in the overall fiscal and budgetary regime through which the federal influence and control over the local authorities has been budgetarily buttressed.

Within the recent territorial and functional reform of the local government structures which is probably the key piece of the 2003 legislation and through which the number of local authorities has, particularly in rural areas, been doubled, additional powers have been given to the regional authorities to decide on the organisational and institutional setting of the newly created local government units (which is normally left to the local councils to decide). By way of these regional legislative acts, for instance, the “contractual head of administration” (“city manager”) form has been put in place in the majority of the cases.

The centralist levers that are at work in the legal setting of federal law 131 as well as in budgetary system are political enforced in many localities and areas by the very dominance of President *Putin’s* political party *Edinaya Rossiya* and by the regional and local “parties of power” (*partii vlasti*) which, while revolving around regional and local political leaders and their political (and economic) “families”, are often closed linked, if not identical with the presidential political party⁷⁸. As these regional and local networks of political parties and groups are, in many cases, closely tied to the President and often hold overwhelming majorities in the local councils, the decisions on the application (or non-application) of the formal rules are prone to accept or at least bow to centralist guidance. In addition, the independence of court decisions (where such decisions are still required for instance for the removal of local position-holders) may be in jeopardy in face of the local power elites also deciding on the nomination and appoint of the judges.

⁷⁸ see Wollmann and Butusova 2003 op.cit. 235; Tomila Lankina, The central uses of central government in Russia, 2001, unpubl. ms. For a recent case study based analysis see Tomila Lankina, Anneke Hudalla and Hellmut Wollmann, *Decentralization and Local Performance in Central and Eastern Europe*, Palgrave/McMillan St. Antony’s Series, 2007 (forthcoming)

Hence, in sum, the available evidence suggests to paint a fairly bleak picture of the present state of local government in *Putin's* Russia which bears traces. as it was caustically put, of a “municipal counter-revolution”⁷⁹ dismantling the (incipient) “municipal revolution” of the mid-1990s and hinting at an all but dismal state of LSG in large areas, probably with the exception of some big cities⁸⁰. At the same time the chorus of voices seems to gain salience questioning whether the country-wide and comprehensive introduction of LSG, as envisaged by the Constitution of 2003 and also by the current legislation, is at all feasible (or even desirable) on the backdrop of Russia's State tradition and context⁸¹.

Whether the “revival” of LSG units in the wake of mammoth territorial and organisational reform under article 85 *law 2003* has the potential to reverse the trend and to belie the sceptic voices remains to be seen.

⁷⁹ Gel' man 2007 op. cit.

⁸⁰ For case studies on (Siberian) big „industrial“ cities („company towns“) see John C. Webb, “Energy Development and Local Government in Western Siberia”, in *The Politics of Local Government in Russia*, eds. in: Alfred B. Evans, Jr. and Vladimir Gel' man (Lanham, MD: Rowman and Littlefield, 2004) .235-73.

⁸¹ K.V. Aranovskij and S.D. Knzazev, „Munitsipal'naya reforma v Rossii: razvitie mestnogo samoupravleniya ili detsentralizatsiya gosudarstvennoj administratsii“, in *Pravovedenie*, 2007, no. 2 (271), 3-20