

STRONG LOCAL SELF-GOVERNMENT AS A LEVER TO COUNTERACT THE USURPATION OF POWER IN TRANSITIONAL DEMOCRACIES (RUSSIA AND BELARUS AS EXAMPLES)

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Summary

The article examines the problem of limiting local self-government in Russia and Belarus as one of the key factors of power usurpation. The authors analyze the constitutional and legal regulation of local self-government in both countries, paying attention to the existing mechanisms of influence of presidents and central authorities at the local level. In particular, they study the peculiarities of the formation of local self-government bodies, the scope of their powers and the real possibilities of implementing independent policy at the local level. It is emphasized that despite the formal guarantees enshrined in the Constitutions of the Russian Federation and Belarus, local self-government in these countries is largely controlled by the state authorities. This creates preconditions for the centralization of governance and a decrease in democratic control by citizens. The authors emphasize the importance of developing strong local self-government as a safeguard against the usurpation of power, supporting their position with comparative legal analysis and examples from Ukrainian legislation.

Key words: democratization, transitional democracy, transitology, centralization of power, authoritarianism.

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1. Introduction

As a rule, the scientific literature studies the positive experience of foreign countries in order to implement it in domestic legislation. This also applies to issues of public administration and local self-government. At the same time, the experience of countries with an authoritarian model of building and functioning of public authorities remains virtually unexplored. First of all, we are talking about Russia and Belarus. The legislation of these countries on local self-government differs, as does the way in which local self-government was significantly weakened in order to concentrate power in the hands of individual rulers. However, it is extremely important to study the negative experience in order to prevent this from happening in Ukraine. Moreover, Ukraine is one of the transitional democracies in the post-Soviet space, where there are concrete examples of weakening the role of local self-government in order to usurp power.

The topic of mechanisms to counteract the usurpation of power in transitional democracies has already been addressed in the publication of the same name (*Boldyriev S., Linyk M., 2025*). It provided a non-exhaustive list of such mechanisms. Strong local self-government should be added to this list. The same position is shared by D. Pinchuk: “A necessary stage in the construction of a democratic, law-based social state, which Ukraine is constitutionally proclaimed to be, is the formation of viable and effective local self-government” (*Pinchuk D., 2010: 81–82*). This is a thesis that can be applied to any transitional democracy in the world. Strong local self-government obviously poses a threat to authoritarian regimes in Russia and Belarus and other countries. In these countries, local self-government is suppressed in many ways, and this study will analyze only some of them.

In general, it should be understood that the concept of strong local self-government includes many aspects: financial, logistical, organizational, institutional (the scope of powers of local governments, the way they are formed, the degree of their independence, etc.), other forms of local democracy (e.g., local referendum, self-organization bodies), and so on. This list can be used to classify the limitations of local self-government in Russia and Belarus.

2. The Constitution of the Russian Federation

The study of the status of local self-government should begin with constitutional regulation. Thus, the Constitution of the Russian Federation contains only 5 articles devoted to local self-government: Articles 12, 130–133. The articles contain mostly general (deliberative) theses that can be interpreted in different ways and, accordingly, developed differently at the level of federal legislation. Particularly noteworthy is part two of Article 130, which establishes that local self-government in Russia is exercised by citizens through referendums, elections, other forms of direct expression of will, through elected and **other local self-government bodies**. Other local self-government bodies, on the one hand, may be bodies of self-organization of the population, but on the other hand, the provision legalizes the formation of unelected bodies with an indefinite list of powers that will address issues of local importance. It is unlikely that in this case we can talk about independence and self-government. O. Batanov noted the problem back in 2015: “Russia is undergoing a dynamic process of reforming federalism and municipalism towards the formation of its centralized model, in the course of which there is a danger of crossing the line beyond which little remains of federalism and municipalism” (*Batanov O., 2015: 61–66*). The line has long been crossed.

The Basic Law of the Russian Federation does not provide for a procedure for the formation of local self-government bodies and does not list them. In contrast, the Ukrainian Constitution regulates these issues by the provisions of part three of Article 140 (“local self-government bodies: village, settlement, city councils and their executive bodies” (*Konstytutsiia Ukrainy vid 28.06.1996 r.*)) and part one of Article 141 (“the council... consists of deputies elected by the residents... on the basis of universal, equal, direct suffrage by secret ballot” (*Konstytutsiia Ukrainy vid 28.06.1996 r.*)). The Constitution of Russia contains only a provision that the population independently determines the structure of local self-government bodies (part one of Article 131), although even on this issue the local population cannot go beyond the limits established by federal law. It can be argued that the Constitution of the Russian Federation does not actually guarantee local self-government.

Moreover, after the amendments to the Constitution of Russia came into force on July 4, 2020, part one of Article 131 was supplemented by the first paragraph, which directly empowered state authorities to participate in the formation of local self-government bodies,

appointment and dismissal of local self-government officials. The appointment of local self-government officials by the state authorities contradicts not only the principles set out in the European Charter of Local Self-Government, but also the essence of local self-government in general.

The ambiguity of the provision of part two of Article 132, according to which local self-government bodies may be vested with certain state powers, is also a cause for concern. Consideration of such a possibility as a *right* of local self-government bodies or as their *obligation* is within the competence of the legislature.

3. The Constitution of Belarus

The Constitution of Belarus provides for a broader regulation of the status of local self-government, but this does not contribute to increasing its independence – on the contrary, the Basic Law contains provisions that weaken the institution of local self-government to the extent that the restrictions can only be compared to Russian legislation. The problem of centralization of power in Belarus has already been written about by scholars S. Tymofieiev – “there is a centralization of power, since the heads of local councils are also the heads of the relevant executive committees, and their candidacies must be approved by the president” (Tymofieiev S., 2015: 120–123) – and T. Tarasenko: “the Belarusian model of local government organization provides for the consolidation of the vertical subordination of executive committees of different territorial levels and the vertical subordination of councils” (Tarasenko T., 2019: 258–266). However, not only these facts weaken local self-government in the republic.

For example, the Constitution contains Chapter Five, entitled “Local government and self-government”. Local government is a term used to refer to state bodies at the local level. It is not without reason that the title of the chapter places local government before self-government: it demonstrates the priority of the distribution of power at the local level.

Article 119 of the Constitution of Belarus stipulates that the heads of local executive and administrative bodies are appointed and dismissed by the President of the Republic of Belarus or in accordance with the procedure established by him and are approved in office by the relevant local councils of deputies. The functions of local executive and administrative bodies in Belarus are performed by executive committees and local administrations of districts in cities. Committees and administrations are headed by chairmen, but in the case of committees the term “chairman” is used. Heads of executive committees are heads of local executive authorities. Heads of executive committees of the respective level operate on the territory of regions, the city of Minsk, cities of regional subordination, districts, village councils, towns, and cities of district subordination. While in Ukraine the state executive power is represented at the local level only at the regional and district levels, in Belarus it is represented at the lowest level.

This is due to the fact that Belarus, unlike Ukraine, does not have the position of head of a local council. According to Ukrainian legislation, powers at the local level are distributed between the respective council and the council chairman, who are directly elected by the population, as well as between local state administrations. In Belarus, however, the vast majority of powers, compared to local councils, are vested in the heads of executive committees (local administrations), which operate at all levels of local government.

According to Article 119 of the Constitution of Belarus, the heads of executive committees are usually appointed by the president, which greatly expands the powers of the sole authority on the ground. A positive aspect of the procedure is the need for approval of the

chairman by the relevant local council. However, this is only an illusion of mandatory consent on the part of the council, because, as will be shown below, the local council can easily be deprived of its powers if it proves to be “inconvenient” for state bodies.

Moreover, according to the Law of the Republic of Belarus “On local government and self-government in the Republic of Belarus”, the local council does not have significant powers to control the activities of the head of the executive committee. The third paragraph of part three of Article 38 is limited to the wording that “executive committees are accountable to the respective councils on issues within the competence of these councils”, but the representative body does not have categorical levers of influence over the chairman of the executive committee (for example, making a decision on dismissal or at least initiating such a procedure). The only significant controlling power of the councils is established by part three of Article 122 of the Constitution: decisions of local executive and administrative bodies that do not comply with the law are canceled by the respective councils of deputies.

Article 120 of the Basic Law of Belarus, among other things, stipulates that local councils of deputies, executive and administrative bodies shall execute decisions of higher state bodies. While in relation to executive committees, the thesis that they are directly subordinate to the decisions of state bodies is in line with the principles of building public power, in relation to representative bodies, this provision is excessive. Of course, local self-government bodies should implement decisions of state authorities on issues that do not fall within the competence of local self-government. However, this does not mean that local elected bodies are directly subordinated to the state authorities. Article 120 of the Constitution of Belarus contradicts this principle of local self-government.

Part four of Article 122 of the Basic Law stipulates that decisions of local councils of deputies that restrict or violate the rights, freedoms and legitimate interests of citizens, as well as *as in other cases provided for by law*, may be appealed in court. If the list of grounds for appealing against decisions of local self-government bodies is regulated not by specific acts, but by the entire legislation of the country, this will lead to excessive restrictions on the activities of the bodies. Moreover, the concept of legislation may be interpreted differently and include not only the Constitution and laws, but also acts of the head of state, government, departments and other authorities. The Constitution of Ukraine contains somewhat poorer but more precise provisions. For example, part two of Article 144 states that “decisions of local self-government bodies on the grounds of their non-compliance with the Constitution or laws of Ukraine shall be suspended in accordance with the procedure established by law with simultaneous appeal to the court” (*Konstytutsiia Ukrainy vid 28.06.1996 r.*). That is, it only refers to violations of the Constitution and laws, not the entire legislation.

Although the Ukrainian version is relatively correct, it can be improved. Namely, it should specify that the only grounds for canceling a decision of local self-government bodies is a violation of the Constitution. In order for the violation to be recognized in court, it is necessary to apply to a constitutional jurisdiction body.

Given that the procedure for adopting a law is more lenient compared to amending the Constitution, it is the proposed provision that will protect local self-government from the influence of the state authorities the most.

The most striking article of the Constitution of the Republic of Belarus in terms of limiting the autonomy of local self-government is Article 123. It stipulates that in case of systematic or gross violation of the requirements of the law by a local council of deputies, it may be dissolved by the Council of the Republic. Moreover, other grounds for early termination of powers of local councils of deputies are also provided for by law. In fact, obtaining a majority of seats

in the chambers of parliament allows not only to adopt any laws, including those that facilitate the usurpation of power by the President of the Republic, but also to fully control local self-government bodies. Obviously, Article 123 should be completely removed from the Constitution of Belarus in the course of democratization of public authorities. This concludes the analysis of the constitutional regulation of local self-government in Russia and Belarus.

4. Federal legislation on local self-government in Russia

Returning to the study of the status of local self-government in Russia, it is worth turning to the Federal Law of the Russian Federation “On the general principles of organization of local self-government in the Russian Federation”. Noteworthy is part two of Article 34 of the law, which “guarantees” the presence in the structure of local self-government bodies of a representative body of a municipality, the head of a municipality and a local administration (executive and administrative body of a municipality). This provision of the law is not absolute, as it allows for cases where representative bodies are not formed at all. Therefore, part two of Article 34 undermines the fundamental principles of local self-government in Russia. And not just by weakening local self-government bodies, but by calling into question their existence in principle.

The procedure for electing the head of a municipality is particularly noteworthy. Whereas in established and transitional democracies that have already implemented local government reform, the head of an administrative unit is elected directly by the local population, in Russia this is only one of the ways to elect a head. Thus, the first paragraph of the second part of Article 36 establishes that the head of a municipal entity may be elected in accordance with the law of a subject of the Russian Federation and the charter of the municipal entity:

- 1) at municipal elections
- 2) by the representative body of the municipality from among its members
- 3) by the representative body of the municipality from among the candidates nominated by the competition commission based on the results of the competition.

The latter option deserves special attention, as it gives the President of Russia the power to indirectly (but effectively) influence the process of electing the head of a local unit.

Thus, in this case, a competition commission must be formed to select candidates to be admitted to the competition at the level of the representative body of the municipality. As a general rule, the competition commission, in accordance with paragraph 4 of part 2.1 of Article 36, is formed by the representative body and the highest official of the subject of the Russian Federation — 50% of the commission, respectively.

This procedure poses at least two specific threats to the democratic system in the country. Firstly, the procedure for electing heads of municipalities involves the heads (governors) of the subjects of Russia, who, according to part one of Article 20 of the Federal Law “On general principles of organization of public power in the subjects of the Russian Federation”, “exercise control over the executive branch in the subject of the Russian Federation and determine the structure of the executive bodies of the subject of the Russian Federation”. The executive branch cannot influence the formation of representative bodies of local self-government. Secondly, the procedure for electing the heads of the subjects themselves provides for a significant role of the President of the Russian Federation, which increases his influence on local self-government.

For example, the top official of a subject of the Russian Federation is elected by citizens or members of the subject's legislative body for a five-year term. In the second case, the procedure is as follows:

1) candidates **are submitted** to the legislative body of a subject of the Russian Federation **by the President** on the proposals of political parties whose lists of candidates were admitted to the distribution of deputy mandates in the legislative body of the subject of the Russian Federation **or** on the proposals of those political parties between which mandates in the State Duma were distributed (part two of Article 23);

2) each party proposes no more than three candidates (part three Article 23);

3) the president selects three candidates from all the proposed ones and submits them (part seven of Article 23).

As in the case of Belarus, the president has enormous influence on local governments if his party wins the parliamentary elections. By the way, in the last elections of the heads of the subjects of the Russian Federation on September 8, 2024, four heads were elected according to the procedure described above, in particular in the Republic of Crimea.

Summarizing the above, the scheme of the Russian president's influence on local self-government is as follows: in Russia, the president can nominate three candidates for the post of head of a subject of the Russian Federation proposed by a pro-presidential party (which at least ideologically coincides with the president's position, but in fact is subordinate to him). The elected head of the subject forms 50% of the commission that nominates candidates for the position of head of the local entity. It turns out that the representative body of the municipal entity elects a head who is approved by the head of the subject of the Russian Federation, who is, accordingly, approved by the president.

5. Conclusions

Thus, local self-government in Russia and Belarus is severely limited in its independence and is not protected by the Basic Law. Presidents and other state bodies have enormous powers at the local level, which should be changed in the course of democratization of the state system of the countries.

First and foremost, it is necessary to vest local governments with real powers, to clearly enshrine them in the Constitution, to guarantee non-interference by the state authorities, and to introduce democratic mechanisms for the formation of representative and executive bodies at the local level. Without this, local self-government will remain only a formal construct. In today's environment, the development of strong and independent local self-government is a key factor in countering the usurpation of power and ensuring real citizen participation in local decision-making.

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