

Centralization Is Central

*Eberhard Schneider**

When Vladimir Putin was elected president for the first time, he immediately took measures to restrict the autonomy of the regions and to increase their subordination to the central authorities in Moscow. Obviously Putin—in much the same way as Boris Yeltsin—is afraid that the dissolution of the Soviet Union may be followed one day by the dissolution of Russia. However, it is not understood in Moscow that the unity of such a huge country can be preserved only on the basis of genuine federal structures and principles. This means, on one hand, that the subjects of the federation must have a real chance to claim their interests and to have them taken into account in the national legislation. On the other hand, the subjects of the federation must commit themselves to the federal legal acts which have been passed on this basis.

The Federal Districts

After taking office, one of Putin's first measures was to create by decree of May 13, 2000 seven federal districts which were superimposed on the 89 federal subjects. This step was meant to stop the trend of some regions under Yeltsin to strive for political autonomy to the extent their economic strength allowed them to. Since the federal districts did not receive new competences at the expense of the regions, this measure was in accordance with the constitution.

For the supervision of the federal districts, Putin appointed representatives informally called—following Tsarist Russian tradition—general governors. Five of them came from the military or the secret service FSB, which means that they were not connected with the regional elites or the regional clans. In the meantime, Putin has replaced two of them by civilians.

In order to enhance their status, the general governors were appointed members of the Security Council. In addition, a deputy general attorney was assigned to each of them.

The duty of the seven general governors, who convene with Putin once every month to report their work, is to coordinate the work of the roughly 30 branch offices of the federal executive organs; to assist the regional executive bodies and institutions of local self-administration; to analyze the efficiency of the organs of legal protection; and to suggest to the president the suspension of legal acts of the regional executive not in accordance with federal legislation.

* Stiftung Wissenschaft und Politik (SWP), Berlin.

One important task of the governors is to provide for a unified legal space in Russia. Due to the lack of political and administrative control, it had been possible that prior to Putin's ascent to power, nineteen out of twenty-one republican constitutions adopted regulations in contradiction with the federal constitution. In his TV address on May 21, 2000, Putin stated that one fifth of all legal acts passed on the regional level were incompatible with the constitution and federal legislation.

The presidential representatives have neither sovereign decision-making power nor the authority to issue directives, and their competences are deliberately defined in very vague terms. Accordingly, their performance depends to a large extent on the individual person in office. Thus, as far as the style of executive performance is concerned, there are "politicians" on one side and "administrators" on the other.¹ In Putin's understanding, the main task of his representatives is to coordinate and not to govern. By now, the presidential representatives have succeeded in harmonizing regional law with federal law. Currently they are looking for new tasks, which they partly find in the coordination of economic policy.

Removal of Heads of the Regional executive and Dissolution of Regional Representative Bodies

In Russia conflicts between federal and regional law can be clarified and settled by appealing to the constitutional court for judicial review (article 125 of the constitution). However, if a subject of the federation disregards the decision of the constitutional court or fails to implement it, the consequences are not clearly regulated. To solve this problem, the State Duma two months later, on July 29, 2000, passed an act, introduced by Putin, on the organization of the legislative and executive organs of the federal subjects. This act provides for the dissolution of regional parliaments if the court states that

- ▶ normative legal acts passed by the legislative power of the subject of the federation are in contradiction to the constitution of the Russian Federation or to federal law;
- ▶ such acts have caused massive and severe violations of human and civil rights;
- ▶ the territorial integrity and security of Russia is threatened; or
- ▶ the "unity of the legal and economic space" of the country is endangered.

If the legislative of a federal subject fails to cancel or correct within six months the queried legal act in accordance with the court decision, and if a court states that the legislative obstructs the implementation of federal norms, the president will issue a warning to the regional parliament. If this warning has no effect for three months, the president will introduce

¹ Otto Luchterhand, "Der Ausbau der föderalen Machtvertikale," in: Georg Brunner (ed.), *Der russische Föderalismus: Bilanz eines Jahrhunderts* (Münster 2004), pp. 277-278.

within one year in the State Duma a bill on the dissolution of the regional parliament, which the State Duma has to decide on within two months.

A similar procedure is in power for the removal of the president of a republic or a governor who issues normative legal acts which are incompatible with the federal constitution or federal law. According to article 85, paragraph 2 of the constitution, the president has the right to suspend the legal force of acts by the regional executive which are in contradiction to federal law or international commitments or which violate human and civil rights. The suspension remains in force until the competent court decides whether or not a violation is given.

If the president of the republic or governor refuses to implement the decision of the court within two months, or if the court is unable to decide whether or not the suspension of the respective legal norm was justified, the president issues a warning within six months after the decision of the court or after the suspension of the legal norm. If the regional leader continues to be obstinate, he will be removed from office by the president within one month after the warning. As a “compensation” the speakers of the regional parliaments were granted the right to remove mayors who sign legal acts in violation of regional law.

The implementation of all these legal possibilities is likely to last between 7 and 23 months. So far, I do not know of any case in which a president of a republic or governor or mayor has been removed or a representative body of a federal subject or municipality has been dissolved on the basis of this law.

Weakening of the Council of Federation

One week later, on August 5, 2000, the bill “On the procedure of the formation of the Council of Federation of the Federal Assembly of the Russian Federation” was passed—after some resistance—in the Council of Federation. With that bill Putin weakened the political importance of the Council. The regions are no longer represented in the Council of Federation by the presidents or governors and the speakers of the regional parliaments, but only by their deputies. However, this is not in contradiction with the constitution, which only mentions two representatives, while not giving closer specification of the persons to be delegated nor the rules of delegation.

The Council of Federation as the upper house of the parliament is the only organ of the state representing the interests of the regions on the central level. According to the new law, the representative of the executive of a federal subject in the Council of Federation is appointed by decree of the president of the republic or governor. Within three days, the head of the executive has to inform the regional parliament about the appointment, which is regarded to be confirmed unless the regional parliament rejects it within three weeks by a two third majority. It is not required that the representative of the executive must be explicitly approved by the parliament. The representative of the legislative in the Council of Federation

is nominated by the speaker of the regional parliament. But an alternative candidate can be nominated by a group of at least one third of the deputies of the regional parliament.

The governor or speaker of the parliament can withdraw the regional representatives from the Council of Federation any time. However, the governor faces the following constriction: the withdrawal of the representative of the executive can be revoked by a vote of two thirds of the deputies of the regional parliament. This means that the senators in their voting behavior have to follow the directives of the bodies who delegated them.

The new members of the Council of Federation can be subdivided into three groups: 65 leading regional officials, 45 leading federal officials and 50 representatives of the economy.² For the latter, membership in the Council of Federation is of particular interest, because it grants them immunity.

These new members of the Council of Federation are developing much less legislative activity than the speakers of the regional parliaments: While the senators launched 213 bills in the State Duma between early 1996 and mid-1998, that figure was only 64 between January 2001 and mid-2004.³

If there was an intention to copy the American system, it would have been better to have the representatives of the regions elected in the same way as the senators in the USA. The State Duma had suggested this but met with disapproval by the presidential administration and the presidents of the republics and governors.

As a compensation for the loss of membership in the Council of Federation, which deprived the governors and speakers of the regional parliaments of an instrument of participation in Moscow, Putin established for the presidents and governors the State Council, where they have an opportunity to meet the president once every three months. But the State Council is only a consultative body with little power.

Agreements on Termination

In 2001, Putin began to conclude agreements with the federal subjects on the termination of the treaties on delimitation of competences between the center and the federal subjects. These treaties had been concluded from 1994 till 1998 bilaterally between Moscow and ten republics, 36 oblasts and autonomous districts and the two federal cities on the legal basis of article 11, paragraph 3 of the constitution, which permits the conclusion of treaties on the delimitation of competences and powers. With the help of these the central government intended to impede or prevent

² Suren Awakjan, "Struktur und Funktion des Föderationsrats im Wandel von El'cin zu Putin," in: Brunner, *Der russische Föderalismus*, p. 141.

³ Margarete Wiest, "Stärkung oder Schwächung des Demokratieprinzips? Der Föderationsrat unter Putin," in: Erich Fritz (ed.), *Rußland unter Putin: Weg ohne Demokratie oder russischer Weg zur Demokratie?* (Oberhausen 2005), p. 38.

efforts of republics—for example Tatarstan—to gain sovereignty and attempts of oblasts—for example Sverdlovsk—to increase their territory. For this purpose the government made concessions which sometimes exceeded the frame of the constitution. Most successful in their claims for greater concessions were those federal subjects which had their own resources of raw materials and a relatively strong economy. This development has been ended by Putin.

Abolition of the Election of Governors

As a consequence of the terrorist attack of Beslan in early September 2004, Putin took some trenchant measures which had been prepared already some time before. Among them is the abolition of the election of governors which was introduced by Yeltsin in 1996 in accordance with the constitution. According to the new law, the representative of the president proposes two candidates, one of whom is chosen by the president to be proposed to the regional parliament for election for governor. If the regional parliament votes against the candidate proposed by the president, a mediation process is started.

Putin wanted, on one hand, to break the rule of some regional presidents and governors who are behaving in their respective regions like tsars. At the same time the new law serves for him as an instrument to remove communist governors who regard their position as unchallengeable. On the other hand, this measure is in line with other steps taken by Putin, such as the curtailment of the power of the Council of Federation and the possibility to oust governors. On the regional level Putin wants to deprive the governors of their power basis, if they oppose the president. Essentially, all these measures are part of a power struggle between the president and the regional leaders.

Thus far, under the new provisions, one governor was removed from office by the president, and two were not confirmed. Concerning other possible victims, the following groups of governors can be distinguished:⁴

- ▶ Six governors who have strong rivals for their post.
- ▶ Fourteen governors who are facing strong internal opposition to be confirmed by Putin.
- ▶ Five governors are openly opposed by the population and the elite so that if they stay in office there is a risk of an “orange or are at odds with the Kremlin but nevertheless have a chance revolution” in their regions.
- ▶ Eight governors are considered to be a challenge to the Kremlin.
- ▶ Four governors who may have a bad reputation but are unlikely nevertheless to be removed.
- ▶ Four governors who have recently been re-elected and feel independent from the Kremlin.

⁴ See Mikhail Vinogradov, “Novaya skhema izbraniya gubernatorov. Pervye itogi i prognozy,” in: <www.politcom.ua>, April 5, 2005.

- ▶ Twenty governors are politically neutral and could easily be challenged by rivals.
- ▶ Thirteen governors who enjoy the full confidence of the Kremlin.
- ▶ Five governors, among them president Mintimer Shaymiyev of Tatarstan, who even before the end of their term in office turned to Putin asking for his consent for their continued stay in office.

In his state of the nation message of April 25, Putin suggested to the Duma that the president propose as candidate for the post of president of a republic or governor of an *oblast* a member of the party that won the regional election. In most cases, of course, this will be a member of the United Russia party.

To sum up, it can be stated that the new law curtailing the power position of the governors has not yet been fully implemented. The question is whether Putin is unwilling or unable to do that.