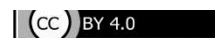


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## THE LAW ENFORCEMENT BY PUBLIC AUTHORITIES

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DOI 10.52468/2542-1514.2025.9(3).25-31



### THE CONSTITUTIONAL DEVELOPMENT OF MODERN RUSSIA

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#### **Article info**

Received –

2025 May 01

Accepted –

2025 June 20

Available online –

2025 September 20

#### **Keywords**

Constitutional development,  
public authority, local self-  
government, Federal Law  
No. 33-FZ, centralization,  
digitalization, inequality

The subject is trends in the constitutional development of modern Russia.

The purpose is to confirm or refute the hypothesis that constitutional principles, including amendments to the Constitution, are a universal tool for responding to modern challenges to the Russian state. They do not determine the specific vector of the country's development.

The methodology of the research includes formal legal interpretation of Russian Constitution and provisions of Russian legislation on self-government as well as content analysis of Russian media.

Main results. The key factors influencing the constitutional development of Russia are highlighted and analyzed. There are the 2020 amendments to the Constitution of Russia, which legally consolidated the unity of public power, and modern challenges to the country's economic system. It is noted that the provisions of the amendments to the Constitution on the unity of public authority are framework and do not predetermine the strengthening of trends in centralization, efficiency and discipline in state building. The tendencies of centralization of public power on the verge of emasculating the very essence of local self-government, its self-governing nature, manifested themselves in the new Federal Law No. 33-FZ dated March 20, 2025 “On the general principles of organizing local self-Government in a unified system of public authority”. The trends of centralization, diligence and discipline in state building are narrowing the “wiggle room” in responding to new challenges, the nature of which is constantly changing, taking into account the phenomenal scientific and technological progress and related social transformations. The unified system of public authority turns into a vertical of power through the use of a purely administrative method. Although the inclusion of local self-government in a single system of public authority in itself made it possible to effectively set up interaction and complicity of local self-government bodies and state authorities. Such interaction is necessary when the direct provision of the vital activity of the population could not be provided solely by one level of government due to limited resources or the complexity of issues that make it difficult to delineate the powers to solve them.

Conclusions. The methodology of constitutional law as a vehicle of constitutional values makes it possible to find answers to the modern challenges of digitalization, inequality and unfair international competition.

Law Enforcement Review  
2025, vol. 9, no. 3, pp. 25–31

## 1. Introduction.

The problems of the constitutional development of the modern Russian state occupy the minds of the most famous constitutionalists [1-4]. In the legal literature, there are trends in building a hybrid constitutional system combining liberal-democratic and monarchical manifestations [5, p. 6]; as well as, on the contrary, a symbiosis of authoritarian and totalitarian tendencies [6, p. 15]; The article substantiates the need to build "a new balanced model of organization of relations between the state, society and the individual based on the values of the rule of law, ensuring their safe, prosperous, innovative development" [7, p. 43]; the need to rely on progressive international experience while preserving the social principles and traditional values of the multinational people of Russia [8, p. 180].

It seems that the constitutional development of modern Russia is conditioned by the action of two main groups of factors of diverse nature. The first is amendments to the constitution approved in 2020; the second is external challenges to the economic system, and hence to the very existence of the Russian state (from the coronavirus pandemic to unprecedented anti-legal measures by unfriendly states).

## 2. The significance of the 2020 constitutional amendments for constitutional development.

Immediately after the approval of the constitutional amendments, the following main groups were reasonably distinguished [9, pp. 28-32]:

1) aimed at strengthening the state sovereignty and territorial integrity of the Russian State (for example, prohibiting actions aimed at alienating the territory of the Russian Federation, establishing the priority of legal force by the Constitution of the Russian Federation over international treaties);

2) aimed at strengthening social rights

and guarantees of their realization (for example, guarantees of a minimum wage not lower than the subsistence minimum, guarantees of compulsory social insurance),

3) related to the transformation of the structure, powers and procedure for the formation of federal government bodies (for example, fixing the constitutional status of the State Council, giving the State Duma the authority to approve the candidacies of deputy prime ministers and "civilian" federal ministers upon the proposal of the Prime Minister, and the Federation Council to consult on the candidacies of the heads of the "power" block),

4) related to the development of the idea of "unity of public authority." As the practice of state building over the past five years shows, it was the last block of ideas about the unity of public power that had the greatest impact on it.

## 3. The essence of the constitutional provisions on the "unity of public authority".

The terms "public authority" and "unified system of public authority" themselves are not explicitly disclosed in the Constitution of the Russian Federation. Also, the Constitution of the Russian Federation does not provide any signs of "public functions", which, according to Article 133, are performed in cooperation with each other by state authorities and local governments that are part of a single system of public authority according to Article 132, nor the principles of such interaction.

There are polar opinions among scholars, both about the acceptability of raising the question of public power itself and about its structure. Since the adoption of Resolution No. 1-P of the Constitutional Court of the Russian Federation dated January 24, 1997 on the Udmurt case, it has been recognized that public power is exercised through the activities of federal government bodies, state authorities of constituent entities of the Russian Federation, as well as local self-government bodies.

When adopting amendments to the Constitution, a number of scientists, including S.A. Avakian, focused on attributing to public

authority also "public authority" - structures of civil society that make legally significant decisions, for example, political parties [10].

By enshrining in Part 1.1 of Article 131 the right of public authorities to participate in the formation of local self-government bodies, the appointment and dismissal of local government officials, the Constitution does not establish the principles of such participation.

Thus, the provisions of the amendments to the Constitution on the unity of public authority are a framework, which provides an opportunity, through ordinary legislative regulation, to strengthen both the trends of decentralization, initiative, self-government, and the model of centralization, efficiency, and discipline in state building.

#### **4. Implementation of the constitutional provisions on the "unity of public authority" in legislation.**

The development of legislation and the practice of its application has followed the second path. Thus, the federal law "On general principles of the organization of public power in the subjects of the Russian Federation" considers the unified system of public power as a set of exclusively bodies: state authorities, other state bodies, local self-government bodies; senior officials of the subjects of the federation are transferred in it practically to the direct subordination of the President of the Russian Federation, even in the sphere related to the implementation of subjects of jurisdiction of the subject of the Russian Federation; The names of the state authorities of the subjects of the Russian Federation have been unified.

To an even greater extent, the tendencies of centralization of public power to the point of emasculating the very essence of local self-government, its self-governing nature, manifested themselves in the new Federal Law No. 33-FZ of 20 March 2025 "On the general principles of organizing local Self-government in a unified system of public Authority." Concerns in this regard have been expressed since the beginning of the

constitutional reform in 2020 [11, p. 25].

First, in the legal definition of "local self-government" (Part 1 of Article 1), the key term "form of people exercising their power" has been replaced by "form of citizens' self-organization", and references to the interests of the population as the purpose of resolving issues of local importance and the need to take into account historical and other local traditions have also been excluded.

Second, the head of a municipal entity will now simultaneously hold a public position in a subject of the Russian Federation, along with a municipal position (Part 20 of Article 19). The consequences of such a combination have not been established by the new law, and the reasons are far from obvious and cannot be justified in any way by the principle of unity of the system of public power, which is referred to in the norm. As stated by the Constitutional Court of the Russian Federation in its Opinion No. 1-Z dated March 16, 2020 on the Law of the Russian Federation on the Amendment to the Constitution of the Russian Federation dated March 14, 2020. No. 1-FKZ, constitutional amendments imply only the functional unity of government bodies, do not imply the inclusion of local governments in the system of public authorities and do not deny the independence of local self-government within its powers.

Third, the highest official of a constituent entity of the Russian Federation gets the right to dismiss the head of a municipality for improper performance of duties related to solving certain issues of local importance (for example, to ensure conditions for the development of physical culture and sports in the territory of a municipality), as well as for the systematic failure to achieve performance indicators of local governments, most Their work is also characterized by the quality of solving issues of local importance (paragraph 2, part 24, Article 21). The limitations of this right are related to the need only to take into account the opinion of a representative body and a moratorium of 1 year from the date the head of the municipality takes office.

Moreover, the highest official of a constituent entity of the Russian Federation has

the right to make a decision on the dismissal of the head of a municipality from office if two or more times they have been submitted to the representative body of the municipality and rejected initiatives to remove the head from office (paragraph 3, part 24, Article 21). The limitations of this right are related to the need to take into account the opinion of the Council of municipalities of a constituent entity of the Russian Federation no earlier than two years after taking office. It is clear that the negative opinion of the representative body (the council of municipalities) about the initiative of the highest official does not legally prevent its implementation.

The fact that the head of a municipality will also hold a public position in a subject of the Russian Federation, and various measures of constitutional and legal coercion may be applied to him by the head of the subject of the Russian Federation, including on issues of local importance, suggests the appearance of legal signs of subordination of the head of the municipality to the head of the subject of the Federation.

Fourth, the law of the subject of the Russian Federation provides for the possibility of redistributing to the state authorities of the subject of the Russian Federation the powers of local self-government bodies to resolve issues of direct support for the vital activity of the population, and vice versa (Part 2.3 of art. 32), which is also typical for administrative relations of official subordination.

Fifth, as a general rule, a two-tier system of organizing local self-government is excluded, which can be preserved "in the subjects of the Russian Federation having socio-economic, historical, national and other features" (Part 7 of Article 9). Moreover, the procedure for such preservation is not prescribed in the law. Such regulation became possible after the exclusion of urban and rural settlements as mandatory types of municipalities from Part 1 of Article 131 of the Constitution of the Russian Federation in 2000. Although the importance of the settlement principle of organizing local self-

government for resolving issues of local importance by the population has been repeatedly drawn to the attention of the Constitutional Court of the Russian Federation (Resolutions No. 1-P of January 24, 1997, No. 15-P of November 30, 2000).

It seems that the trends of centralization, diligence and discipline in state building are narrowing the "room for maneuver" in responding to new challenges, the nature of which is constantly changing, taking into account the phenomenal scientific and technological progress and related social transformations. The inclusion of local self-government in a single system of public authority made it possible to effectively set up the interaction and complicity of local self-government and public authorities in situations where direct support for the vital activity of the population could not be provided solely by one level of government due to limited resources or the complexity of issues that made it difficult to delineate powers to solve them. Instead, a unified system of public authority through the use of a purely administrative method (in the negative manifestation of this term) turns into a power vertical.

## **5. Constitutional response to external challenges to the economic system.**

The major challenges in the Strategy of the same Name, which are the most significant from the point of view of scientific and technological development of the Russian Federation, include (generically): the exhaustion of Russia's economic growth opportunities in the context of the formation of the digital economy and a new technological order; new external threats to national security caused by the growth of international competition and conflict. In recent years, the Russian President has mentioned economic sanctions and a significant income gap among the urgent global challenges.

The answer to these challenges should be to take advantage of the digital transformation that is taking place before our eyes, which some scientists call the fourth industrial revolution. While authorities pay great attention to the digitalization of public administration and regulatory measures to

support the information technology industry, the actual rules that can streamline public relations regarding information technology with the participation of both IT businesses and consumers remain on the periphery of lawmaking.

There is no systematic regulation of the turnover of cryptocurrencies (although there are more than 50 cryptomats for exchanging cryptocurrencies in Moscow), marketplaces and online commerce in general (despite the fact that 30% of the non-food retail market in Russia is accounted for by online commerce, our country in 2022 became the leader in terms of the growth rate of online sales of goods everyday demand ), the use of artificial intelligence and neural networks in economic activities (although they are already used by 44% of large Russian companies and even students in the final certification process ). There are still no effective mechanisms for supporting services that provide settlements using digital currencies with counterparties from friendly countries. In the digital sphere, with which most of the country's population interacts, there is virtually no state authority.

The problem of economic inequality, which has worsened in the face of new challenges, cannot be solved only by targeted support for social groups in need. There remains significant inequality between the regions of the country both in terms of gross regional product per capita (they vary almost threefold between individual regions) and in terms of income of residents. Accordingly, budgetary regulation needs to be improved, taking into account constitutional principles.

## **6. Conclusions.**

Constitutional law, as the vehicle of constitutional values and the fundamental basis for the realization of state sovereignty, has a special role in the development of the state, combining axiological, teleological and coordinating principles.

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**BIBLIOGRAPHIC DESCRIPTION**

Kostyukov A.N. The constitutional development of modern Russia. *Pravoprimerenie = Law Enforcement Review*, 2025, vol. 9, no. 3, pp. 25–31. DOI: 10.52468/2542-1514.2025.9(3).25-31. (In Russ.).