

FORMATION AND DEVELOPMENT OF THE HIGHEST STATE AUTHORITIES OF THE DONETSK PEOPLE'S REPUBLIC AND THE LUHANSK PEOPLE'S REPUBLIC FROM SELF-DECLARATION TO ADMISSION TO THE RUSSIAN FEDERATION**

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The subject of this study is a scientific understanding of the formation and development of the supreme state authorities of the People's Republics of Donbass (DPR, LPR) as unrecognized states from the time of their self-declaration in 2014 to their admission to the Russian Federation in 2022.

The purpose of the study is to identify the main features, stages of formation and development of institutions of supreme state power (the head of state, parliament, government and courts) in the republics of Donbass in the period from 2014 to 2022.

The methodological basis of the research was a wide range of general and special methods of scientific cognition. Dialectical, analysis and synthesis, induction and deduction were used as general scientific methods. Comparative-legal, system-structural and formal-legal methods were used as special methods. General scientific methods, especially dialectical ones, allowed us to study the factors and the process of evolution of the constitutional status of the supreme state authorities of the DPR and LPR in the conditions of military confrontation with the mother state and political rapprochement with Russia. Using the comparative legal method, a comparative analysis of the status of the highest state authorities of the DPR, LPR and the Russian Federation was carried out. The system-structural method was used in the study of intra-system changes in the constitutional status of the studied authorities. With the help of the formal legal method, a study of normative legal sources was conducted, which made it possible to form the logic of the presentation of the material and the conceptual apparatus of the declared topic.

The procedure for the formation and activities of the state authorities of the DPR and LPR are regulated by an array of legal acts, the norms of which reflect both the identity of the power institutions of the republics of Donbass and the tendency to the reception of constitutional and legal institutions existing in Russia. This allows us to state with confidence the presence of a number of features in the process of evolution of the highest state authorities of the republics of Donbass, which reflect the focus on integration with a more developed state system of Russia, the formation in a short historical time, the proximity of the mechanism of organization and content of the competence of the highest state authorities of the two republics, caused, including their formation in the conditions of the special the legal regime of martial law.

The results of the study can be useful at the present stage of integration of new subjects of the Russian Federation into the legal system of the Russian Federation and into the system of its state authorities.

The conclusion is reasoned that the transformation of the institutions of the supreme power of the republics of Donbass has passed two stages and is currently in the third. The first stage is characterized by the formation of its own republican system of supreme state authorities (2014-2018). The second stage is characterized by further improvement and transformation of the status of the supreme state authorities of the republics against the background of increased Russian legal influence (November 2018-2022). The third stage is explained by the adoption of the DPR and the LPR into our state in September 2022 and the beginning of systematic work to change legislation regarding the creation of higher state authorities of new subjects of Russia.

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1. Introduction

The prerequisite for the formation of a system of state authorities of the republics of Donbass, separate from the "mother" state, was a protracted political crisis in Ukraine, as a result of which the President of Ukraine signed a Decree on the implementation of the decision of the National Security and Defense Council of Ukraine dated 04.11.2014 on 15.11.2014. "On urgent measures to stabilize the socio-economic situation in Donetsk and Luhansk regions", according to which the activities of state-owned enterprises, institutions and organizations have been discontinued in the territories of the "anti-terrorist operation" [1, p. 107]. The factor of the aggravated political instability in Ukraine contributed to the formation of statehood in the territories of Donbass, oriented to the "Russian world" [2, p. 228]. In addition, as emphasized in the address¹ of the President of Russia dated 02/21/2022, "Ukraine, in fact, has never had a stable tradition of its true statehood. Political state institutions were constantly being reshaped in favor of rapidly formed clans with their own selfish interests that have nothing to do with the interests of the people of Ukraine" [3, p. 27]. The above actualizes the scientific and practical interest in understanding the specifics and trends of the development of the highest state authorities of the Donetsk and Lugansk People's Republics from May 2014 until admission to the Russian Federation in September 2022.

We believe that in their development, the highest state authorities of the DPR and the LPR have passed several stages, each of which has its own specifics due to the dynamics of current external and internal political changes [4]. The lower chronological boundary of the first stage is the self-declaration of the DPR and the LPR in April 2014 and the operational formation of the system of supreme state authorities of the people's republics of Donbass.

The second stage, from the end of 2018 to 2022, is characterized by the expansion of the

reception of the Russian experience in the formation of higher state authorities. This vector especially intensified after February 2022, when the Russian Federation officially recognized the republics of Donbass as subjects of international law and launched a special military operation on the territory of Ukraine. An indicative watershed between the stages was the constitutional reforms in the DPR and the LPR at the turn of 2018-2019, when numerous amendments were made to the constitutions of the republics on the relationship between the highest state authorities, copying the model of relations between the President of the Russian Federation, the State Duma and the Government of the Russian Federation.

The third stage, which is currently ongoing, is legally separated by the fact of the inclusion of the territories of the DPR, LPR, as well as the Zaporozhye and Kherson regions on 30.09.2022 into Russia.

2. Legislative power in the Donetsk and Lugansk People's Republics

In March 2014, the Coordination Council of the Donetsk region was established on the territory of the Donetsk region of Ukraine, on 07.04.2014, on its initiative, a Congress of representatives of territorial communities, political parties and public organizations of the Donetsk region of Ukraine was held, from among them a Council of Representatives was formed [5, p. 274]. It was the Council at the meeting on 07.04.2014 that approved the texts of the Declaration of Sovereignty and the Act of Proclaiming the state Independence of the DPR. The main prerequisites for the proclamation of the state independence of the DPR in the relevant Act are indicated: the commission of a coup d'etat in Ukraine by illegal paramilitary formations; the formation of an enemy image from the fraternal Russian people; the non-recognition by residents of the Donetsk region of illegal decisions of the criminal authorities [6, p. 6].

As V.V. Gruzdev notes, residents of the Luhansk region of Ukraine after the coup d'etat in Kiev also began to form institutions "transforming public power into state power" [7, p. 14]. On 27.04.2014, the Coordination Council of the Luhansk Region of Ukraine proclaimed the Declaration on the

¹ Address of the President of the Russian Federation dated 02/21/2022 // <http://kremlin.ru/catalog/countries/UA/events/67828> (accessed 05.03.2023)

Sovereignty of the LPR and the Act of Proclaiming the state Independence of the LPR.

The first legislative body of state power in the DPR – the Supreme Council was created on 14.05.2014, on the same day it adopted the Constitution of the DPR. On September 24, 2014, the Supreme Council adopted the laws "On Elections of Deputies of the People's Council of the Donetsk People's Republic" and "On elections of the Head of the Donetsk People's Republic". Thus, the first parliament ensured a legitimate transition from temporary state authorities to democratically elected and permanent institutions [8, p. 39].

The People's Council of the DPR is the permanent supreme and only legislative (representative) body of state power of the DPR, is elected by secret ballot on the basis of universal equal and direct suffrage for a period of 4 years, consists of 100 deputies (Article 63 of the Constitution of the DPR as amended on 14.05.2014). Law of 29.12.2017 No.205-INS term of office increased to 5 years. The Constitution of the DPR establishes the following requirements for deputies: the presence of citizenship of the DPR, reaching the age of 21, the presence of passive suffrage [9, p. 233].

The "rule-making" powers of the Parliament of the DPR include the adoption of the Constitution of the DPR and the laws of the DPR, the approval of the budget, the establishment of taxes, etc.; the powers in the field of "norm control" - the interpretation of the Constitution of the DPR and the laws of the DPR; monitoring compliance and enforcement of laws, compliance with the established order of disposal of the property of the DPR, etc.; the powers that ensure functioning of the mechanism of "checks and balances" – hearing the annual reports of the Prime Minister on the results of the activities of the Government of the DPR; appointment of elections of deputies of the People's Council of the DPR and elections of the Head of the DPR, etc.; other powers include the establishment of the administrative-territorial structure of the DPR and the procedure for changing it; appointment of a referendum of the DPR; approval of budgets of state extra-budgetary funds of the DPR and reports on their execution, etc. [11, p. 98].

In the LNR, in the text of the Provisional Basic Law of 18.05.2014, the parliament was called the Supreme Council of the LNR, the name of the parliament was changed by Law No. 22-I of 24.09.2014 to the "People's Council of the Luhansk People's Republic". The People's Council of the LPR is the permanent supreme and only legislative (representative) body of state power of the LPR, elected by secret ballot on the basis of universal equal and direct suffrage for a period of 5 years, consists of 50 deputies (Articles 63, 64 of the Constitution of the LPR as amended on 06.09.2018). The Constitution of the LPR establishes similar requirements for deputies as the Constitution of the DPR (in the original version, a higher age limit (25 years). The LNR Parliament, according to the LNR Constitution as amended on 06/03/2020, is endowed with a similar range of powers as the DNR Parliament [12, p. 128]. There are differences with the DPR in terms of the number of deputies, with the Russian Federation – in terms of the lack of division of parliament into chambers. As V.A. Sichkar notes, "the genesis of parliamentarism in the DPR and Russia reflects ethnic kinship, mental similarity, a close level of socio-economic development and similar political processes in neighboring states, which is due to the similarity of the formation of statehood" [13, p. 153].

3. Heads of Donetsk and Lugansk People's Republics

The institution of the head of state in the DPR has specific features – political neutrality, not belonging to any of the branches of government, an extensive range of powers in internal and external affairs of the state [14, p. 217]. In the original version of the Constitution of the DPR, Part 2 of Article 56 did not provide for the functions of the head as a guarantor of the constitution, human and civil rights and freedoms. By Law No. 01-IINS of 30.11.2018², this norm is set out by analogy with Article 80 of the Constitution of the Russian Federation, which indicates the reception of the norms of Russian legislation into the legal system of the DPR.

² The official website of the People's Council of the DPR.
URL: <https://dnrsovet.su/zakonodatel'naya-deyatelnost/dokumenty-verhovnogo-soveta-dnr/konstitutsiya> / (accessed 22.02.2023).

The legal status of the head of the DPR has noticeably transformed over time. Thus, in part 1 of Article 56 of the original version of the Constitution of the DPR, the head was the highest official and head of the executive power of the DPR. By the Law of 30.11.2018 No. 01-IINS, the head of the DPR received the status of head of state. We believe that this change is due to the need for further integration into the Russian legal system.

The powers of the head of the DPR are extensive and have also undergone changes over the period from 2014 to 2018. Thus, at the initial stage, the powers of the head of the republic included (Article 59 of the Constitution of the DPR of 14.05.2014): ensuring respect for human rights and freedoms, the Constitution and laws of the DPR; forming the Council of Ministers of the DPR and deciding on his resignation; taking measures to ensure the security and territorial integrity of the DPR, granting pardons; submission to the People's Council of the DPR of the candidacy of the Chairman of the National Bank, other officials in accordance with their powers, etc. [15, p. 125].

The Law of 30.11.2018 No. 01-IINS excluded the authority to form the Council of Ministers of the DPR from the powers of the Head of the DPR, instead, he was given the authority to appoint, with the consent of the People's Council of the DPR, the Chairman of the Government of the DPR, to appoint, on the proposal of the Chairman of the Government of the DPR, and to dismiss his deputies, ministers, heads of other republican executive authorities DNR. The head of the DPR has the authority to determine the system and structure of the executive authorities of the DPR.

The legal status of the Head of the LPR is in many ways similar to the legal status of the Head of the DPR, since the formation of the DPR and the LPR is due to the same reasons, took place in a similar socio-political environment and had identical guidelines for further development. The differences were revealed in the term of office, the age limit for election to the post of head of the Republic. Thus, in the original version of the Provisional Basic Law of the LPR of 18.05.2014, Article 57 established that the head of the LPR is elected for a term of five years and cannot hold

this position for more than two consecutive terms. The head of the LPR may be elected a citizen of the LPR who, in accordance with the Constitution and the law of the LPR, has passive suffrage, does not have citizenship of a foreign state and has reached the age of 35 years [16, p. 236].

4. Executive power in the Donetsk and Lugansk People's Republics

The formation of the legal status of the Government of the DPR is associated with the first stage of the development of the statehood of the self-proclaimed republic, the completion of the formation of its legal status occurred in the period from 2018 to October 2022 (the second stage). According to Article 75 of the Constitution of the DPR, as amended on 30.11.2018. The Government of the DPR is the permanent supreme and only executive body of the state power of the DPR. However, in the original version of the Constitution of the DPR, the Council of Ministers of the DPR was defined as the permanent supreme executive authority (Part 2 of Article 75).

According to Part 4 of Article 75 of the Constitution of the DPR, as well as Article 5 of the Law on the Government of the DPR of 30.11.2018, the Government consists of the Chairman of the Government of the DPR, his deputies, ministers. By the decision of the Head of the DPR, the heads of other republican executive authorities of the DPR may be included in its composition. It is important to emphasize that paragraph 4 of Article 75 as amended by the Constitution of the DPR dated 14.05.2014. He consolidated a more complete composition of the Council of Ministers of the DPR, which also included the Head of the DPR, first deputies and deputy Heads of the DPR, but in the event that the Head of the DPR did not combine his position with the post of Chairman of the Council of Ministers of the DPR. This is due to the desire of the self-proclaimed republic to adhere to the course of independent development of statehood, especially at the first stage of the formation of the DPR.

The formation of the Government of the DPR is determined by Article 76 of the Constitution of the DPR, the specification of which is contained in the norms of Chapter 2 of the Law on the Government of the DPR of 30.11.2018. Accordingly, the Chairman of the Government of the DPR is appointed by the

Head of the DPR with the consent of the People's Council of the DPR. The Chairman of the Government of the DPR, no later than 10 days, proposes candidates for deputies, ministers and heads of other republican executive authorities of the DPR, who are appointed and dismissed by the Head of the DPR.

The DPR government has significant powers, which have undergone a number of changes from 2014 to 2018. The powers of the Council of Ministers of the DPR, enshrined in the original version of the Constitution of the DPR, were extensive and had an open list. The powers of the Government of the DPR, enshrined in Article 77 of the Constitution of the DPR (as amended on 30.11.2018), are specified in Chapter 3 of the Law on the Government of the Donetsk People's Republic of 30.11.2018³. In Article 13 of this act, the general powers of the Government of the DPR are highlighted: organization and implementation of domestic and foreign policy; implementation of regulation in the socio-economic sphere; ensuring the unity of the executive power system in the DPR, etc. [17, p. 128]. Along with the general powers of the Government of the DPR, Articles 14–21 of the Law on the Government of the DPR define the powers in various fields of activity.

The legislative norms of Chapter 6 of the Constitution of the DPR were also detailed in the Law of 24.04.2015 No. 35-IHC "On the system of executive authorities of the Donetsk People's Republic". Unlike the Russian system of executive authorities, Article 9 of the said Law of the DPR significantly expands the system of executive authorities of the DPR. It includes the Government, ministries, state committees, services, agencies, inspections and other executive authorities of the DPR [18, p. 107]. The legislator laid the basis for the construction of the system of executive authorities of the DPR on the functional principle, according to which administrative reform was carried out in Russia [19]. However, unlike the

system of executive authorities of the Russian Federation, there is no clear structuring of functions in the Law of the DPR, which introduces dissonance into the construction and functioning of the system of executive authorities of the DPR.

The legal status of the Government of the LPR is in many ways similar to the legal status of the Government of the DPR. The Government of the LPR, according to paragraph 2 of Article 75 of the Constitution of the LPR, is the permanent supreme executive body of the state power of the LPR. At the same time, there are some peculiarities of securing the legal status of the Government of the LPR. In the text of the Provisional Basic Law of the LPR of 18.05.2014 The Council of Ministers of the LNR was also called the Government of the LNR (Article 6). However, the Council of Ministers of the LNR finally became known as the Government of the LNR from 31.07.2019 according to art. 48 of the Law on the Government of the LPR of 31.07.2019⁴ and Article 6 of the Constitution of the LPR as amended on 31.07.2019. According to the norms of the Constitution, as amended. from 18.05.2014 (paragraph 3 of Article 75), when forming the Council of Ministers of the LPR, an expanded version of the composition of the Council of Ministers was not applied, as in the DPR (paragraph 4 of Article 75 of the original version of the Constitution of the DPR). The powers of the Council of Ministers of the LPR, established in Article 77 of the original version of the Constitution of the LPR, were fully reproduced in Article 77 of the Constitution of the LPR on 31.07.2019. In Article 12 of the Law of the LPR of 25.06.2014 No. 14-I⁵ "On the system of Executive bodies of State Power of the Luhansk People's Republic" delineated the functions of ministries and state committees in accordance with the functional principle of building the system of

³ The Law on the Government of the DPR dated 30.11.2018 No. 02 – IINS (as amended. from 04/24/2020) The official website of the Government of the DPR. URL: <https://pravdnr.ru/npa/zakon-doneczkoj-narodnoj-respubliki-o-pravitelstve-doneczkoj-narodnoj-respubliki/> (accessed 22.02.2023).

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⁴ The Law on the Government of the LPR of 31.07.2019 No. 77-III (as amended on 25.12.2020) Official website of the People's Council of the LPR. URL: <https://nslnr.su/zakonodatelstvo/normativno-pravovaya-baza/9345/>.

⁵ The Law on the system of Executive bodies of state Power of the LPR of 25.06.2014 No. 14-I (as amended. dated 31.07.2019) The official website of the People's Council of the LPR. URL: <https://нслнр.su/legislation/regulatory-framework/600/>.

executive bodies of state power of the Russian Federation [20, p. 79].

5. Judicial power in the Donetsk and Lugansk People's Republics

The formation of the judicial system of the DPR, as noted by the first Chairman of the Supreme Court of the DPR, E.N. Yakubovsky, took place in wartime conditions, when the judicial system of Ukraine on the territory of the former Donetsk region actually ceased to exercise its functions. The primary task of the new judicial system was to create reliable mechanisms to ensure the protection of citizens' rights, the interests of society and the state [21, p. 109].

According to the official website of the Supreme Court of the DPR⁶, the formation of the judicial system of the DPR began with the approval and entry into force of the Decree of the Council of Ministers of the DPR dated 17.08.2014 No. 27-1 of the Regulations on Military Courts of the DPR. 22.10.2014 The Council of Ministers of the DPR adopted Resolutions No. 40-1 "On the establishment of the judicial System" and No. 40-2 "On the judicial System" On the basis of the latter, a Temporary Regulation on the judicial System was approved, which regulated the tasks and principles of justice, requirements for judges, people's assessors, the composition of the court, the procedure for empowering judges, the court system, etc. [22, p. 231].

In 2018, a new stage in the development of the judicial system of the DPR began, marked by the adoption by the People's Council of the DPR on 31.08.2018 of the DPR laws No. 241-IHC "On the judicial system of the Donetsk People's Republic" and No. 242-IHC "On the status of Judges".

Effective 01.01.2019 The Law "On the Judicial System of the Donetsk People's Republic" provides for a different structure of the judicial system of the Republic: it was supposed to create the Constitutional Court of the DPR after making the corresponding amendment to the Constitution of the DPR, the Military Court of the DPR was established (instead of the Military Field Court of

the DPR), as well as the Appeals Chamber of the Supreme Court of the DPR as the judicial Chamber of the Supreme Court of the DPR. As of 03/17/2020, the judicial system of the DPR was represented by courts of 4 instances and actually included the following courts: the Supreme Court of the DPR; courts of general jurisdiction: district, city, inter-district courts of the DPR; Arbitration Court of the DPR; Military Court of the DPR [23, p. 96].

On 15.01.2020, the People's Council of the DPR adopted the laws of the DPR No. 92-IIHC "On the Supreme Court of the Donetsk People's Republic" and No. 93-IIHC "On the Judicial Department at the Supreme Court of the Donetsk People's Republic". The Supreme Court of the DPR is the highest judicial body for civil, arbitration, criminal, administrative and other cases, courts of jurisdiction formed in accordance with the Law "On the Judicial System of the Donetsk People's Republic" and other laws.

According to Part 2, 3 of Article 4 of the Law of the LNR "On the Judicial System" dated 30.04.2015 No. 18-II⁷ (as amended. dated 09/25/2020 No. 195-III) in the LPR there are courts of general jurisdiction, magistrates who are judges of general jurisdiction, the Arbitration Court of the LPR, the Supreme Court of the LPR, which make up the judicial system of the LPR. In addition, there is a separate law of the LNR "On the Supreme Court of the Luhansk People's Republic" dated 29.05.2015. No. 35-II, according to which the Supreme Court of the LPR is the highest judicial body for civil cases, cases for the settlement of economic disputes, criminal, administrative and other cases, courts of jurisdiction formed in accordance with the Law of the LPR "On the Judicial System" [24, p. 86]. In general, the powers of the judicial system of the DPR and the LPR are similar, there is an extensive system of courts.

Despite the situation of martial law, quite active judicial work is observed in the republics of Donbass. Thus, according to the official judicial statistics of the DPR⁸ in 2015, the DPR courts

⁶ The official website of the Supreme Court of the DPR. URL: <https://supcourt-dpr.ru/istoricheskij-formulyar> (accessed 24.02.2023).

⁷ The Law of the LPR "On the judicial system" dated 30.04.2015 No. 18-II. The official website of the People's Council of the LPR. URL: <https://nslnr.ru/zakonodatelstvo/normativno-pravovaya-baza/939/> (accessed 24.02.2023).

⁸ The official website of the Supreme Court of the DPR. URL: <https://supcourt-dpr.ru/stat> (accessed 24.02.2023).

considered 52,857 cases. For comparison, for the period from January to October 2022, the DPR courts considered 68,642 cases, which indicates a tendency to increase the number of cases considered.

6. Conclusion

Thus, as a result of the study, the main features, stages of formation and dynamics of development of institutions of state power in the republics of Donbass are revealed. The procedure for the formation and activities of the state authorities of the DPR and LPR are regulated by an array of legal acts, the norms of which reflect both the identity of the power institutions of the republics of Donbass and the tendency to borrow legal institutions existing in Russia. The above allows us to state with confidence the presence of a number of features in the process of formation and development of the highest state authorities of the republics of Donbass. These features reflect the focus on integration with the more developed state system of Russia, the proximity of the pace of formation and content of the competence of the highest state authorities of the two republics, caused, among other things, by their formation under the special legal regime of martial law. In general, we should agree with E.V. Okhotsky, G.A. Borshchevsky is convinced that the self-proclaimed republics of Donbass have built "a sufficiently flexible and with great organizational and mobilization potential system of public administration" [25, p. 53]. The republics have passed two stages in their development and are currently in the third. The first stage is characterized by the formation of its own republican system of supreme state authorities (2014-2018). The second stage is characterized by further improvement and transformation of the highest state authorities of the republics against the background of increased Russian legal influence (November 2018-2022). The third stage is explained by the adoption of the DPR and LPR into our state in September 2022 and the beginning of systematic work to change legislation regarding the creation of higher state authorities of new subjects of Russia.

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