



THE CONSTITUTIONAL AND LEGAL STATUS OF THE HEADS AND GOVERNMENTS OF THE DONETSK AND LUHANSK PEOPLE'S REPUBLICS: TRANSFORMATION AFTER THE REPUBLICS WERE ADMITTED TO THE RUSSIAN FEDERATION**

Evgeny S. Anichkin, Ivan Yu. Mankovskiy

Altai State University, Barnaul, Russia

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The subject of this article is the scientific awareness of the transformation of the constitutional and legal status of heads and governments as executive authorities of the Donetsk (DPR) and Lugansk People's Republics (LPR) after their admission to the Russian Federation. The purpose of the study is to identify and characterize the peculiarities of the transformation of the constitutional and legal status of the heads and governments of the new regions of Russia.

The methodological basis of the article is a set of general and special methods of cognition. Among the general scientific methods: dialectical, analysis, synthesis. They formed the basis for the study of the development of the constitutional and legal status of the heads and governments of the DPR and LPR after joining Russia as new subjects. The special research methods were comparative legal, formal legal and systemic structural. When conducting a comparative analysis of the constitutional and legal status of the heads and governments of the DPR and the LPR, a comparative legal method was used. The study of normative legal sources was based on the formal legal method. Intrastructural changes in the formation and structure of heads and governments were considered in accordance with the system-structural method.

The regulatory and legal basis of the study was made up of federal and regional (primarily, the DPR and the LPR) normative legal acts reflecting the peculiarities of the transformation of the constitutional and legal status of the heads and governments of the DPR and the LPR in the process of becoming part of Russia.

The results of the study were manifested in the identification of the peculiarities of the transformation of the constitutional and legal status of the heads and governments of the DPR and LPR; the formation of the heads of new subjects of the Russian Federation according to the second model of the organization of the highest executive bodies of state power in the subject of the Russian Federation; the identification of general and specialized powers of the heads of the DPR and LPR; the allocation of two groups of decrees of the heads of the DPR and LPR; the transformation of the composition of governments DPR and LPR; identification of the general and special powers of the governments of the DPR and LPR. Conclusions. That the actual legal regulation of the organization and activities of the heads and governments of the DPR and LPR is carried out in accordance with the constitutional and legal norms of the Russian Federation, taking into account the historical features of the new subjects of the Russian Federation.

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1. Introduction

In the period from 2014 to 2022, the self-proclaimed Donetsk People's Republic (hereinafter – the DPR) and the Luhansk People's Republic (hereinafter - the LPR) went through a difficult path of development, expressed in the constant search for the optimal model of building state power [1, p. 228]. In the constitutional legislation of the DPR and the LPR, which consolidated, among other things, the legal status of executive bodies of state power, there is a reorientation towards maximum convergence with the foundations of the organization of state power in Russia [2, pp. 36-37; 3, p. 99].

The final "point of reorientation" of the self-proclaimed DPR and LPR can be considered October 5, 2022, when the Federal Constitutional Law "On the Admission of the Donetsk People's Republic to the Russian Federation and the Formation of a new subject within the Russian Federation – the Donetsk People's Republic" (hereinafter referred to as the FKZ "On the DPR") and the Federal Constitutional Law "On the Adoption of to the Russian Federation of the Luhansk People's Republic and the formation of a new entity within the Russian Federation – the Luhansk People's Republic" (hereinafter – the FKZ "On the LPR"). These acts predetermined fundamental changes in the state and legal institutions of the newly annexed territories that entered the period of transition [4, p. 43]. The transformations affected all public authorities of the newly formed subjects of Russia [5, p. 148]. This is due to the fact that the regional legislation of the newly annexed subjects of the Russian Federation had to be brought into line with the provisions of the Constitution of the Russian Federation and the Federal Law "On General Principles of the Organization of Public Power in the subjects of the Russian Federation", which establish the

basic principles of the organization of state power in the regions of Russia [6, p. 115].

That is why in the newly annexed subjects of Russia, in accordance with the legislation of the Russian Federation, legislative acts were adopted that consolidate the legal status of state executive authorities in the DPR and LPR [7, p. 33]. On December 30, 2022, the parliaments of the DPR and the LPR adopted the Constitutions of the DPR and the LPR, respectively [8. p. 63]. The basis of the legal framework for the formation and functioning of state executive authorities of the people's republics also consists of: the Federal Law of December 21, 2021 "On General principles of the organization of public power in the subjects of the Russian Federation" ; the Law of the DPR of August 28, 2023 "On the procedure for electing the Head of the Donetsk People's Republic"; the Law of the LPR of August 18, 2023 "On the procedure for electing the Head of the Luhansk People's Republic"; The Law of the DPR of September 29, 2023 "On the Government of the Donetsk People's Republic" ; The Law of the LPR of March 30, 2023 "On the Government of the Luhansk People's Republic" and a number of other acts.

We believe that after the admission of the DPR and LPR into the Russian Federation, there was an update in the consolidation and implementation of the legal status of heads, governments and other executive authorities of new subjects in accordance with established Russian traditions of formation, structuring, and empowerment of executive bodies of state power of subjects.

Due to the absence of cardinal differences in the legal status of heads of government as executive authorities of the DPR and the LPR, the executive authorities of the DPR are considered. In case of a discrepancy between the constitutional and legal statuses of these bodies and the relevant bodies of the LPR,

differences will be given.

2. The heads of the Donetsk and Lugansk People's Republics

Constitutional construction in two maximally similar people's republics took place simultaneously [9, p. 45]. Nevertheless, when referring to the norms of the Constitutions of the DPR and the LPR, the fact that these acts have certain structural differences concerning the constitutional and legal status of the heads of the new subjects reveals itself [10, p. 85]. Thus, in the Constitution of the DPR, Chapter 4, devoted to the constitutional and legal status of the Head of the DPR, precedes Chapter 5 on the constitutional and legal status of the People's Council of the DPR. On the contrary, the Constitution of the LPR first establishes in Chapter 4 the constitutional and legal status of the People's Council of the LPR and only after that fixes the legal status of the Head of the LPR. At first glance, this may indicate the special position of the Head of the DPR in comparison with the Head of the LPR. It is even possible to talk about an attempt to copy the model of consolidating the constitutional status of the Head of the DPR from the model of the legal status of the President of the Russian Federation. However, when referring to the constitutional norms regulating the legal status of the Heads of the DPR and LPR, no significant differences are found [11, p. 48].

Attention should be paid to the fact that the Federal Law of December 21, 2021 "On the general principles of the organization of public power in the subjects of the Russian Federation" [12, p. 40] in Article 32 establishes two models of the organization of the supreme executive authority in the subjects of Russia. According to the first model, the highest official of the subject of the Russian Federation heads the highest executive body of state power of the subject of Russia. The second

model implies that, along with the highest official of the subject of the Russian Federation, there is a position of the head of the supreme executive body of the subject of the Russian Federation, established by the highest official of the relevant subject. In the DPR and LPR, it was the second model of building executive power that was chosen.

According to the provisions of Chapter 4 of the Constitution of the DPR, the Head of the Donetsk People's Republic (hereinafter – the Head of the DPR) is the highest official of the DPR and directs the executive branch [13, p. 15]. However, after the TNR joined Russia, the legal status of the Head of the DPR significantly narrowed [14, p. 35]. According to the Law of November 30, 2018 "On the Government of the Donetsk People's Republic", the Head of the DPR had the status of head of state. We believe that this is due to the need for integration with a more developed state system of executive power of the Russian Federation.

The head of the DPR is elected by deputies of the People's Council of the DPR. A candidate for the post of Head of the DPR may be a citizen of the Russian Federation who has reached the age of 30, does not have citizenship (citizenship) of a foreign state or a residence permit or other document confirming the right to permanent residence of a citizen of the Russian Federation on the territory of a foreign state, who has a passive electoral right in accordance with Russian legislation.

In accordance with the provisions of Articles 22 and 23 of the Federal Law "On General Principles of the Organization of Public Power in the Subjects of the Russian Federation", two models of election to the position of the highest official of the subject of the Russian Federation are provided. According to the first model, the election of the highest official in the subject of the Russian Federation is carried out by citizens residing in the territory of the subject on the basis of universal equal

and direct suffrage by secret ballot (used in the vast majority of regions of Russia). The second model assumes the election of the highest official of the subject of the Russian Federation by deputies of the legislative body of the subject of the Russian Federation. In the DPR and LPR, the second model was chosen, that is, the model of indirect elections.

In accordance with Article 51 of the Constitution of the DPR and the Law of the DPR dated August 28, 2023 "On the procedure for electing the Head of the Donetsk People's Republic", the Head of the DPR is elected by deputies of the People's Council of the DPR by secret ballot, using ballots, from among three candidates submitted by the President of the Russian Federation, on the second Sunday of September of the corresponding year. The candidate for whom the majority of the established number of deputies of the People's Council of the DPR voted is considered elected, and if no candidate has received the required number of votes, a repeat vote is held for the two candidates with the highest number of votes. The decision on the election of the Head of the DPR is formalized by a resolution of the People's Council of the DPR and is subject to official publication within three days. The newly elected Head of the DPR takes office and takes the oath of allegiance to the people. The term of office of the Head of the DPR is calculated from the date of taking the oath and is 5 years.

One of the most significant elements of the constitutional and legal status of the Head of the DPR is his powers, which can be classified into general powers (Article 50 of the Constitution of the DPR) and specialized powers (Article 53 of the Constitution of the DPR). General powers include, firstly, taking measures to protect human and civil rights and freedoms; secondly, ensuring the coordinated functioning and interaction of public authorities; thirdly, representing the DPR in

external relations; fourthly, signing contracts and agreements on behalf of the DPR.

Specialized powers are represented by two groups: powers related to the organization and activities of executive authorities and powers establishing interaction with the legislature. Since the Head of the DPR manages the executive power in the DPR, the first group of powers is more extensive. It includes such powers as: firstly, the formation and definition of the main areas of work of the Government of the DPR; secondly, the formation, reorganization and liquidation of the executive bodies of the DPR; thirdly, after consultation with the People's Council of the DPR, appointment to the post of Chairman of the Government of the DPR; fourthly, appointment to positions, on the proposal of the Chairman of the Government of the DPR, deputies and ministers; and others. The second group of powers is less voluminous and includes such as: submitting to the People's Council of the DPR an annual report on the results of the activities of the Government of the DPR; the right of legislative initiative in the People's Council of the DPR; appointment of a senator of the Russian Federation from the executive body of the state authority of the DPR; signing and promulgation of the laws of the DPR.

According to Article 54 of the Constitution of the DPR, the Head of the DPR issues decrees and orders to exercise his powers. However, following Article 26 of the Federal Law "On General Principles of the Organization of Public Power in the Subjects of the Russian Federation", the Constitution of the DPR in Article 54 reproduces a very controversial provision. Thus, in Part 1 of Article 54 of the Constitution of the DPR, the phrase "... on the basis and in pursuance of the Constitution of the Russian Federation, federal laws ..." is used in relation to the acts of the Head of the DPR. according to this part of the article, the acts of the Head of the DPR have a

pronounced subordinate nature and they cannot carry out primary regulatory legal regulation. However, Part 2 of Article 54 uses the phrase "... should not contradict the Constitution of the Russian Federation, federal constitutional laws, federal laws ..." in relation to the acts of the Head of the DPR, which indicates the possibility of implementing primary legal regulation by decrees of the Head of the DPR.

Here it is worth paying special attention to the fact that the Constitution of the Russian Federation uses these phrases in relation to various acts. Thus, according to Part 3 of Article 90 of the Constitution of the Russian Federation, the phrase "... must not contradict" is used in relation to decrees and orders of the President of the Russian Federation, and according to Part 1 of Article 115 of the Constitution of the Russian Federation, the phrase "... on the basis and in execution ..." is given in relation to resolutions and orders of the Government of the Russian Federation. Thus, the legislator clearly distinguishes the significance of acts according to their legal force. Some acts are of a dual nature and may be acts of both primary regulation and acts of a subordinate nature (decrees of the President of the Russian Federation) [15, pp. 45-48], while others (resolutions of the Government of the Russian Federation) only disclose the provisions of existing normative legal acts of higher legal force, that is, they have a derivative character.

We believe that this provision further emphasizes the dual nature of the decrees of the Head of the DPR and divides them into two groups. The first group includes acts of the Head of the DPR adopted in the development of current legislation, i.e. clarifying and developing its provisions. The second group should include acts adopted in the order of primary regulation of public relations, i.e. those that are not prescribed by acts with

greater legal force. Such acts, as a rule, are adopted in the order of operational regulation of previously unregulated public relations.

However, this does not limit the variety of acts of the Head of the DPR. When referring to Part 4 of Article 15 of the Law of the DPR "On the Government of the DPR", we note that resolutions and orders of the Government of the DPR, in the absence of the Chairman at a meeting of the Government of the DPR, are signed either by the person acting as his duties or by the Head of the DPR. In fact, this is the third type of acts of the Head of the DPR, which once again confirms his exceptional position.

Thus, the Head of the DPR is a key link in the system of authorities, carries out "a kind of constitutional arbitration" at the level of the subject of the Russian Federation, expressed in ensuring the coordinated functioning and interaction of public authorities in the DPR, has an extensive range of powers and is integrated into the Russian system of public authority.

3. The Governments of the Donetsk and Lugansk People's Republics

As mentioned above, Article 70 of the Constitution of the DPR establishes the second model of formation and organization of the activities of the supreme executive body of the DPR — the Government of the Donetsk People's Republic (hereinafter – the Government of the DPR). Thus, according to Article 1 of the Law of the DPR "On the Government of the DPR", the Government of the DPR is the permanent supreme executive authority of the DPR, which is part of the system of executive bodies of the DPR and exercises executive power in the DPR [16, p. 13].

Important elements of the legal status of the DPR Government are its composition, structure and formation procedure. There are grounds to talk about a radical transformation of the composition of the Government of the DPR [17, pp. 48-49]. According to Article 5 of

the Law of the DPR dated November 30, 2018, the Government of the DPR included the Head of the DPR (Chairman of the Government of the DPR), deputies and ministers [18, p. 10]. After joining the Russian Federation according to art. 3 of the Law of the DPR "On the Government of the DPR" The Government includes: the Chairman of the Government of the DPR, the First Deputy Chairman of the Government of the DPR, the Head of the Government of the DPR (Deputy Chairman of the Government of the DPR), the head of the Representative Office of the DPR in Moscow (Deputy Chairman of the Government of the DPR), ministers of the DPR (Deputy Chairmen of the Government of the DPR) and ministers of the DPR (members of the Government of the DPR) [19, p. 27]. Ministers who are also Deputy Chairmen of the Government of the DPR include: the Minister of Agro-Industrial Policy and Food of the DPR and the Minister of Industry and Trade of the DPR [20, p. 52]. It is obvious that in the conditions of the transition period, these sectors of the economy are priorities, therefore, granting these ministers the special status of Deputy Prime Minister seems justified.

It should be noted that in the LPR, the structure of the LPR Government differs from the DPR. According to the Decree of the Head of the LPR dated September 27, 2023 "On the formation of the Government of the Luhansk People's Republic", ministers with a "special status" who are simultaneously Deputy Prime Ministers of the LPR are not found in the Government of the LPR.

Another distinctive feature of the structure of the Government of the DPR (this model is used in a small number of subjects of the Russian Federation, for example, in the Krasnoyarsk Territory and the Tyumen region) is that as part of this body, on the basis of Article 23 of the Law of the DPR "On the Government of the DPR", the Presidium of the

Government of the DPR can be formed as part of the Chairman of the Government of the DPR and the Deputy Chairmen of the Government of the DPR. Such a structural unit of the Government of the DPR was formed in accordance with the Decree of the Government of the DPR dated November 16, 2023. "On the formation of the Presidium of the Donetsk People's Republic." The powers of the Presidium of the Government are not specifically specified, and in this regard, it is obvious that the range of rights and duties of the Presidium follows from the powers of the Government of the DPR. The Presidium meets as necessary, considers issues requiring prompt response, and makes decisions that can be canceled by the Government of the DPR [21, p. 11].

According to Article 4 of the Law of the DPR "On the Government of the DPR", the Chairman of the Government of the DPR is appointed by the Head of the DPR after consultation with the People's Council of the DPR. The People's Council of the DPR, based on the results of consideration of the submitted candidacy, adopts a resolution approving the conclusion on the submitted candidate.

Article 6 of the Law of the DPR "On the Government of the DPR" establishes that the Chairman of the Government submits to the Head of the DPR candidates for the positions of Deputy Chairmen of the Government of the DPR and ministers of the DPR. After that, the Head appoints the appropriate officials.

According to paragraph 12 of Part 1 of Article 9 of the Law of the DPR "On the Government of the DPR", the Government of the DPR creates the Apparatus of the Government of the DPR and approves the regulations on it. However, at present, the Apparatus of the Government of the DPR continues to work on the basis of the Provision approved by the Decree of the Government of the DPR dated June 20, 2019. Unlike the DPR,

the Government of the LPR has the authority to form the Apparatus of the Government of the LPR, due to amendments to the Constitution of the LPR dated May 29, 2023. Currently, this authority has not been transferred to anyone, which creates difficulties in the formation of this body.

The most important element of the constitutional and legal status of the DPR Government is its powers. Just like the Head of the DPR, the DPR Government has general powers and powers in certain areas of activity. Thus, according to Article 10 of the Law "On the Government of the DPR", the general powers of the Government of the DPR are defined: ensuring the development and implementation of measures aimed at the socio-economic development of the DPR; participation in public policy in the fields of finance [22, p. 70], science, education, health, etc.; implementation of measures to implement, ensure and protect human and civil rights and freedoms, protect property, etc. and many others. An analysis of all the general powers of the Government of the DPR shows that they are of a blank nature and their content is revealed, as a rule, in the specified powers of a particular field of activity, enshrined in the regulations on the relevant executive bodies.

Articles 10 to 14 of the Law of the DPR "On the Government of the DPR" enshrine powers in the field of economics, social and labor sphere, science and culture, education, environmental management and environmental protection, emergency prevention and response, law and order, public safety [23, p. 21]. In order to effectively manage a particular area of activity, the UPR Government has made a significant number of important decisions [24, p. 106]. For example, the Government of the DPR adopted a Resolution dated December 25, 2023. "On the approval of the program of socio-economic

development of the Donetsk People's Republic "Formation of a system of comprehensive rehabilitation and adaptation of the disabled", which significantly expanded and specified the powers in the field of economics.

One of the elements of the constitutional and legal status of the Government of the DPR is its acts [25, 66]. Article 15 of the Law of the DPR "On the Government of the DPR" establishes: "The Government of the DPR on the basis and in pursuance of federal constitutional laws, federal laws" issues resolutions and orders. From this formulation, it is obvious that these acts can only be of a subordinate nature and they cannot carry out primary legal regulation. Resolutions and orders of the Government of the DPR are adopted in accordance with the Regulations of the Government of the DPR dated June 20, 2019. According to p. 36 of this act, decisions at meetings of the Government of the DPR are made, as a rule, by general consent [26, p. 39]. However, on the basis of a proposal by a member of the Government of the DPR, a vote may be held by the decision of the chairman, and in this case the decision is made by a majority of votes of the members of the Government of the DPR present at the meeting, and if the votes are equal, the vote of the chairman of the meeting is decisive. According to paragraph 4 of art. 15 of the Law of the DPR "On the Government of the DPR", resolutions and orders of the Government of the DPR are signed by the Chairman of the Government of the DPR and only in case of his absence — either by the person performing his duties or by the Head of the DPR.

It is obvious that the Governments of the DPR and the LPR are the most important component of the system of executive authorities of the new subjects and exercise powers integrated into the Russian legal system.

4. Conclusion

Thus, the admission of new subjects of the DPR and LPR into the Russian Federation in September 2022 was the beginning of systematic work on regulatory legal regulation of the formation, organization and activities of heads of government as executive authorities of the DPR and LPR. The constitutional and legal acts regulating the legal status of the heads and governments of the new subjects are based entirely on Russian legislation. At the same time, the peculiarities of the constitutional and legal status of heads and governments as executive authorities are determined by the specifics of the formation of their own republican system of authorities in the period from 2014 to 2018 and the improvement of their organization and activities in the process of integration with the Russian legal system of public administration in the period from November 2018 to 2022.

The revealed features of the transformation of the constitutional and legal status of heads and governments as executive authorities of the DPR and LPR after their admission to Russia made it possible to discover the uniqueness of their structure, powers and acts. The uniqueness of the transformation of the formation of the heads of the DPR and LPR was manifested in the application of the second model of the organization of the highest executive bodies of state power in the subject of the Russian Federation; the classification of the powers of the heads of the DPR and LPR (general and specialized); the allocation of two groups of decrees of the heads of the DPR and LPR. The peculiarity of the transformation of the governments of the DPR and the LPR was expressed in the cardinal transformations of the composition of the governments of the DPR and the LPR; the allocation of general powers and powers in certain areas of activity. The

implementation of the actual legal regulation of the organization and activities of the heads and governments of new subjects as a result of the transformation takes place in accordance with the constitutional and legal norms of the Russian Federation and taking into account historical continuity.

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INFORMATION ABOUT AUTHORS

Evgeny S. Anichkin – Doctor of Law, Associate Professor, Honorary Worker of Higher Professional Education of the Russian Federation; Head, Department of Constitutional and International Law *Altai State University*
61, Lenina pr., Barnaul, 656049, Russia E-mail: rrd231@rambler.ru
RSCI SPIN-code: 2822-8747

Ivan Yu. Mankovskiy – PhD in Law, Associate Professor; Associate Professor, Department of Constitutional and International Law *Altai State University*
61, Lenina pr., Barnaul, 656049, Russia E-mail: man263@yandex.ru
RSCI SPIN-code: 1162-6612

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