

prime minister and other Cabinet members. As a result, the country suffers from an inefficient and irresponsible social and economic policy.

This situation may change dramatically only if the cabinet were to be formed by a democratically elected legislature and were politically accountable to it.

The return of Belarus to the democratic path of development entails dismantling the present system of supra-government and establishing a constitutional form of government based on the rule of parliament and separation of powers.

Local Government

By Pyotra Natchyk

The local government system in Belarus is provided for by the Constitution and acts of Parliament which define the structure and powers of local government agencies, and edicts and directives of the Council of Ministers¹⁴ which regulate the activity of local executive authorities and thus influence the implementation of decisions made by bodies of elected representatives.

At the structural level, officially speaking, the country has a system of local government and local government agencies. Article 117 of the Constitution specifies local government bodies such as local soviets or councils, executive and administrative agencies and territorial public agencies reporting to local government. Article 1 of the law 'On Local Government' defines local executive authorities as local government bodies accountable to central government and forming a single system. In fact, local government is structured according to the acts of Parliament, not the Constitution¹⁵.

Belarus' administrative-cum-territorial division is conducive to effective control of the society from the top down. Belarus is divided into rather large admi-

¹⁴ Указ прэзыдэнта Рэспублікі Беларусі «Аб структуру і ліку работнікаў выканаўчай камітэтаў і мясцовых адміністрацыйна-тэрытарыяльных адзінаў у гарадах» ад 7 снежня 2001 г. № 723. Палажэньне Рады Міністраў «Аб старшыні абласнога, менскага гарадзкога выканаўчага камітэту», зацверджана ўказам прэзыдэнта ад 20 лістапада 1995 г. № 476.

¹⁵ Закон О местном управлении и самоуправлении в Республике Беларусь, Национальный реестр правовых актов Республики Беларусь, 2000 г., № 8, 2/137.

nistrative units with borders determined not so much by territorial concerns as by the location of industrial and agricultural establishments. People living in administrative areas where rural, district and regional soviets are elected, are not so much united by local interests, as by their employment in industrial and agricultural enterprises.

Belarus has six regions (Minsk also has the status of region) and 121 districts and three territorial levels of local soviets and executive committees corresponding to the country's administrative-territorial division:

1. the fundamental level includes urban, town and city soviets (accountable to district authorities);
2. the basic level includes city soviets accountable to regional authorities and district soviets;
3. the regional level includes regional soviets. The Minsk City Soviet has both basic- and regional-level functions.

Legislation does not provide for an intermediate local government and government authorities. Soviets at all levels are local governments with roughly the same powers and functions.

In cities under the authority of regional governments, local governments are the nearest to local communities. There are no representative authorities in city districts, which have local administrations functioning within the executive system. Heads of local administrations are appointed and dismissed by the president, and deputy heads by the chair of the city executive committee. City soviets adopt budgets and budget performance reports of their respective local administrations.

Local soviets are elected for four years and decide on their make-up independently. The law asserts the right of local soviets within their remit to administer local matters in line with the national interests and those of local communities, and requires that they follow decisions of higher-level governmental agencies.

There is no clear-cut division between responsibilities of local soviets at various levels. Their responsibilities largely overlap (e.g. in adopting local programs), and the law allows higher level soviets to supervise those below them.

Therefore, soviets in smaller administrative units follow decisions of higher level soviets rather than make decisions of their own.

A higher level soviet has powers to override decisions taken by a lower level soviet which it deems to be illegal. The president has the right to suspend decisions of local soviets of all levels and ask higher level soviets to overrule them. The Council of the Republic may strike down decisions of all soviets.

The functions of the soviet's executive bodies were initially performed by the executive committees.

The local government reform of 1994 and 1995 made the executive committees accountable to central government for matters resting within its remit, and to local soviets for matters within their jurisdiction. Also, they are directly accountable to the president. The president appoints chairs of regional executive committees, who in turn appoint chairs of their respective executive committees reporting to them. Local soviets merely endorse these appointments. The president or the chair of a superior executive committee may make appointments without consulting local soviets if the latter reject their nominees twice.

Therefore, local soviets are not in a position to influence the procedure of appointing executive officials. In addition, the soviets have no powers to hold executive officials accountable as this is a presidential prerogative.

Higher level executive committees adopt local soviets' staffing plans pursuant to a presidential edict that fixes an approximate number and structure of soviets.

The lack of instruments to influence the executive committees renders the limited powers vested in soviets practically ineffective. Local soviet functions boil down merely to adopting and monitoring general programs for the provision of some public services. Other public services within the remit of executive committees such as healthcare, education, social security etc. are regulated by general laws and policy issues there are mapped out by central government.

Municipal property management and the operation of enterprises, organizations and establishments are the only two matters on which executive committees report to soviets. However, executive committees still have a big say

in these matters as they are responsible for establishing and restructuring enterprises.

The soviets have some powers in managing finance and property. They have budgets fixed within constraints set by superior governmental agencies. Thus, Belarus actually has two local systems: a three-tier local government system, and local governance/administrative system of executive committees which are part of the executive. The executive committees have real direct government powers and are beyond soviets' control.

In the event of dispute within either system, a higher-level authority within it has the final say (an executive authority representative of a larger administrative-territorial unit may overrule decisions of respective authorities in smaller units). There are no mechanisms for settling disputes between local administrative and local government agencies. The Prosecutor General's Office and the State Control Committee supervise the soviets, executive committees and local administrations in cities.

The system falls short of the requirements posed by the European Charter of Local Government. Local government authorities have no real opportunity to manage a major part of local affairs if acting within the limits of law.

The executive committees, formally designed to carry out decisions of local soviets, are not accountable to them. Lack of distinction between functions of local soviets at various levels prevents them from acting independently.

Local soviet decisions on all matters may be overruled by higher level authorities of elected representatives, blocked by executive authorities or suspended by the president. As a rule, higher level soviets have more powers than those reporting to them; consequently, powers of the latter are not exclusive. Dependence from higher level representative authorities does not allow local soviets for administering local affairs effectively.

The functional weakness in the local government system and local government centralization are the main reasons behind the weakness of the local political elite.

Soviets do not operate as agencies that tackle issues of importance to local residents; instead, they are a springboard for local bureaucrats seeking careers

in central government. The inferior status of deputies compromises the whole idea of local government. People distance themselves from local politics and leave it to the central government to tackle local problems.

The local executive elite cannot perform its functions effectively. The appointment and dismissal of executive committee heads and administrative officers is largely determined by political considerations. This exposes the administrative apparatus, which should guarantee efficient management and reduce the risk of tailor-made political decisions, to the power of central government and increases government centralization.

Electoral system

by Mikhas Pliska

The fundamental peculiarities of Belarus' electoral regulations currently in force are a function both of the mentality of the ruling *nomenklatura*, who have failed to transcend the limitations of Soviet, majority-based election rules, and of the time in which new laws were enacted to govern elections to the Supreme Soviet and local soviets. These laws were enacted in November 1994, i.e. after Alyaksandr Lukashenka was elected president. He made considerable efforts to prevent the use of a mixed system combining majority-based and proportional elements in parliamentary elections, as the Supreme Soviet was originally inclined to pass a law whereby 25 percent of the deputies would be elected on the basis of proportional representation.

The flaw in electoral regulations came to light especially after the political system's change in November 1996, when an authoritarian regime was put in place.

The Electoral Code, enacted in February 2000 on the initiative of President Lukashenka, differs from preceding laws in form rather than content. The 110 members of the House of Representatives, the lower parliamentary chamber, and members of local soviets (councils) are elected the majority basis, where a candidate needs to gain at least 50 percent plus one vote to win in the first round, and a relative majority of votes in the second, runoff round. To be elected president, a candidate needs to win 50 percent plus one vote in the first round or in the second round.