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## **ПРАВОВИЙ СТАТУС СОЮЗНИХ РЕСПУБЛІК ЗА ЧАСІВ ПЕРЕБУДОВИ (1985–1991 рр.)**

**Анотація.** *Актуальність теми статті обумовлюється самою специфікою співіснування та взаємодії центральних і місцевих органів державної влади, що виражається в об'єктивній необхідності пошуку у кожному конкретному випадку дієвих механізмів балансування і взаємоузгодження їх інтересів. Мета статті полягає у дослідженні складних та суперечливих процесів періоду перебудови в СРСР, пов'язаних зі здійсненням управлінської реформи М.С. Горбачова, зокрема, такої важливої її складової, як розмежування повноважень між союзними і республіканськими органами державної влади і управління. За допомогою використання формально-юридичного, логіко-юридичного та історико-генетичного методів робляться ґрунтовні висновки про причини невдачі М.С. Горбачова у здійсненні розмежування влади між центром та місцями. На підставі застосування порівняльного історико-правового методу виокремлюються особливості проведення управлінської реформи в деяких радянських республіках. Із широким залученням нормативно-правового матеріалу поетапно аналізується діяльність правлячої верхівки СРСР, спрямована на трансформацію державного механізму шляхом перерозподілу повноважень між союзними і республіканськими органами влади. Розглядаються конкретні кроки союзних республік по декларуванню власного суверенітету в умовах погіршення внутрішньополітичної ситуації в СРСР. Всебічно досліджується процес підготовки до прийняття радянськими республіками нового Союзного Договору як способу подолання кризових явищ, що охопили СРСР наприкінці перебудови М.С. Горбачова. Практична цінність наукової роботи проявляється у наступних положеннях: процеси децентралізації через перерозподіл повноважень між центральними і місцевими органами влади повинні бути комплексними, ґрунтовно спланованими та проводитися на підставі науково розроблених моделей; критично значущим чинником в умовах проведення масштабних управлінських реформ стає професіоналізм і загальна компетентність еліт; категорія часу є найважливішим ресурсом під час проведення державно-правових перетворень в умовах інтенсивного технологічного розвитку*

**Ключові слова:** *СРСР, період перебудови, управлінська реформа, М.С. Горбачов, розмежування повноважень, УРСР, Прибалтійські республіки, Союзний Договір*

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## **LEGAL STATUS OF THE UNION REPUBLICS DURING THE REBUILDING (1985-1991)**

**Abstract.** *The relevance of the topic of the article is determined by the very specific features of coexistence and interaction of central and local authorities, which is expressed in the objective need to find in each case effective mechanisms for balancing and reconciling their interests. The purpose of the article is to study the complex and contradictory processes of the rebuilding period in the USSR, related to the implementation of administrative reform by M.S. Horbachov, in particular, such an important component as the separation of powers between the union and republican bodies of state power and administration. With the use of formal-legal, logical-legal and historical-genetic methods, thorough conclusions are made about the reasons for the failure of M.S. Horbachov in the separation of powers between the center and the seats. Based on the application of the comparative historical and legal method, the peculiarities of administrative reform in some Soviet republics are singled out. The activities of the ruling elite of the USSR aimed at transforming the state mechanism through the redistribution of powers between the union and republican authorities are gradually analysed with the involvement of normative and legal material. The concrete steps of the union republics to declare their sovereignty in the conditions of deteriorating domestic political situation in the USSR are considered. The process of preparation for the adoption by the Soviet republics of the new Union Treaty as a way of overcoming the crisis that engulfed the USSR at the end of the perestroika M.S. Horbachov. The practical value of scientific work is manifested in the following provisions: decentralisation processes through the redistribution of powers between central and local authorities should be comprehensive, well-planned and conducted based on scientifically developed models; professionalism and general competence of elites become a critical factor in the context of large-scale managerial reforms; the category of time is the most important resource during the state and legal transformations in the conditions of intensive technological development*

**Keywords:** *USSR, rebuilding period, administrative reform, M.S. Horbachov, delimitation of powers, the Ukrainian SSR, the Baltic republics, the Union Treaty*

## **INTRODUCTION**

In the early 1980s, the discrepancy between the governing contour of the USSR, which had been formed in the 1930s in the mode of mobilising socio-economic development, and the socio-political relations that had developed in the country became objective. Problems were added by the scientific and industrial base, which became much more difficult in conditions of constant competition with the bloc of Western countries. Despite the fact that a full-fledged transition to a new technological system in the USSR did not take place, however, the emergence of new sectors of the economy with sophisticated innovative production technologies required a corresponding complication of the mechanism of state power and renewal of the ruling elite. The situation was exacerbated by the fact that the world was entering a new phase of technological development, and therefore there was critically little time for administrative reform in the USSR. The arrival of M.S. Horbachov to power in 1985, in addition to the internal party hardware struggle, was conditioned by these challenges of the time, becoming a symbol of the necessary changes that are long overdue.

The main chronic problem of the USSR, which hindered the harmonisation of the governing and controlled circuits, was the excessive centralisation of all power functions and powers. The immediate negative consequences of the huge concentration of power in a single command center were: the growth of the

bureaucracy, the deterioration of basic economic indicators and slowing economic growth, the general imbalance of the economy, the degradation of production assets and others. Under such conditions, the goal of the planned transformations was to preserve the Soviet system as a whole by modernising and liberalising those of its elements that had long since ceased to meet modern requirements. M.S. Horbachov and his associates were the first generation of politicians who were not directly associated with the Stalinist regime, and therefore in this regard could be the initiators of the implementation and successful completion of all necessary reforms in the USSR. To achieve their goals MS Horbachov chose a new, democratic style of leadership, based on two new principles: “publicity” and “broad democracy”.

It is noteworthy that from the very beginning of the reforms M.S. Horbachov faced fierce resistance from the party apparatus, which, seeing the policy of “rebuilding” as a threat to their interests, began to actively oppose it. The policy of publicity and democratisation also quickly spiraled out of control. The development of political pluralism led to the spread of multipartyism in the Soviet republics and the rapid displacement of the CPSU monopoly in the political sphere. The growth of political activity of the population led to a pronounced polarisation in the ideological sphere and seriously destabilised society. Subsequently, these negative phenomena and processes acquired their own dynamics, proving the inability of the new government to cope with the crisis that began to unfold in all spheres of socio-economic and political life. The immediate consequence of this was the rapid collapse of the USSR and the declaration of independence of the former Soviet republics. Describing the dramatic processes that unfolded in the 80-90's of XX century on the Eurasian continent, Z. Bzhezinskii quite aptly noted that “like many previous empires, the Soviet Union eventually exploded from within and split into pieces, falling victim not so much to direct military defeat as to a process of disintegration accelerated by economic and social problems. The collapse at the end of 1991 of the world's largest state contributed to the formation of a “black hole” in the heart of Eurasia. It was as if the central and geopolitically important part of the land were erased from the map of the Earth” [1].

Given all the above, it is clear that the problem of separation of powers between central and local government is extremely relevant. The pronounced bias in one direction or another is fraught with excessive centralisation with the blocking of local political life and further stagnation of economic activity, and pronounced centrifugal processes with the progressive disintegration of a single state body. Creating an effective system of balancing and reconciling the interests of the center and places is a non-trivial matter and depends on many factors – which is why scientific research in this area will always be very relevant. Interestingly, the issue of delimitation of powers between the USSR and the Union republics during the rebuilding period has repeatedly been the subject of attention of foreign and domestic experts in the field of history of state and law. Thus, changes in the legal status of the union republics and their highest authorities were considered by such domestic scholars as V. Honcharenko [2] and A. Omarova [3]. The problem of forming a general balance in the construction of state power was dealt with by O. Skrypniuk [4]. The issues of decentralisation of the administrative-territorial system in the conditions of the constitutional process in modern Ukraine were well covered by Yu. Shemshuchenko [5] and others. Foreign scientists, such as L. Holmes [6], S. Grybkauskas [7], R. Ruutsoo [8], R. Vebra [9] and others, studied the issues of democratic processes that took place in the USSR during the perestroika, as well as the issues of Soviet federalism and its transformation.

Given the wide use of the comparative historical and legal method in the article, we must also mention the work of those modern scholars who, although engaged in scientific research in another area, nevertheless provided greater concretization and adaptation of general scientific comparative method to the needs of historical legal science. The results of their comparative scientific work were used in writing this article. Among the mentioned works, in particular, we can name the research of R. Kazak [10], D. Lukianov, H. Ponomariova and A. Tahiiiev [11], D. Lukianov, V. Steshenko and H. Ponomariova [12], V. Ermolaev [13], O. Lutsenko [14], R. Shapoval, Yu. Bytiak, N. Khrystynchenko and Kh. Solntseva [15], Yu. Vystavna, M. Cherkashyna and M. van der Valk [16] and so on.

*The purpose of this scientific article is to study, with a careful analysis of the relevant legal framework, the attempts of the ruling elite of the USSR in the second half of the 80's of XX century to carry out the much-needed administrative reform by separating the powers between the allied and republican bodies of state power and administration.*

## **1. MATERIALS AND METHODS**

The scientific novelty of the article lies in the analysis and generalization of normative and legal material, which was the basis for the redistribution of powers between the central and republican authorities of the USSR during the perestroika period. The practical value of the study is manifested in a number of provisions that are critical during such state and legal transformations, the content of which is disclosed in the final conclusions.

In the course of scientific research, a number of special scientific methods were used, in particular, formal-legal, logical-legal, historical-genetic and comparative historical-legal. The complex application of these means of scientific knowledge in accordance with the research task allowed to obtain results with a high degree of reliability and to carry out the necessary theoretical generalization.

The use of the formal-legal method made it possible to analytically study the legal framework laid down by the party nomenclature of the USSR, headed by M.S. Horbachov as the basis for the implementation of the necessary transformations associated with the distribution of power between the center and the Soviet republics. Thanks to this tool, it became possible not only to study the relevant Soviet legislation in general, but also to interpret its specific legal requirements, which allowed at a higher research level to clarify the specifics of state and legal changes during the perestroika period. Purposeful application of the logical-legal method based on forms of thinking and the laws of formal logic, helped to obtain reliable and meaningful conclusions in the analysis and further explanation of those rules of law governing the redistribution of powers between the USSR and the Union Republics. In addition, the logical analysis of the content of historical and legal norms allowed to establish the scope of their content, and to identify the real motivation of the union and republican legislative bodies. The importance of the logical-legal method is manifested in the fact that its use allows to restore and reconstruct state and legal phenomena and processes without violating the structure that is inherent in them.

With the help of the historical-genetic method, the causal relations and regularities that accompany the processes of reforming the administrative apparatus of supercentralised state formations were reflected. The value of the historical-genetic method is manifested in the selection and fixation of specific historical states of the studied object with their subsequent reproduction as certain structures. Separation conditioned upon its use of historically consistent stages of transformation of the USSR state mechanism during the rebuilding period allowed to fully restore the complex and controversial process of separation of powers in this country in the second half of the 80s of XX century.

Generalisation of the results of the study became possible through the use of comparative historical and legal method. Since the contradictory processes of decentralisation initiated by M.S. Horbachov, received their significant specificity in each of the Soviet republics, then, accordingly, their comparison allowed to achieve greater concretization of the identified patterns, and to record objective significant links between related state and legal phenomena and processes. The transition from the empirical to the theoretical stage of the study with its generality, abstractness and systematicity was also due to the use of a comparative approach. In general, the comparative historical and legal method occupies a special place among other means of scientific knowledge. This is primarily conditioned upon the specific features of the subject of historical and legal science, which inextricably includes the historical perspective with its retrospective and legal, which consists in the formalisation of legal dogma.

In this context, it should be noted two aspects of the comparative historical and legal study of state and legal phenomena, which have become quite relevant during our research. First, the special cognitive role of such a study is conditioned upon the fact that it involves the consideration of phenomena in their development and the disclosure of their diverse properties in the process of this development. And, secondly, the advantages of applying the comparative historical and legal method are the breadth of coverage of the studied phenomena. Explained by the fact that this tool of scientific knowledge involves the parallel study of at least two phenomena or processes, the researcher gets a very unique opportunity to trace the complex nature of their relationship both with each other and with other phenomena and processes. The consequence of this is to minimise the risk of interpreting the studied state and legal objects as isolated and completely isolated manifestations of historical and legal reality.

## **2. RESULTS AND DISCUSSION**

### *2.1. Implementation of administrative reform in the USSR in the conditions of rebuilding*

Rebuilding put on the agenda the issue of radical reform of the existing national-state system of the USSR, including such an important component as the division of powers between the USSR and the union republics. And this is quite natural. At the same time, it is impossible not to agree with V.A. Mikhalevych, who argues that “the key issue of any federation is the question of the separation of powers between the federation and the subjects of the federation” [17]. At the legislative level, this issue has been most active since the beginning of 1989. Thus, on March 13, 1989, the Presidium of the Supreme Soviet of the USSR adopted a resolution “On the Draft General Principles of Restructuring the Management of the Economic and Social Sphere in the Union Republics on the Basis of Expanding Their Sovereign Rights, Self-Government, and Self-Financing” No. 10210-XI. And on April 11, 1989, the Presidium of the Supreme Soviet of the USSR heard information

from a working group of deputies on the implementation of the order of the Supreme Soviet of the USSR related to the preparation of a proposal to delimit the competence of the USSR and republics and adopted the relevant resolution No. 10292-XI. This working group was formed by the Presidium of the Supreme Soviet of the USSR on December 28, 1988. As a result, the Presidium in its resolution “On the Establishment of a Working Group of Deputies of the Supreme Soviet of the USSR to Prepare Proposals for Delimitation of Jurisdiction of the USSR and Republics” No. 9968-XI decided to submit proposals to the working group of the USSR and interethnic relations. In this approach, T. Remington considered the possibility of eliminating tensions between nationalities as a result of “a new balance between the respective powers of the republics that are part of the federal center” [18].

On May 25-June 9, 1989, the first Congress of People's Deputies of the USSR took place in the Kremlin Palace of Congresses in Moscow. This new highest body of power was provided by the Constitution of the USSR in 1977 in the wording of the Law of the USSR of December 1, 1988. The Congress, in particular, elected the Supreme Soviet of the USSR, and its chairman – M.S. Horbachov, who at that time also held the post of General Secretary of the CPSU Central Committee. The Congress also established a Constitutional Commission to prepare a new Constitution of the USSR [19]. The deputies of the Congress heard and discussed the report of M.S. Horbachov “On the main directions of domestic and foreign policy of the USSR”. Resolution No. 39-I, adopted on this issue, did not ignore the issue of the federal system of the USSR. The Congress recognised the need for strict observance and significant expansion of the rights of the union republics. The resolution also stressed that the constitutional provision, according to which the competence of the USSR is to establish the foundations and general principles of law, and the adoption of laws of direct effect is the prerogative of the republics, must be observed as one of the basic principles of the federal state. The resolution of the Supreme Soviet of the USSR “On the organisation of work on the implementation of instructions given to the Verkhovna Rada by the Congress of People's Deputies of the USSR” of July 24, 1989 No. 257-I contained a paragraph according to which the Council of Nationalities of the Supreme Soviet proposals for a clearer delimitation of the competence of the USSR and the union republics, based on the fact that the union republic independently exercises state power on its territory, resolves all issues that are not transferred to the USSR.

While at the union level they continued to study the question of delimitation of powers between the USSR and the union republics and thus leave intact the full power of the union center, in the country some union republics began to expand their powers independently, regardless of it. Thus, the Decree of the Presidium of the Supreme Soviet of the USSR “On Inconsistency of Certain Provisions of the Law of the Estonian SSR “On Amendments to the Constitution (Basic Law) of the Estonian SSR” and the Law of the Estonian SSR “On Elections to Local Councils of People's Deputies of the Estonian SSR” of August 16, 1989 No. 399-I declared inconsistent with the Constitution of the USSR and the international legal obligations of the USSR the provisions of these laws on the residency requirement for participation in elections and elections to the Soviets of People's Deputies, including restrictions on military participation in elections. It should be noted that the Presidium of the Supreme Soviet of the USSR also accused the Estonian SSR of violating human rights enshrined in international legal acts ratified by the USSR, including the International Covenant on Civil and Political Rights, which provides that every citizen should have the right and the opportunity, without any discrimination and without undue restrictions, to vote and to be elected in genuine periodic elections which shall be by universal suffrage and shall be held by secret ballot and guarantee the free expression of the will of the electorate. It is believed that the Estonian SSR's accusations of human rights abuses were intended to discredit the Baltic republic before the international community and thus warn it against further constitutional action contrary to Union law.

At the same time, it became clear that to leave without motion the question of rational separation of powers between the USSR and the union republics was no longer possible. At the same time, we must agree with the opinion of R. Dorff, who emphasised that without a willingness to negotiate and compromise, and a desire for open negotiation and a desire for adaptation, it may not be possible to achieve true federalism or even maintain it incompletely [20]. One of the first steps towards increasing the role and legal status of the union republics was the Law of the USSR “On the Economic Independence of the Lithuanian SSR, the Latvian SSR and the Estonian SSR” No. 232-I adopted on November 27, 1989. However, if you carefully analyse the content of this law, it becomes clear that the declared “independence” of the union republics was quite limited, as it had to be carried out without departing from the Constitution of the USSR. The word “USSR” appears in most articles of this Law.

The question of the division of powers between the USSR and the union republics was in the field of view of the Second Congress of People's Deputies of the USSR, which began its work in Moscow on December 12, 1989. Thus, the resolution adopted by the Congress on December 19, 1989 “On Instructions to the Supreme

Soviet of the USSR and the Constitutional Commission on Certain Issues” instructed the Supreme Soviet of the USSR to accelerate the adoption of the law “Separation of Powers between the USSR and the Union Republics” No. 951-I.

On March 12-15, 1990, the Extraordinary Third Congress of People's Deputies of the USSR was held in Moscow. After a sharp, intense discussion on the introduction of the post of President of the USSR in the USSR, the deputies of the Congress adopted the Law of the USSR “On the Establishment of the Post of the President of the USSR and Amendments to the Constitution (Basic Law) of the USSR” No. 1360-I on March 14, 1990. The law provided for the establishment of the post of President of the USSR and established the provisions on the absence of changes in the legal status and competence of the Union and Autonomous Republics, enshrined in the constitutions of the Union and Autonomous Republics and the USSR Constitution. Thus, the law, so to speak, preserved the existing legal status of the union republics, which fully suited the union center and provided it with the supremacy of power in the USSR. However, this state of affairs did not suit some union republics. This is evidenced by the decision of the Verkhovna Rada of the Lithuanian SSR “On the Restoration of Independence of the Lithuanian State” No. I-12, which announced March 10-12, 1990 on the restoration of independence of the Lithuanian state, repeal of the Constitution of the Lithuanian SSR and the Constitution of the USSR. This decision of the Supreme Soviet of the Lithuanian SSR on the part of the union center was quite operative. Thus, on March 15, 1990, the Extraordinary Third Congress of People's Deputies of the USSR adopted a resolution “In connection with the decision of the Supreme Soviet of the Lithuanian SSR of March 10-12, 1990” No. 1366-I, which, in particular, stated that the Congress considers these unilateral decisions of the Verkhovna Rada of the Lithuanian SSR to be without legal force, contrary to Articles 74 and 75 of the Constitution of the USSR, and therefore invalid. In addition, the Congress recognised that, in accordance with these articles of the Union Constitution, the sovereignty and validity of the USSR Constitution continued to extend to the territory of Lithuania as the Union Soviet Socialist Republic.

The analysed resolution also instructed to ensure the protection of the legal rights of every person living in Lithuania, and the observance of the rights and interests of the USSR and the union republics in the territory of the Lithuanian SSR. This resolution contained another provision that was of a cautionary nature not only for the Lithuanian SSR but also for other union republics. This provision enshrined that, having the constitutional right to self-determination, the union republic, however, can not, both when entering and leaving the federation, ignore the political, socio-economic, territorial and other problems that arise. However, the Resolution of the Congress of People's Deputies of the USSR of March 15, 1990 did not stop the leadership of the Lithuanian SSR from actions that, according to the union bodies, went beyond the powers of this union republic. This was stated in the Decree of the President of the USSR “On Additional Measures to Ensure the Rights of Soviet Citizens and Protect the Sovereignty of the USSR in the Lithuanian SSR” of March 21, 1990 No. 3 and in the Resolution of the Supreme Soviet of the USSR “On Legal Status People's Deputies of the USSR from Lithuania” of March 26, 1990 No. 1383-I.

The USSR Law “On the Establishment of the Post of the President of the USSR and Amendments to the Constitution (Basic Law) of the USSR” of March 14, 1990 No. 1360-I excluded from the preamble of the USSR Constitution provisions on the leading role of the Communist Party. Instead, the new provision of Art. 6 stipulates that the Communist Party of the Soviet Union, other political parties, including trade unions, youth, other public organisations and mass movements through their representatives elected to the Soviets of People's Deputies and in other forms participate in Soviet policy-making, government and public affairs. Thus, the long-standing monopoly of the CPSU on power in the USSR was destroyed, which could not but weaken the influence of the union center on the union republics. Dzh. Bleni and M. Hfoler emphasise that some scholars have pointed to “Horbachov's weakening of the Communist Party as a key cause of the collapse of the USSR”. This law supplemented the Constitution of the USSR with a new chapter 15-1 “President of the USSR”. Extraordinary Third Congress of People's Deputies of the USSR elected President of the USSR M.S. Horbachov.

One of the first Union legislative acts, which brought some clarity to the issue of delimitation of powers between the USSR and the Union republics, was adopted by the Supreme Soviet of the USSR on April 10, 1990. The Law of the USSR “On the Fundamentals of Economic Relations of the USSR, Union and Autonomous Republics” No. 1421-I, which came into force only on January 1, 1991. The preamble to the Law declared that it was based on the principles of federalism, economic independence and mutual responsibility of the USSR, union and autonomous republics, and stated that the law delimits the powers of the USSR and republics in the economic sphere. A careful analysis of the content of this law gives grounds to assert that the USSR retained much broader powers in the economic sphere than those assigned to the union republics. Analysing the content of the law of April 10, 1990 and some other union laws, G. Gleason argued that these

regulations “caused public discontent because people began to perceive them as nothing more than a bureaucratic maneuver before the impending crisis” [22].

The statement of N. Lynn and A. Novikov that “the rights of the union and autonomous republics were subject to the national interests of the USSR” is quite correct [23]. The next step on the way to legislative regulation of the division of powers between the USSR and the union republics was the adoption of the Law of the USSR “On the Delimitation of Powers Between the USSR and the Subjects of the Federation” for No. 1450-I by the Supreme Soviet of the USSR on April 26, 1990. This law was constitutional in nature. Thus, in Part 1 of Art. 1 of the Law enshrined that the USSR is a sovereign socialist state, and it has powers that the subjects of the federation jointly attributed to the jurisdiction of the USSR.

The second part of Article 1 of the Law defines the union republics as sovereign Soviet states that voluntarily, based on free self-determination of peoples and equality, united in the USSR. It was emphasised that the union republics had all the power in their territory outside the powers delegated by them to the USSR. The law also stated that the territory of the union republic could not be changed without its consent. The law delimited the powers between the USSR and the union republics, first of all, assigning to the exclusive jurisdiction of the USSR in the person of its highest bodies of state power and administration the most important issues of state, socio-economic construction, issues of national defense, foreign policy and the conclusion of international treaties of the USSR, representation in international relations. The law was not limited to the list of exclusive powers of the USSR. Article 8 of the Law defined the powers of the highest bodies of state power and administration of the USSR in the sphere of joint jurisdiction of the USSR and the union republics. The Law also included in this area a rather large list of issues of state, economic, socio-cultural construction, in the solution of which the decisive role belonged to the union bodies, as they had the right of, using the terminology of the Law, “establishing the foundations”, “establishing general principles”, “establishing legal bases”, “establishing general order”, etc. in the exercise of powers in the sphere of joint jurisdiction of the USSR and the union republics.

Thus, the content of the articles of the Law on the exclusive powers of the USSR and its powers in the field of joint jurisdiction with the union republics allows us to conclude that the USSR Law “On the Delimitation of Powers Between the USSR and the Federation” of April 26, 1990 for No. 1450-I, delimiting these powers, gave the union center ample opportunities to govern the country. Therefore, the Law does not accidentally lack a list of powers of the union republics. As rightly noted by I. Isaev and N. Kuvyrchenkov, functions that were not included in the exhaustive list of exclusive powers of the Union only “presumed to be assigned to the Union Republic” [24]. If the Union Republic dared to resolve an issue independently, regardless of the powers of the USSR, such a decision was blocked by Article 11 of the Law, as according to it, in case of conflict with the Constitution of the USSR, the Constitution of the USSR and in case of conflict bodies of state power of the union republics of the Constitution of the USSR, laws of the USSR and other acts of the highest bodies of state power of the USSR were acts issued by the relevant bodies of the USSR. Analysis of the content of the USSR Law of April 26, 1990 gives grounds to assert that the transformation of the USSR into a true federal state he did not provide, but, on the contrary, contributed to maintaining the status of a centralized state in the USSR.

## *2.2. Sovereignty Parade*

The Union Republics, having lost hope of obtaining the consent of the Union Center to expand their powers, took decisive steps to fill their sovereignty with real meaning by adopting the Declaration of State Sovereignty. Thus, on June 12, 1990, the Supreme Soviet of the RSFSR adopted the Declaration of State Sovereignty of the RSFSR. The Declaration of State Sovereignty was adopted on July 16, 1990 by the Verkhovna Rada of the Ukrainian SSR. It proclaimed the supremacy, independence, completeness and indivisibility of Ukraine's power on its territory, which meant giving the republic a high level of sovereignty. At the same time, it should be noted that the Declaration did not proclaim the independence of the USSR and its withdrawal from the USSR. This feature of the Declaration draws the attention of Yu. Shemshuchenko and O. Skrypniuk, noting that “the Declaration adopted in the conditions of the USSR was affected by its compromise nature: it significantly limited the power of the union state, but did not abolish it” [25]. L. Kryvenko noted that, unlike the Russian Declaration, the Declaration of State Sovereignty of Ukraine did not speak of the supremacy of all-Union laws in the republic [26]. The adoption by the republics of acts of state sovereignty, which lasted from November 1989 to December 1990, V. Vasylenko considers the “war of sovereignty” of the union republics with the sovereignty of the USSR [27].

The Declarations adopted by the union republics did not go unnoticed by the union bodies. T. Raun notes that the Declaration of Sovereignty adopted by the Supreme Soviet of the Estonian SSR in November 1988 “was immediately condemned by Moscow” [28]. The issue “On the practice of the highest bodies of state

power in the light of the Declarations of State Sovereignty and Independence adopted by the republics” was included in the agenda of the fourth session of the Supreme Soviet of the USSR No. 1657-I, which began work in Moscow in the Kremlin on September 10, 1990. These Declarations were also discussed in the Law of the USSR “On Ensuring the Effect of Laws and Other Acts of Legislation of the USSR” No. 1748-I adopted by session of the Supreme Soviet of the USSR on October 24, 1990. Thus, in the preamble of the Law it was stated that the legislative activity of the highest state authorities of the union republics on the basis of the adopted Declarations of State Sovereignty strengthens the political and economic independence of the republics, fills their sovereignty with real meaning. At the same time, the preamble provided detailed information on cases of refusal of state bodies of the union republics to implement all-Union laws and other acts of the highest bodies of state power and administration of the USSR, issued within their competence. The law contained rules designed to regulate the relationship between the union and the republican highest bodies of state power and administration in order to prevent the so-called “war of laws”, which began to flare up between these bodies. B. Ebzeev, noting the provisions of the Declarations of State Sovereignty that the union republics had the right to nullify the acts of the USSR on its territory, concluded that this undermined the federal basis of the USSR, which in this case is transformed from a state-legal union into an international legal association [29].

### 2.3. *Coup d'etat and the collapse of the USSR*

The USSR Law “On Ensuring the Effect of Laws and Other Acts of Legislation of the USSR” of October 24, 1990 No. 1748-I emphasised that it contained resolutions in force until the conclusion of a new Union Treaty. The fact is that the Union leadership understood that it would no longer be possible to preserve the USSR in its current status. Therefore, it was proposed to develop a draft of a new Union Treaty, which would harmonise the relationship between the union center and the subjects of the union state on the basis of proper separation of powers between them. At that time, the thesis that the Union Treaty “allows to optimally solve an important and at the same time complex problem – the division of competence between the republics of the union and the union, to consider the specific interests of each participant and the general” [30].

The signing ceremony of the Union Treaty was scheduled for August 20, 1991. But it did not happen, because on August 19 this year there was an attempted coup in the USSR. The establishment of the State Committee for Emergency Situations in the USSR (SCES) was announced. And although the coup attempt failed, it had a number of consequences. According to V. Rzhnevskii, “the events of August (1991) allowed to recognise the full, uncut, without any palliatives independence of the republics, which was tantamount to the final verdict of the Soviet federation” [31]. According to H. Hill, an attempted coup in Moscow in August 1991 meant that the concept of the USSR could no longer be maintained.

Another consequence of the attempted coup d'etat in the USSR in August 1991 was that “trust in the Union Center fell to almost zero.” Some researchers attribute the collapse of the USSR to the coup. Yes, V. Lytvyn notes that “between the coup of close associates of M.S. Horbachov and the collapse of the Soviet Union into 15 independent states, there is a direct and immediate connection” [34]. T. Roun adheres to the same standpoint, who believes that “the failed coup significantly accelerated the decentralization of the Soviet Union and indeed its collapse.” A. Senn states that “in late summer 1991, the empire disintegrated from the center” [35]. The conclusion of I. Usenko that the direct political consequence of the creation of the SCNS was the failure to sign the Union Treaty is quite well-founded [36]. That is why the Constitution of the USSR and other union laws, which determined the division of powers between the union center and the republics, continued to operate formally.

The top leadership of the USSR made every effort to preserve itself. Thus, one of the means to achieve this goal was the USSR Law “On Bodies of State Power and Administration of the USSR in Transition” of September 5, 1991 No. 2392-I, adopted by the Extraordinary Fifth Congress of People's Deputies of the USSR. This law determined that in the transitional period the highest representative body of power of the USSR was the Supreme Soviet of the USSR, which consisted of two independent chambers: the Council of Republics and the Council of the Union. The State Council of the USSR was formed, which was formed on an inter-republican basis for the coordinated solution of issues of domestic and foreign policy that affected the common interests of the republics. The State Council of the USSR consisted of the President of the USSR and the highest officials of the union republics, named in the Constitution of the USSR. The law literally defined the powers of these bodies in a few words and did not say anything about the division of powers between the Union and the republics that were still part of it.

However, the development and activities of the new highest union authorities did not stop the process of disintegration of the USSR, which resulted in the removal from the agenda of the division of powers between the Union represented by its highest authorities and subjects of the union state, which ceased to exist. The



beginning of the process of disintegration of the USSR, for example, is clearly evidenced by the approval on August 24, 1991 by an extraordinary session of the Verkhovna Rada of the Ukrainian SSR Resolution “On Proclamation of Independence of Ukraine” of August 24, 1991 No. 1427-XII, which solemnly proclaimed the independence and creation of an independent Ukrainian state. On December 7-8, 1991, the heads of the three sovereign states – the Presidents of the RSFSR and Ukraine, the Chairman of the Verkhovna Rada of the Republic of Belarus – signed the Agreement on the Establishment of the Commonwealth of Independent States (CIS), which provided for the dissolution of the USSR, the termination of the laws of the USSR, the liquidation of its state bodies and the ratification of this document by the Supreme Soviets of these states [37].

## CONCLUSIONS

Summing up the study of regulatory and legal support for the reform of the state mechanism of the USSR, initiated by M.S. Horbachov, several important conclusions can be drawn.

1. The transition of any complex system from one phase state to another is necessarily combined with the quantitative and qualitative growth of entropic processes within it, or, in other words, with a rapid increase in the disorder of its internal elements. The Soviet Union of the era of M.S. Horbachov, no doubt, was such a complex multidimensional socio-economic and political system, and, therefore, the reform was to be based on a number of models that would provide different scenarios. As can be seen from the analysis, most likely, this was not done. Inconsistent actions of the authorities led by M.S. Horbachov, when the domestic political situation in the USSR began to develop in a negative scenario, indicate a lack of appropriate modeling and forecasting of related social and political processes in preparation for the reform of the mechanism of state power.

2. As follows from the historical and legal analysis of the attempt of M.S. Horbachov to differentiate the powers of allied and republican authorities in the second half of the 80's of XX century, a critical factor in such transformations is time. And given the extremely rapid technological development of modern civilisation, time is also becoming the most valuable resource. It is safe to say (of course, with some caveats) that M.S. Horbachov could not use this resource. And, as you know, the right decision made late is not the right decision. The loss of M.S. Horbachov time in the process of transforming the cumbersome and archaic Soviet state and legal system into a more democratic, and therefore more adequate to external and internal challenges, functioning quickly led to the loss of his initiative, which intercepted other actors of those dramatic events.

3. Evaluating the attempt of M.S. Horbachov to redistribute power between the central and republican authorities, it should be noted that in itself it should be perceived unequivocally positively. Successful implementation of the reform was guaranteed to be a powerful impetus to the social, economic and political recovery of the national republics, and thus the renewal of the entire Soviet statehood. However, the paradox of the transformation of the era of rebuilding is precisely that the failure of M.S. Horbachov turned for each of the Soviet republics, including Ukraine, a historic chance to build a truly sovereign, independent, democratic, social and legal state outside of any federation.

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