

LEGAL ASPECTS OF PUBLIC CONTROL IN THE REGIONS OF THE RUSSIAN FEDERATION

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Abstract

The issue raised in the article is urgent in view of the formation of legal framework of public control in the Russian Federation and the adoption of the Federal Law "On the basis of social control in the Russian Federation". The aim of the study is the possibility of legal regulation of the institute of public control by the laws of the subjects of the Russian Federation. Research methodology includes both general scientific and special legal methods. Classic methods of cognition, such as analysis, synthesis, analogy, are used in the research. The initial methods of studying the foundations of public control are systematic-structural and formal-legal methods. This set of methods has allowed analyzing the federal legislation in terms of public control. As a result, the obvious problems in terms of legal regulation at the federal level were identified. In some points, as regards subject composition of public control, for example, it was established the absence of some of the most potentially active groups that can participate in public control measures. It would be possible to resolve these issues by the laws of the subjects of the Russian Federation, but federal law does not leave the possibility, for regional legislators in their own regulations, to go beyond the federal regulations. Thus, the scientific novelty of the study was the introduction of proposals to expand the subjects of public control by civil society organizations, the empowerment of the subjects of the Russian Federation in functions for additional legal regulation, and the introduction of other proposals containing elements of novelty. The practical significance of the proposed amendments is that public control as a modern dynamic institution will receive additional legal resources to accelerate its introduction to the public relationship. Thus, civil society institutions will become increasingly important to monitor the activities of government.

Keywords: public control, social control, legal regulation, subjects of public control, forms of public control

1. INTRODUCTION

In modern conditions of the state development public control causes a steady interest among researchers. Its practical application is not as active as it was intended by the legislator. Legal gaps identified after the adoption of the Federal Law "On the basis of public control", have become apparent. Scientists note that the concepts of subjects and objects of social control, types of the control, and the right of public supervisors and legal consequences of the results obtained are insufficiently regulated by this law. The law requires considerable revision (Mikheev, Mikheeva and Mokoseeva, 2015, p. 26). The terms of realization of the law are invariably associated with the openness of the power, its interaction with citizens (Kudryavtzev,

Mikheeva and Mikheev, 2016, p. 1919). However, the law remains unsettled the mechanism of cooperation of authorities with public associations and mass media, which would successfully cope with the supervisory functions (Belousov, Gornev and Mikheeva, 2015, p. 63).

This controversy illustrates the need for development and specification of the provisions of the Federal Law in the laws of constituent entities of the Russian Federation. Today, as it is noted by E.V. Gerasimova and I.L. Landau, 37 entities have already adopted the laws on public control, while others - are actively working at their development and discussion (Gerasimova and Landau, 2016, p. 48). In connection with this it becomes necessary to carry out the research of the legal regulation of public control in the constituent entities of the Russian Federation. The purpose of the article is to analyze federal regulations governing the public control, and rationale for their further development in the regional laws. Finally, the research proposes specific recommendations, conclusions for improving the legislation. According to the authors the legal capacity of the existing federal law will receive the content and disclosure of regional legal norms. Thus, additional legal instruments are available to provide real control of public authorities by the community.

2. METHODS

We used, first of all, special legal methods. System-structural and formal-legal methods of cognition have become the initial methods for assessing existing legislation of public control. They revealed legal gaps that impede the implementation of the law. However, classical scientific methods were applied in the study as well. In particular, the methodological tools relied on such methodological techniques as analysis, synthesis, and analogy.

Methods of research were not limited by the enumerated elements, but incorporated a number of other principles of cognition - scientific objectivity, the logical interconnection.

3. RESULTS AND DISCUSSION

In modern conditions public control has become one of the key issues in relations between the government authorities and civil society. The ability of citizens and community groups to carry out an audit of government bodies and local authorities, to control their decisions, to assess their activity in the terms of public interest is one of the most effective mechanisms to ensure transparency in the activities of public authorities (Dementjev and Dementjeva, 2015, p.32). On the other hand, openness and transparency in their work are the backlash that links authorities with citizens, enables to capture social interests and demands.

General legal vector in this direction has been traced with the adoption of the Federal Law "On the basis of public control in the Russian Federation." However, as the name of the law implies, it secured only the fundamental legal algorithms concerning the institution of public control, which should be followed by the constituent entities of the Russian Federation in their further lawmaking procedure. Some aspects of public control are not revealed by the federal legislature there are many reference norms. It would seem that a wide field for regional rulemaking has been created; the subjects of the Federation are welcomed to bring their peculiarities. Moreover, after the adoption of the above mentioned federal legal act, there has been a regulatory activity on the investigated problem in the subjects of Russian Federation. According to V.V. Grib the President of the Russian Association of Public Control dozens of laws and hundreds of regulatory legal acts in the sphere of public control at the municipal level are expected in the subjects of the Russian Federation in 2015-2016 and they should be the legal basis for cooperation between the state and civil society institutions, which promote the development of public control in Russia (Grib, 2015, p.6).

However, there are reasons to doubt the legal possibilities of the regional legislature, as the Federal Law "On the foundations of social control" creates serious problems both for law-making and law enforcement activities.

One of such problems that the Federal Law contains, is an actual ban fixed in a number of rules on introduction of any other types of public control (not provided for by the Federal Law) at the regional level. Article 18 of the Federal law provides that public control is carried out in the forms of public monitoring, public inspection, and public examination, also in the forms of public discussions, public hearings and other forms of interaction. Despite, the indication of "other forms" in the norms, there are no illusions concerning the fact that these additional forms of social control in the regional legislature cannot be introduced. It clearly follows from the Article 10, which established that public control entities entitled to exercise it in the forms provided by the present Federal Law and other federal laws. Virtually, it does not mean any innovations in the terms of additional forms of social control at the regional level; the scope is completely closed by federal laws.

The question of its subjects is a very important aspect of public control. In fact, its efficiency, quality, the

tasks assigned to this institution depend on those who will exercise such control. Article 9 lists the subjects of social control specifically, the Public Chamber of the Russian Federation, Public Chambers of the Federal subjects and municipal entities; Public Councils at the federal bodies of executive power, at legislative and executive authorities of the subjects of Federation, public councils of municipalities. If necessary, public monitoring commissions, public inspections, groups of public control and other organizational structures can be created. However, scientists note that, despite the opportunity of citizens, public associations to participate in public control, the system of public control basically closed by public chambers and public councils (Belousov, Gornev and Mikheeva, 2015, p. 59).

It is noteworthy that the citizen, as an independent monitoring entity is not mentioned in the Article 9, although his right to implement public control is fixed by the Article 3. Thus, subject composition of public control concerning citizens represented in the federal law is incomplete and vague. Article 3 enshrining the right of citizens to participate in public control, significantly constricts it in comparison with the subjects established by the Article 9. Although, the problem of the active inclusion of citizens in governance processes is actual both nationally and abroad. The most active citizens realize their interests as a part of public associations, which are the most structured groups of citizens capable to exercise public control (Mikheev, Dudko and Mikheeva, 2015, p. 42). However, the non-inclusion of both entities in the article 9 of the Federal Law leaves their position as the most real participants of social control, undefined. Regional lawmakers do not have the slightest possibility for specifying and additions of federal regulations that seems wrong, even because the law "On the foundations of social control" has laid down only a legal framework of public control. It's necessary to lower its further content on the downstream - the regional level of legal regulation. As a result, the institution of social control will gain vitality and will be able to fulfill its purpose.

We believe that the constituent entities of the Russian Federation should be granted the right to add the subjects of public control in their laws by their own laws, taking into account their regional features.

The theme concerning the shortcomings of the law in terms of the subjects of public control can be continued. The principles of formation of regional public councils, for example, are still remained insufficiently settled. Article 13, devoted to the public councils under the federal and regional authorities, only gives the idea concerning the formation order of public councils under the federal bodies of executive power (the competitive basis of formation of the Board, requirements for candidates, the right to nominate candidates, etc.). They do not receive any further legal specification. Scientific studies have repeatedly raised the issue of attracting public institutions to a solution of local problems (Mikheev, Kudryavtsev and Yaichnikova, 2015, p. 280), including social control, in general, (Mikheeva and Likhoshva, 2016, p.32) and to the public control in the sphere of rendering municipal services, in particular (Yakhina, Yaichnikova and Mikheeva, 2015, p.62).

Meanwhile, in spite of the deficiencies that were mentioned, impeding the development of regional legislation in the sphere of public control, the subjects of the Russian Federation fix public control in their regulations. A number of entities have adopted special laws that regulate the basic provisions for the implementation of public control in their regions. Among them is the Law of the Amur region of December 29, 2014. "On Certain Aspects of the Organization and Implementation of Public Control on the Territory of the Amur Region" (Law of the Amur region, 2014), the Law of the Republic of Tuva, of July 5, 2015 "On the Implementation of Public Control in the Republic of Tuva" (Law of the Republic of Tyva, 2015) The law of the Magadan region of February 27, 2015 "On Public Control in the Magadan Region" (The law of the Magadan region, 2015), the Law of the Penza region of March 4, 2015 "On the Order of Organization and Implementation of Public Control in Penza region" (The Law of the Penza region, 2015), and others.

According to V. V. Grib the bulk of the regional laws, in a certain part, duplicating the provisions of the Federal Law "On the foundations of social control in the Russian Federation", more completely reveals the procedure for the formation of subjects of social control and the main forms of social control. Some regional legislators made the main emphases on the powers of state authorities of the Russian Federation in the sphere of exercising control (Grib, 2015, p.4-5).

One should agree with V.V. Grib, that the introduction of public control in the Russian Federation is focused on the respect and implementation of constitutional rights and freedoms of citizens (Grib, 2014, p.33]. Therefore, the existing legislative shortcomings should be eliminated as soon as possible.

4. CONCLUSION

Adopted in the Russian Federation, Federal Law "On the basis of social control" has no analogues in the legal systems of foreign countries. It allows civil society institutions to monitor the activity of the government (Vavilov, Mikheeva, 2016, p.130-137). However, many aspects of social control have not received proper settlement in the Federal Law. In this connection, it's quite logical to provide subjects of the Federation with

further legal specification, as the main burden of the implementation of the law will fall on their shoulders. The authors made a number of legislative recommendations to regional lawmakers, aimed at eliminating legal gaps.

First, the subjects of the Russian Federation in their laws on public control should be able to expand the list of the subjects of public control by including citizens as independent entities and public associations.

Secondly, these laws should specify the creation of public councils at the municipal level. It seems obvious to create them only in the urban districts and municipal areas.

The legal order in terms of the subjects of social control is able to give the necessary acceleration to the implementation of the institute of public control.

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