

AUTONOMY OF THE LOCAL GOVERNMENT IN TERMS OF PUBLIC CONTROL

Artem Likhoshva¹ and Tatiana Mikheeva^{2*}

¹ Postgraduate, Mari State University, The Russian Federation, law @marsu.ru

² Prof. Dr., Mari State University, The Russian Federation, tmikheeva @marsu.ru

*Corresponding author

Abstract

The goal of the research consists in the one of the contemporary issues of local government - public control at the municipal level. It is considered from the perspective of the expanding autonomy of population in municipal formations in local matters. Public control breaks new ground for citizens to exercise their constitutional rights to the local government. Various methodological techniques used by the author in this study contribute to the successful review of the question. They cover general scientific and special legal methods of knowledge. As general scientific methods analysis and synthesis were used. Method of ascension from the particular to the general was applied to figure out final conclusions. Legalistic and comparative law methods of cognition were also used in the study, they refer to the special legal methods. Conjunction of the methods let analyze Federal law provision "On the basis of public control in the Russian Federation". Analysis of the provisions of the law in terms of the possibility to monitor the municipal authority actions showed obvious advantages of the legal act. Numerous subjects of the public control received legal adjustment in it in the form of civic chambers, social councils. Thus an enormous resource of civil society institutions at the municipal level may be involved in the legislative enactments for public control. It is not only claimed to be an innovation but also positively characterizes the public control law. However, the result of a critical understanding of the law was to identify obvious gaps that restrict the rights of citizens in the sphere of public control. The citizens, in violation of the principle of the local government autonomy are not included in the number of independent subjects of public control. They can participate in public control only in special groups, inspections or public associations.

The other legal gaps were established as capable of adversely affect the implementation of the law. The most effective way to concretize the identified omissions is stated by the authors in accepting municipal regulations concerning public control. As a result a number of actual proposals capable to force implementation of the public control at the municipal level were submitted.

Keywords: local government, public control, citizens, autonomy.

1. INTRODUCTION

Formation of modern local government is one of the key problems of the Russian state (Mikheeva, 2002, p.102). The tendency toward expanding of the population's independence in resolving local issues appears in the last decade. It becomes debatable among scientists (Vavilov and Mikheeva, 2016, p.p.123-155). The

head of the State pointed at the necessity of self-sustainable local government (Putin, 2013). The principle of autonomy lies at the roof of local government organization and activity. Constitution of the Russian Federation proclaimed the local government an independent level of public authority by granting the right for independent solution of the local issues to the population of municipal formations. E. Izmailova notes that implementation of that principle involves the use of various forms of public control over the activity of authorities and members of local government (Izmailova, 2003, p.114).

The public control meets these criteria which is defined by V. Grib as a kind of control applied by civil society and focused on activity assessment of public authorities at all levels (Grib, 2010, p.34). Mikheeva T. and Belousov E. are more concrete in their definition of public control item, they extend it to the municipal level of the public authority. The authors in their characteristic clarify the purpose of public control as the identification of local government defects in order to improve the efficiency of their work. At the same time the main subject of the control is referred to the local community (Mikheeva and Belousov, 2015, p.178). Different opinions of scientists are evidence of insufficient elaboration of questions of public control as an element of local government independence. This proves the necessity of a special study on these terms of reference. The authors set a goal to consider the independence of local government from the standpoint of public control. One of the research tasks is a definition of the citizens' role of in the implementation of public control. Another important task is to work-out recommendations for improving the legal regulation of public control at the municipal level. The number of methods of knowledge was used to resolve stated questions, analysis was a leading method among them. It was used while studying information resources and empirical knowledge base. Jurists' opinions on the studied question were brought out with the help of doctrinal method. Working on legislation what regulates public control required to address Aristotelian method. General scientific methods of synthesis and analogy represented the high-density requirements in determining conclusion. The set of methodological techniques and methods allowed achieving the goal of the research and resolving research issues.

2. RESULTS AND DISCUSSION

Independence is one of the general principles in the system of local government. It is accepted as a basis of municipal authority due to consolidation in the Constitution of the Russian Federation. Article 12 of the Constitution established the independence of local government within its authority. This provision testifies to the fact that public authorities have no rights to interfere with local government authorities' activities connected with resolving matters of local significance. However, this does not exclude the dependence of local governments on the population as a major subject at the local level, forming those authorities (Mikheev, 2014, p.44). Any resident of the municipal formation is entitled to receive information about activities of local authorities (Mikheev, 2014, p. 10). In this regard, citizens' possibility to control the authorities activity created on a local level is significant (Mikheeva and Likhoshva, 2016, p.32). Accordingly, the appearance of the Federal Law "On the basis of public control in the Russian Federation" (Federal law, 2014) must be considered as a timely monitoring tool in the matter of local government. It's not fortuitous that scientists call public control one of the most effective mechanisms to ensure the transparency of public authorities (Dementjev and Dementjeva, 2015, p. 32), despite the fact that they indicate the lack of regulatedness of subjects' and objects' definitions of public control, its forms, public controllers' rights and legal consequences of obtained results (Mikheev, Mikheeva and Mokoseeva, 2015, p. 26). Analysis of the pointed law from the standpoint of the local authority autonomy principle allows to notice that the public control, i.e. citizens' and public institute's control, is necessary and logical for the local government institute. Population, citizens form the majority of local governments in the municipal elections or by other ways. Therefore participation of these individuals in the control of formed authorities is justified.

The legal literature indicates that to overcome the abuse of governmental authority the necessary measures are to limit power, ie, control (Belousov, Gornev and Mikheeva, 2015, p. 60). Public control in the matter of local government in line with Article 4 of the said Law is an activity carried out for the purpose of monitoring the work of local governments and municipal organizations, as well as of public inspection, analysis and evaluation of acts promulgated by them and the decisions taken. Close cooperation with civil society institutions should be noted among the duties of public control. The common development problems of municipal areas, supporting their livelihoods, comfortable citizens commorancy are the conditions for the approach of local government with citizens and public structures (Mikheeva, 2014, p. 94). Article 9 of the law fixed the subjects of public control. Such as public chambers and public councils of municipalities on a municipal level. Also public monitoring commissions, public inspections, group of social control can be created.

Citizens do not appear as independent subject of the public control. However, they also have rights to participate in its implementation as a part of public associations, as public inspectors or public experts. In addition to that local government is impossible without population and citizens' participation. It becomes

obvious that the people's right to realization of local government is closely connected to the right to public control in the sphere of local government. Nowadays public control becomes one of the key priorities in the said sphere (Mikheev, Dudko and Mikheeva, 2015, p.42). This conclusion leads to the need for a full adjustment of matters on the public control at the local level. It would be appropriate for municipal formations to take municipal legal acts for these issues. For example it can be regulations on public control. Many aspects of organization, actualization of public control may be spelled out in details there. We believe that in these municipal legal acts a detailed regulation of public control of citizens, as the most actual subjects of control should be received. We do not offer amendments to the Federal Law "On the basis of public control" because its purpose is to establish common control algorithms of public institution. It will be correctly to further develop the rules of law in the mentioned Regulations, introduced at the local level, which will independently settle legal gaps. At the same time, this approach will also attend to the implementation of the principle of independence of local government.

Public control at the local level becomes an indispensable tool in the mechanism of this principle without which the scope of municipalities' population's autonomy is significantly narrowed.

3. CONCLUSION

Summarizing undertaken study of providing local government independence by means of public control, the following proposals should be made.

1. The Federal Law "On the basis of public control in the Russian Federation" has begun the implementation of a new public institution. However, its provisions do not reflect the many features of public control in the sphere of local self-government. In this regard, it will make sense to develop and adopt own legal acts on municipal formations on this matter - the Regulations on public control. In these regulations specific to the local level of government forms and methods of public control should be concretized. Thus the independence scopes of local government will significantly expand.

2. The municipal legal relationships a key place is given to the population, citizens.

They form bodies of local government, are directly involved in the implementation of local government through referendums, meetings, public hearings. It is proposed to allocate the citizens as an independent subject of public control. They can really participate in the control activities, since they have a direct interest to the matters of local importance. The proposed supplement could be reflected in the Municipal Regulations on public control. In this case, the principle of independence also receives an additional legal instrument for its implementation.

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REFERENCE LIST

- Belousov E., Gornev R. and Mikheeva T. (2015). About Participation of Institutes of Civil Society in Public Control over the Activities of Local Authorities. Review of European Studies. Vol. 7. DOI:10.5539/res.v7n8p59.
- Dementjev, A. and Dementjeva, O. (2015). Public control as necessary condition of ensuring transparency of activity of the public power, prevention and prevention of corruption
Municipal authority, vol. 4.
- Grib, V.V. (2010). Public Chamber of Russian Federation as a body of public control. Legal world, vol. 3.
- Izmailova E. (2003). Legal mechanisms of the responsibility institute in a system of local government: dissertation of the candidate of legal sciences. Moscow.
- Mikheev, D. (2014). Access of citizens to the information as a way of realization of a principle of publicity of local government. Russian justice, vol.1.
- Mikheev, D. (2014). Responsibility of local governments to the population as part of the principle of transparency. Law & legislation, vol. 4.

- Mikheev, D., Dudko, I. and Mikheeva, T. (2015). Public Control in the Mechanism of Realization of the Principle of Local Authority Publicity. *Mediterranean Journal of Social Sciences*, vol. 6. DOI:10.5901/mjss.2015.v6n3s7p41.
- Mikheev, D., Mikheeva, T. and Mokoseeva M. (2015). On the experience of legal regulation of the principle of local authorities in German law. *Review of European Studies*. Vol.7, No 8, <http://dx.doi.org/10.5539/res.v7n8p23>.
- Mikheeva, T. and Likhoshva, A. (2016) Modern Approaches to Publicity and Independence of Local Government: Experience of American Municipalities: *Mediterranean Journal of Social Sciences*, vol.7, No 1 .Doi: 10.5901/ mjss.2016.v7n1s1p31.
- Mikheeva, T. and Belousov, E. (2015). Public control at municipal level: the analysis of the law novels. *Actual Problems of Economics and Law*, vol. 2.
- Mikheeva, T. (2002) Some of the problems of municipal service institute. *Public administration*, vol. 4.
- Mikheeva, T. (2014). To a Question of Interaction of Local Governments with the Population: Foreign Experience. *Russian law*, vol.8.
- Putin, V. (2013) Address of RF President Vladimir Putin to the Federal Assembly of 12.12.2013, *Rossiyskaya Gazeta*, 278.
- The Federal Law No. 212-FZ of July 21, 2014 "About the bases of public control in the Russian Federation". (2014). *Legislation Bulletin of the Russian Federation*, vol.30.
- Vavilov N. and Mikheeva T. (2016). Legal regulation of activity of institutions of civil society at local level. Moscow, «Jurist».