

## **INFORMATION ACCESS ON MUNICIPAL SERVICES: QUESTIONS OF PUBLICITY**

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### **Abstract**

Information is an important part of everyone's life. It plays a special role in any democratic country with regard to the coverage of the activities of state authorities and local governments. The work of municipalities in Russia is connected with the provision of everyday comfort of population living in them. That is why the awareness of citizens about the activities of local governments is of particular relevance. It is fairly stressed by scientists that any resident of the municipality has the right to receive the information on the activities of local authorities (Mikheev, 2014, p. 10-11). On the theoretical and legal position the principle of publicity is at the heart of access to information on the work of municipal authorities. It is one of the key principles of the organization and activity of local government. Providing municipal services is regulated sufficiently complete by federal and regional legislation and municipal legal acts. However, in these legal acts there is a lack of regulation of the principle of publicity. Its consolidation in the legal norms is an additional tool to ensure citizens' access to information on municipal services. The aim of the study is to analyze the current situation in the area of access to information on municipal services and to propose measures to improve the legal regulation of this sphere on the basis of the principle of publicity. To achieve the objectives of the study authors used a comprehensive methodology, including the principles and specific methods for the study of legal phenomena and laws. The study is based on the principles of legality, elimination of subjectivism, systemacy and interdependence. The methods of investigation were system-legal technique, analysis of legislation and law enforcement practice, the analysis of the works of Russian and foreign scientists, comparison. The article is also interesting in its approach to materials of research. Thus, the authors have used not only the classical legal sources, such as legislation and law enforcement practice, but also Internet resources, checking their compliance with the requirements system, as well as testing their workability. Based on the results of the conducted research the authors propose changes to the existing legislation, which contribute to the publicity and openness of local government in the provision of municipal services to the population and legal entities.

**Keywords:** Publicity, municipal services, local governments, providing information access

## **1 INTRODUCTION**

«He who owns the information, owns the world» said Nathan Mayer von Rothschild. These words, spoken by nearly two centuries ago, are relevant today more than ever. The information in the modern world has become one of the leading values of society, and the access to it is an indicator of development and democratic state system. Each person requires information and, first off all, it is information about government activities, as it is the state intended to provide its citizens a decent life. For anyone it is important the information related to his daily life, with its environment, the place of residence, which is why the information on the activities of local governments is particularly relevant for all of us.

Municipal services have come to play a very important role in the life of every citizen of the country, as in Russia, local governments are in charge of following issues: provision of land settlements for construction, maintenance of needing housing, solid waste removal, landscaping, placement of children in kindergartens and others. That is why the information access about the possibility to use local goods is particularly important and necessary for any person and organization. The access of such information, among other things, confirms the real desire of local governments to interact with the population, to conduct a dialogue on an equal footing and in fact to make people's life easier and more comfortable. All these circumstances, no doubt, give meaning and relevance of the research topic.

Currently, in Russia, the practice of providing access to information on the activities of local governments to provide municipal services is poorly understood due to the large number of federal, state and local legal acts in the considered area.

The aim of the study is to analyze the current situation in the area of information access on municipal services and suggestions for improvement measures in this sphere of legal regulation.

The scientific novelty of the research is to attract not only the particular legal and scientific material on the problem at issue, but also the materials provided by local authorities to the population.

## **2 METHODOLOGY AND MATERIALS**

The methodology of the research is the actual methods as ways of studying the legal phenomena, as well as the principles of their selection and use. The study was conducted using methods such as systemic-legal technique, the analysis of legislation and law enforcement practice, analysis of the works of Russian and foreign scientists, comparison. Systemic-legal technique is necessary to establish links between legal phenomena, to determine their location and importance for the system of legal regulation. Analysis of legislation, law enforcement practices and scientific works aims to isolate the important for the study legal factors, attitudes and law enforcement problems from the extensive layer of legal acts and legal doctrine. Comparison allows matching the intention of the legislator to regulate relations in the field of information access on the provision of municipal services, and the actual practice of the implementation of this will set in the regulations.

The main methodological principles the authors have chosen is the principle of legality, elimination of subjectivism, systemacy and interdependence.

The principle of legality ensures strict adherence of the authors to the legal norms, the recognition of their basic source of the study. Opinions and evaluations of the authors are based primarily on the regulations and practices for their implementation by the principle of exclusion of subjectivity. All legal sources regulating the studied phenomena are interconnected, constitute not a collection, but a system and a change in one causes a change in another - it is the content of the principles of consistency and interdependence.

The approach to the research materials is of interest. The classic materials of legal finding are legal regulations and law enforcement, as a rule, judicial practice. The authors were not limited to the usual range of materials and significantly expanded it by including in a system of sources the municipal legal acts and the content of the official sites of municipalities located on the territory of the subject of the Russian Federation - the Republic Mari El.

## **3 LITERATURE REVIEW**

Access to information on the provision of municipal services is an integral part of two extensive legal institutions: Institute of municipal services and Institute providing access to information on the activities of local governments.

The problems of information access on the activities of public authority, its publicity interest not only Russian researchers, but also their foreign counterparts.

In the Donald F. Norris and Christopher G. Reddick's work the practice the implementation of e-government in the United States was analyzed. With great regret the authors note that the forecasts and expectations placed on this form of activity of local authorities are not justified: local e-government has not produced the results that those writings predicted. Instead, its development has largely been incremental, and local e-government is mainly about delivering information and services online, followed by a few transactions and limited interactivity. Local e-government is also mainly one way, from government to citizens, and there is little or no evidence that it is transformative in any way. (Norris, Reddick, 2013, p. 165).

It is interesting that e-government in foreign countries is called differently. So, Scott P. Robertson and Ravi K. Vatrappu, studying legal regulation of infocommunication foundations of public authority use the term «digital government» in contrast to previous authors (Robertson, Vatrappu, 2010, p. 318).

Researcher Ben Worthy notes the interrelation of concepts such as transparency, openness, publicity of the public authority and accessibility of information on the activities of the authorities. At the same time, the author notes that the gap between attempts to ensure the openness of information, and the actual availability of information implies the political instability in the country (Worthy, 2015, p. 803).

Indeed, it is undeniable that the publicity and accessibility of information are interrelated. The Russian scientists note this too.

So, Dennis S. Mikheyev notes that the publicity and awareness of the population about the work of local government bodies are interconnected: "the access to information on the activities of local governments is based on the principles of openness and accessibility of information on the activities of local governments" (Mikheev, 2014, p. 20). Moreover, the author indicates the openness of decisions of local governments facilitates their interaction with the citizens (Kudryavtzev, Mikheeva & Mikheev, 2016, p.1919).

Other researchers examining this sphere, introduce such concepts as "information maintenance, information security." Yuri A. Slautin and Ivan S. Polevshchikov fill the concept of "information security" with the following content: "Information security of management by municipality is the relation between the object and the subject of management, and this information is the subject of long-term use. The main elements of this connection are the "source" (the one who creates the message and is solely responsible for the accuracy of the information), the "message" (information content), "channel" (a method of transmitting-receiving of the information) and "recipient" (the one who receives message) " (Slautin, Polevshchikov 2015, p. 230).

O. V. Simagina draws attention to the public nature of both state and municipal services. The author proposes to distinguish between state and municipal services on the grounds of their focus: through state services public power ensures the integrity of the state, and through municipall services it provides the satisfying of the community needs (the municipality's population). (Simagina, 2011, p.113)

S. E. Martynova proposed to consider municipal services as an indicator of public satisfaction with the activities of local governments. (Martynova, 2011, p. 78). This thought is kept by other authors when they say that the satisfaction of the population of such services is a way of an independent assessment of the authorities at the local level (Yakhina, Yaichnikova & Mikheeva, 2015, p. 60), reveals the shortcomings of the local government bodies in order to enhance their activity (Belousov, Gornev & Mikheeva, 2015, p. 59).

In general, the researchers of the municipal services offer a single concept, according to which the municipal services are designed to provide the population with essential tangible and intangible benefits that can not be obtained without the aid of public authorities. But it should be noted that such area as public awareness in the provision of municipal services has not yet been considered as an independent subject. Most of all, the municipal services are studied generally, the attention to narrow, but important aspects does not emphasize.

## **4 RESULTS AND DISCUSSION**

The procedure of providing municipal services is regulated by the Federal Law of 02.07.2010 № 210-FZ "On the organization of providing public and municipal services." This law established that the applicants (recipients of municipal services) are entitled to receive information about such services. In order to determine how the issues of availability of information on municipal services are regulated, it is necessary to apply to the Federal Law of February 9, 2009 № 8-FZ "On providing information access on the activities of state authorities and local governments" (Federal Law, 2009).

This federal law develops the provisions of Part 1 of Article 24 of the Constitution of the Russian Federation, which stipulates that "State authorities and State authorities and their officials are obliged to provide everybody the access to documents and materials directly affecting his rights and freedoms, except as otherwise permitted by applicable law " (The Constitution of the Russian Federation, 1993).

The considered law immediately aroused the interest of society; it has become a subject of discussion, as is evidenced by the appeal to the Constitutional Court of the Russian Federation on matters governed by the law in question. Thus, paragraph 1 of article 1, paragraph 6 of part 1 of article 20 of the Law were the subject of the Constitutional Court of the Russian Federation. The practice in the application of the act by the other courts is also remarkable. Thus, the decree of the Federal Arbitration Court of the Volga district on April 25, 2012 N F06-2218/12 in the case N A12-13520/2011 declared unlawful the refusal to provide the information of existing summary route timetables for some routes to legal entity. The refusal of the Municipal Service Department of Administration of Volgograd (the body responsible for drawing up the schedule) was motivated by the fact that the transportation of requested routes was carried out by another person, and summary route timetables was not made, in spite of the fact that the Department was given the responsibility of its preparation (Regulation, 2012). Thus, the basis for the refusal to provide information cannot serve its absence if the case, if synthesis of information is the responsibility of the local government. A similar concept is described in the appellate decision of the Investigative Committee on civil cases of the Irkutsk Regional Court on 15 July 2014 in the case of N 33-5715-14, in this case, the refusal to provide information to the citizen was recognized as a legitimate, because in local authority responsibility for the formation of such information has not been assigned (Appeal definition, 2009).

An analysis of the forms of providing information on the activities of local government bodies leads to the conclusion that there are two kinds of informing the population and legal entities, depending on the activity of the person receiving the information: active (when the information is not posted in the official resources and they need a request to get it) and passive (when information is available free and the direct appeal to the local government is not required).

The information on the provision of municipal services, namely, administrative regulations and standards for the provision of municipal services, belong to the second kind of information because, as federal law on access to information has established, it should always be published on the Internet.

The providing information access on local government activities in accordance with the law in question is carried out as prescribed by the local governments themselves. According to established practice, the provision of information on the activities of local government is a municipal service. Thus, it follows from the law and practice that the publishing of information about municipal services becomes a key responsibility of local governments. Let us analyze the practice of providing information about municipal services on the example of the subject of the Russian Federation - the Republic Mari El.

The list of city and municipal districts located within the Republic Mari El is represented on the official Internet portal of the Republic Mari El <http://mari-el.gov.ru/>.

As it follows from the information represented on the site, in two of the three cities of the republic the official Internet sites are established, such sites are created in the half of the municipal districts. The information regarding the activities of the Administration of the city district "City Kozmodemyansk" and the administrations of seven municipal districts that do not have official websites, is posted on the official web portal of the Republic Mari El. In accordance with Part 1 of Article 10 of the Federal Law "On providing of information access on the activities of state authorities and local governments", the local governments for posting information on its activities use the network "Internet", where they create the official websites indicating the e-mail addresses, to which a request can be sent and the requested information can be received by the users of the information. If the local government does not have the possibility to publish the information on its activities on the internet, this information may be placed on the official website of the subject of the Russian Federation, within the boundaries of which the relevant municipality is located.

As a general rule, the conduct of the site, which contains the information on the requesting procedures of municipal services, is engaged in the local administration, although under the law it should be the local government, which is responsible for specific municipal service.

Among the shortcomings of the submission of information on municipal services it is the lack of uniformity in the design of websites of municipalities, including the section titles (most often it is a "Municipal services", or the "Administrative Regulations" or "Normative legal acts") that is in principle no violation of the law, but the design originality, but that may adversely affect the easement of finding of information.

In terms of municipal normative legal provision of municipal service "access to information" the city Volzhsk and the city Yoshkar-Ola are the most advanced – there were accepted by four regulatory legal acts, Volzhsky municipal district, Mari-Tureksky municipal district – by two regulatory legal acts, regulations in the study area are accepted in the city Kozmodemyansk, Gornomariysky municipal district, Yurinsky municipal district, Zvenigovsky municipal district, Kilemarsky municipal district, Novotoryalsky municipal district, Orshansky municipal district, Morkinsky municipal district.

Regulatory legal acts in the area of providing the information access on the activities of local governments are on the official sites or pages of municipalities on the Internet portal, they are easy to find in the online archives of the municipal legal acts of electronic legal reference systems of Russia on the internet.

However, there were identified the municipalities that have gaps in this sphere. In the municipal district Sernur the Internet portal posted only a draft of administrative regulations "Placing the information on the official websites of the municipal formation "Sernursky municipal district" on the Internet." The project is placed in February 2013, the information on the adoption of this regulation is absent. At the site of the Paranginsky municipal district the acts devoted to access to information, could not be found. On the accessed date November 28, 2016 in the section "Administration" there was a tab "Regulatory legal acts" with an empty content, the presence of which, in our opinion, is inappropriate, because regulatory legal acts are distributed in different categories of "municipal service", "municipal control "and others, and the building of a common, but not completed structural element creates a negative impression on the control of the site. It may be advisable to create the section "Municipal legal acts" and to include such subsections as "Projects", "Municipal services" etc. with the filling of specific documents.

There is an interesting situation concerning Kuzhenersky district, which has an official website and a section in the internet- portal. When viewing the regulatory legal acts of the local administration in order to go to the regulatory legal acts in 2014 the hyperlink must be used, which takes the user to the official website of the "Administration of Kuzhenersky municipal district» (<http://www.kuzheners.ru/>) in the section "Regulatory legal acts." The first act of the list is dated 2016. Thus, in order to find the acts for 2014 it is necessary to conduct a further search. At the time of the request to the site on the 28 November 2016 the search on the site was not working, therefore, any information would have to search manually. As a result, the municipal legal acts in the area of providing the information access on the activity of local government were not found, and the administrative regulations of providing municipal services were very difficult to find. Also, the availability of the official website and the section on the web portal, and even the presence of links from the portal to the website, in our opinion, are not user-friendly, as there is a question, which source to prefer: logically, if there are two information resources, it means, that the content is different, where is the information to look for?

The quality of information provided in the internet is currently impossible to assess objectively, with "user's eye," i. e. no feedback channels on websites, for example, the surveys of the population of the following type: "Did you find the service of interest?", "Is the site easy to use? ", " How long were you looking for information?", etc., as well as sections (forums) on the website that allow the users to express their opinions, suggestions, to provide local governments all possible assistance in improving of informational work and the development of administrative regulations.

A major shortcoming of the legal regulation which caused the defects in law enforcement practis is the lack of a single linking in this area at the federal level. The Russian laws regulate only providing the information access, but, moreover, the aspect "feedback" is not taken into consideration, the municipalities are not given responsibility for accounting opinion of the people concerning this or any other information. In Russian law there are no common information principles of activities of all public authorities. In our view, such a principle should be the principle of publicity. Because of its breadth it covers not only aspects of the placing and the provision of information, but also the issues of information exchange. As long as such a principle is not enshrined in federal legislation, local governments are unable to ensure the completeness of information interaction with the population and the people will not have the legal possibility to affect the information access.

## **5 CONCLUSIONS**

Without the participation of citizens in governance processes the solution to an issue of life necessities of local communities in the present conditions is impossible. (Mikheeva, Likhoshva, 2016, p.31). This participation is carried out also in the provision of municipal services. At present, Russia has done much to ensure access to information on the provision of municipal services: each municipality has the opportunity to post information on the Internet on their own official website or on the internet-portal of the subject of Russia. However, there are shortcomings in the field of posting information on the Internet: the unfilled sections are

found on the official websites, all sites differ in their logic, on some of them the search does not work, there is duplicate of the information from the official website and the Internet portal of the respective region. In some municipalities there are no municipal legal acts regulating the access to information on the activities of local governments.

As practice has shown, for the establishment of a strong relationship between the municipalities and the population, in order to stimulate the activity in the field of local government, it is necessary to establish the channels of communication "the population - the local governments" in the assessment of information support of the activities of the municipalities, which implies not appeal to the local governments in writing, but the expressing by the population its opinion on the adequacy of the information, on the comfort of examine it.

This problem can be easily solved without excessive legal regulation, if the federal legislation will incorporate the principle of publicity as a fundamental beginning of activity of local governments. Despite its importance, such a principle is not fixed in the Russian legislation according to the organization of local government. And in our opinion, it provokes negligence of local governments for the placement and the provision of information, as a violation of the constitutional principle implies not only prescribed by the law accountability, but also broad public disapprove, because

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