

CONSOLIDATION OF MUNICIPALITIES IN THE NEWEST TIME**Yury V. Blagov***Dostoevsky Omsk State University, Omsk, Russia*

The subject. The article is devoted to the analysis of the causes, the process, the consequences of the enlargement of municipalities in the Russian Federation.

The purpose of this paper is to show that with the initial increase in the number of municipalities, many of them turned out to be incapable of effectively addressing local issues and providing quality services to the population. In this regard, the reverse process began - the consolidation of municipalities. As a result, the number of municipalities, especially the rural level, has dramatically decreased. The enlargement of municipal formations went arbitrarily, without taking into account the infrastructural and historical unity of the unified urban settlements.

The methodology. The author uses a dialectical method, a method of analysis and synthesis, a formal legal method, a comparative legal method.

Results, scope of application. 03.04.2017 Federal Law No. 62-FZ is adopted, which provides for the transformation of municipal raions and constituent urban and rural settlements into urban districts according to a "simplified procedure", that is, with the consent of the population expressed by the representative body of the municipality. In parallel, under consideration in the legal department of the State Duma of the Russian Federation there is a bill introduced by deputy A.P. Markov, offering to introduce a new type of municipal formation - the rural district. In rural districts it is proposed to unite settlements in rural municipal areas. The implementation of this bill will lead to the mass elimination of rural settlements.

Actually there are no accurate and exhaustive legislative provisions regulating the territorial boundaries of urban districts, forms of the transformation and abolition of municipalities; moreover, local political and economic elites persistently seek to preserve the single tier management system developed over the decades. As a result of these blemishes, within administrative areas of some RF constituent entities, there are urban districts that consist of the large not urbanized territories with a poorly developed transport, social, economic infrastructure and without any common development goals. The authors conclude that the bias towards municipalities' consolidation in many RF constituent entities is justified and caused by ignoring of the vertical command relations in former areas. At the same time, they point out the need to take into account the town-planning, economic and geographical, socio-demographic factors while transforming municipal areas into urban districts, otherwise, all these transformations are fictitious and turn into revising of powers by local elites.

Conclusion. The municipal legal policy of consolidation of municipal entities is aimed at liquidating the settlement level of local self-government, which directly contradicts Part 1 of Art. 131 of the Constitution of the Russian Federation, which establishes the implementation of local self-government by the population, first of all, at the primary, settlement level.

Keywords: municipal reform; consolidation of municipalities; Federal Law No. 62-FZ; Rural district; settlement level of local self-government; the Constitution of the Russian Federation; European Charter of Local Self-Government.

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Introduction to the problem

Thesis on necessity of approaching of the local authority to the population has become the slogan of the municipal reform in 2003. In the years 2003-2009, the number of Russian municipalities increased more than 2 times (from 11 600 in 2003 to 24 160 in 2009). Corresponding transformations were carried out in a very short time and did not properly take into account the views of specialists, were not supported by sound financial and economic measures. Many municipal territories are unable to effectively solve local issues and provide quality services to the population, however, these criteria should be the basis of the territorial structure of local self-government. That is why we are witnessing the reverse process leading to the reduction of municipalities. Mainly, it is a tendency to minimize the settlement level of local government. One of the directions of the Russian municipal and legal policy of the last decade has been the enlargement of municipalities. Process of enlargement are given insufficient attention in scientific literature [1 -13]. This article aims to fill this gap.

Current status

According to the Federal State Statistics Service, the number of urban settlements for the period from January 1, 2010 to January 1, 2016 decreased from 1,739 units to 1,592, or in 8.5%. The number of rural settlements for the period from January 1, 2010 to January 1, 2016 decreased from 19 591 units to 18 177, that is, by 7.2%. The number of municipal districts decreased from 1,829 to 1 788, and the number of urban districts, on the contrary, increased from 512 to 563.

The process of consolidation of municipalities took place in several stages. Simultaneously with the entry into force of the Federal Law No. 131-FZ Krasnodarsky Krai and Primorsky Krai, the Sverdlovsk, Sakhalin, Murmansk and Kaliningrad Regions adopted decisions on the formation of urban districts on a large scale in the administrative districts. Thus, there were 2 municipal districts and 17 city districts in Sakhalin region. 68 urban districts and 5 metropolitan regions were formed in Sverdlovsk region [14, p. 37-47].

In 2003-2005 processes of the transformation of urban settlements and municipal districts into urban districts were carried out in the Kaliningrad, Belgorod, Moscow, Nizhny Novgorod, Sakhalin, Tula regions and in the Perm region.

Meanwhile, in accordance with Part 2 of Art. 11 of the Federal Law No. 131-FZ the granting of the urban settlement the status of a city district is carried out by the law of the subject of the Russian Federation in the presence of the existing social, transport and other infrastructure necessary for the independent decision by the local government bodies of the urban settlement of issues of local significance of the city district and the exercise of certain state powers transferred to the said bodies Federal law and laws of the subjects of the Russian Federation, as well as in the presence of the existing social, transport and other infrastructure necessary for the independent decision of local municipalities of the adjacent municipal district of local importance issues of the municipal district and the exercise of certain state powers transferred to these bodies by federal laws and laws of the subjects of the Russian Federation. When the urban settlement is assigned the status of a city district, the prospects for the development of the urban settlement, confirmed by the master plan of this urban settlement, are taken into account.

The enlargement of municipalities has been arbitrary during the last decade, without taking into account the infrastructure and historical unity of the unified urban settlements. The foregoing led to the fact that in some regions of the Russian Federation (the Republic of Yakutia, Sakhalin, Sverdlovsk and Murmansk regions, Krasnoyarsk, Krasnodar, Primorsky and Perm Krai), the status of the urban district was endowed with extensive, mostly unurbanized areas of several thousand square kilometers and a small population density. "The settlements that were part of such municipal entities cannot be recognized by their objective territorial, economic and geographical characteristics as an adjacent zone of the city, which would have the same goals and development principles reflected in the master plan of the corresponding urban settlement, and would have an infrastructural unity with urban area "[14, p. 41].

Thus, the implementation of the project "Big Moscow" was in fact lobbied by large construction companies to increase the volume of their activities. 2 urban districts and 19 urban and rural settlements of Podolsky, Leninsky and Naro-Fominsk district entered Moscow. Such large-scale territorial changes significantly affect the rights and interests of the residents, which requires clear identification of the views and consent of the population directly. In the Moscow Region, Kashirsky, Yegoryevsky, Mytishchinsky, Shakhovskiy, and Lyubertsy municipal districts have been transformed into city districts. In plans to transform into city districts all 29 municipal areas of the Moscow region.

The shortcomings of the enlargement of municipalities are quite obvious. Firstly, the issues of local importance of the urban district are not effectively solved due to the large area of the municipality, differences in social, economic, infrastructure characteristics of rural settlements and the administrative center (difficulties with urban planning, a single land tax rate, a uniform tariff for transport services on the whole territory of the urban district, etc.).

Secondly, the right of the population to exercise local self-government is limited, since it is problematic to organize public hearings on the budget of the city district in settlements that are located at a considerable distance from each other.

Thirdly, the decrease in the availability of municipal services is again due to the considerable distance between settlements.

Fourthly, the issue of budget provision of the newly created city district is often unresolved.

Fifthly, residents of abolished settlements may lose privileges for a number of taxes, fees and other compulsory payments.

The transformation of municipal districts into urban districts is, in practice, carried out through the accession of rural settlements to the administrative center of the municipal district and further transformation into the urban district.

New trends

The process of consolidation of municipalities has not only been continued in recent years, but it received a new legislative impetus. On April 3, 2017, the Russian President signed Federal Law No. 62 of April 3, 2017 "On Amendments to the Federal Law "On General principles of organization of local self-government" (hereinafter - the Federal Law № 62-FZ). The law provides for the transformation of municipal districts and constituent urban and rural settlements into urban districts by a "simplified procedure". So, in accordance with part 3.1 of Art. 13 of the Federal Law No. 131-FZ is amended as follows: "The association of the settlement with the urban district shall be carried out with the consent of the population of the settlement and the urban district, expressed by the representative body of the relevant settlement and city district, and taking into account the opinion of the population of the municipal district expressed by the representative body of the relevant municipal District. The unification of all settlements that make up the municipal district with the city district is carried out with the consent of the population of the settlements, the municipal district and the urban district, expressed by the representative body of the corresponding settlement, municipal district and urban district. The settlement, united with the urban district, loses the status of a municipal formation. The municipal district, in which all the settlements that were part of it, merged with the city district, loses the status of a municipal formation".

Part 7 of Art. 13 of the Federal Law No. 131-FZ is amended as follows: "The change in the status of an urban settlement in connection with the granting of its status as a city district or the deprivation of its status as an urban district shall be carried out by the law of the subject of the Russian Federation with the consent of the population of the corresponding urban settlement, the composition of which is allocated (which includes) the corresponding urban settlement, expressed by the representative bodies of the said municipalities". Earlier, the current version of Part 7 of Art. 13 of the Federal Law No. 131-FZ provided identification of the opinion of the population of the urban settlement and the opinion of the population of the municipal district by

voting provided for by Part 3 of Art. 24 of the Federal Law No. 131-FZ and conducted separately on the territory of a city settlement and on the territory of a municipal district, from which the urban settlement is separated (the voting procedure is similar to the procedure of a local referendum). The change in the status of an urban settlement is not allowed in the absence of consent to such a change in the population of the urban settlement and (or) the population of the municipal district.

It should be noted that consideration of the bill caused extremely heated discussions among deputies of the State Duma of the Russian Federation. As a result, only the faction of the Edinaya Rossiya party - 326 deputies - voted for passing the bill in the third reading. Representatives of the factions from all other political parties - 102 deputies - voted against the adoption of the bill, which, however, did not affect the final decision.

In parallel, there is a bill under consideration in the legal department of the State Duma of the Russian Federation introduced by deputy A.P. Markov, offering to introduce a new type of municipal formation, and namely, a rural district. It is proposed to unite settlements in rural municipal areas into rural districts. Local self-government bodies in the unified settlements are subject to abolition. There was an initiative of the governor of the Ulyanovsk region S.A. Morozov on abolishing the administrations of rural settlements and replacing them with an institution of village heads who perform their duties on a voluntary basis. This initiative was put forward by S.A. Morozov at a meeting on the implementation of the federal targeted program "Social Development of the Village until 2013" with the participation of the Chairman of the Government of the Russian Federation D.A. Medvedev. This example testified that the state authorities of the subjects of the Russian Federation prefer to eliminate local self-government bodies at the rural level, further arguing their actions by saving budget funds for the maintenance of local government. "The enlargement of municipal or abolition of local self-government bodies are extremely difficult issues that affect the constitutional principles of organization of local self-government", explained D.N. Kozak. In our opinion, the introduction of the institution of village headmen can be very useful, but only if village headmen function along with the local self-government bodies of rural settlements (without entering into them organizationally). The rural headman should be an elected person of public self-government of the inhabitants of a rural settlement and represent the interests of his settlement in communication with local authorities, institutions and organizations. The rural headman must be controlled by the local self-government bodies of the rural settlement, who have the right to demand from him a report on the work done.

The implementation of Federal Law No. 62-FZ will lead to the liquidation of urban and rural settlements, as well as municipal areas located on the territory of the future urban district. Implementation of the bill introduced in the State Duma of the Russian Federation by A.P. Markov will lead to the mass elimination of rural settlements.

Such municipal legal policy is not just contrary to the main goal of municipal reform which is the approximation of the local government to the people, to ensure citizen a real opportunity to participate in the management of the town or village. Taken together, these "innovations" are aimed at eliminating the settlement level of local government, which directly contradicts Art. 131 of the Constitution, which enshrines the implementation of the population of local government in the first place, in the primary - the settlement level, and the legal position of the Constitutional Court expressed in its Resolution of 12.01.2015, Nr. 30-P.

In the explanatory memorandum to the draft № 768237-6 Federal Law "On Amendments to the Federal Law" On General Principles of Local Self-Government" it is said that in case of change of status of an urban settlement in connection with the vesting of its status of an urban district or deprivation of its urban district status, change of the status of an urban settlement in connection with the vesting of his status of a rural settlement, change the status of a rural settlement in connection with the vesting of its status of an urban settlement is inhabited by a vote by the rules established for the local referendum may be replaced by the procedure of expression of the population through the representative bodies of the respective municipalities.

consent of the people to change the status of city district, urban and rural settlements will be expressed not by direct vote, and indirectly (through the adoption of decisions by representative bodies). Thus, the conversion process will be optimized these types of municipalities that will enable the public authorities of the Russian Federation and local authorities to take prompt management decisions, without prejudice to the interests of the population. The proposed changes in the bill will contribute to the improvement of public administration procedures at the local level, as well as the reduction of expenditures of local budgets to conduct the voting population.

Both bills substitute the consent of the population on the consent of the representative body of the municipality, which is not always adequately represent the interests of the population of the territory.

Meanwhile, the Decision of the Constitutional Court on 24 January 1997 number 1-P expressed legal position consisting in the fact that by virtue of the Art. 130 of the Constitution most adequate form of considering the opinion of the population, within the meaning of the Constitution, a referendum.

According to Art. 131 of the Constitution of the Russian Federation the expression of the opinion on agreement or disagreement with the changes of territories and boundaries of the municipality is an integral exclusive right of the municipality as a public legal entity.

Consequently, the people's right to express an opinion on approval or disapproval of the change in the territory of the local government could not be spoofed by expression of opinion of the representative body of the municipality.

According to Art. 5 of the European Charter of Local Self-Government changing the boundaries of territories in which local self-government, is permitted only considering the opinion of the local communities concerned, including by means of a referendum where this is permitted by law.

Despite all of the above circumstances, the massive abolition of municipal primary settlement level and create in their territories urban districts continues.

Conclusion.

To sum up, once again, we note that the latest municipal and legal policy consolidation of municipalities aimed *at the elimination of the settlement level of local government*, which directly contradicts Art. 131 of the Russian Constitution, enshrines the involvement of the population of local government.

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