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DEVELOPMENT OF LEGISLATION ON THE ORGANIZATION OF PUBLIC AUTHORITIES IN RUSSIAN CITIES

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The article analyzes the approaches of the federal legislator to determining the status of a city in the context of territorial and organizational foundations of local government activities in the Russian Federation based on the identification of trends in the development of legislation on the organization of public authority in Russian cities. At the current stage of development, there is a search for an optimal model for organizing a unified system of public authority and determining strategic guidelines for sustainable spatial development, which is reflected in discussions at the level of the expert community and at the level of drafting bills on urban space management. The issue of the structure of public authorities and the delineation of powers acquires new content when forming urban districts with intra-city division and intra-city districts. Based on the experience of organizing and operating urban districts with intra-city division, the problems and prospects of this approach to territorial planning and organizing public authority are identified.

The purpose of the work is to identify the optimal approach to the relationship between the balance of public and private interests in organizing public authority in Russian cities and an effective approach to determining the list of "urban issues". In this aspect, the issue of more effective delineation of powers between different levels of public authority comes to the forefront in order to maintain a unified urban policy in the sphere of ensuring sustainable spatial development of the Russian Federation.

The main research methods are comparative legal and formal legal. They were used to analyze and compare regulatory acts and proposed projects.

The main results. The author concludes that it is necessary to amend Russian legislation on the organization of public authorities in cities. The effectiveness of urban development depends on many factors, among which the primary ones are clear legal instruments for managing urban space and legal regulation of future socio-economic development based on the use of new technologies of strategic planning at different territorial levels of governance.

1. Introduction The organization of public authority in the largest cities is primarily a question of the relationship between local and state interests, the ways of constructing the territory and the specifics of its development, the creation of a city management system, as well as inter-budgetary and tax relations with government authorities at the federal and regional levels.

According to the Ruling of the Constitutional Court of the Russian Federation of December 01, 2015 No. 30-P, the legal regulation of the activities of public authorities at all territorial levels of government is associated with the necessity for coordinated activities based on cooperation, coordination, and mutual consideration of interests that guarantee stable and effective implementation of the public authority functions to create decent living conditions in relevant territory and free human development.

The scientific discussion on the issues of legal regulation of the organization of public authorities in cities has deep historical roots. The discussion attracted a very wide range of specialists in the field of economics and management, urban planning, constitutional and municipal law. This is due to the fact that, nowadays, cities are a complex object of legal regulation. They are based on the federal norms of administrative and territorial structure, municipal, urban planning, land, and tax, as well as take into account the norms of the legislative acts of constituent entities of the Russian Federation and the legal acts of municipalities

According to V. Ya. Lyubovnyi, there are two approaches for the purpose of the management of the socioeconomic and spatial development of regions, cities and other local communities. The first approach is a strict hierarchical differentiation of competence and authority between different taxonomically territorial levels of government. The second approach is focused on managing the development of a city or agglomeration as integral objects, taking into account the features inherent in each taxonomic level. This approach can be implemented only if there is significant decentralization of management [1, p. 448]. The choice between two different approaches as the dominant one in the legislation of a particular state depends on the strategic objectives of the state for the development and management of territories.

The formation of new concepts of spatial development and the development of legal instruments for the effective organization of public authority in Russian cities requires serious research of the accumulated experience and modern practice of legal regulation in this area.

2. Approaches to the organization of public authority in Russian cities in the legislation on local government.

The city as an object of legal regulation is a complex system of an administrative, political, socio-economic and socio-cultural nature, organically linked to each other by a common territorial organization, within the boundaries of which public power is exercised, and sustainable development is ensured.

The organization and exercise of public authority in cities at the present stage of the development of Russian statehood in federal legislation is considered in the context of the territorial organization of local government.

This process was initiated by Decree of the President of the Russian Federation of October 26, 1993, No. 1760 "On the Reform of Local Government in the Russian Federation." This Decree has approved the Regulation on the Basics of Organizing Local Government for the period of phased constitutional reform, has defined the territorial units on which local government bodies should be established, and the types of these bodies depending on the level of the territorial unit.

Cities are defined as one of the basic territorial units of local government. The list of local government bodies was consolidated on the basis of two basic criteria: population and administrative-territorial structure of urban space. According to the Regulations of 1993, in cities with a population of over 50 thousand people, local government bodies are an assembly of representatives and the head of administration, appointed by the head of the administration of the territory, region, city of federal significance, autonomous region, autonomous okrug, or the head of local government elected by the

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population. The cities that are divided into districts have a meeting of representatives and the head of local government (chief of staff). The urban districts and rural settlements could have local government bodies as well as bodies of territorial public government of the population.

Another approach was codified in the norms of the Federal Law "On the General Principles of the organization of Local Government in the Russian Federation" of 28.08.1995 N 154-FZ. The territories of municipal entities, including cities, were established in accordance with historical and other local traditions and federal laws. The biggest part of the large cities have unified municipalities, where urban areas are not municipal entities. Such areas did not have representative government bodies, municipal property, the right to set local taxes and fees, and to independently form and execute the budget. The chief of staff of urban areas is appointed by the head of the local government of the city. However, in some cases, city areas were defined by the city charter as municipal entities inside the city and these areas possessed all their attributes [2, pp. 151-152].

A fundamentally new approach was consolidated by the Federal Law "On General Principles of the organization of Local Government in the Russian Federation" of 06.10.2003 No. 131-FZ, which identified urban districts and urban settlements . These new entities have the competence of settlements and municipal districts. At the same time, such a type of municipal entity as an urban district (the so-called single-level municipal entity) was introduced by the legislator as an exception, when an urban settlement has a sufficient level of urbanization, urban infrastructure development, and the ability to independently exercise both settlement and district powers. Such an urban settlement may, in accordance with Federal Law No. 131-FZ establish the procedure for granting the status of an urban district that is not part of a municipal district. The structure of local government bodies has a general unified form and includes the representative body of the municipal entity, the head of the municipal entity, the local administration (the executive and administrative body of the municipal entity), the control and accounting body of the municipal entity, other bodies and elected officials of local government provided for by the charter of the municipal entity and having their own powers to decide local issues.

The legislator also determined the possibility of granting an urban settlement the status of an urban district, if there is a well-established social, transport and other infrastructure necessary for the local government bodies of an urban settlement to independently resolve all issues of local importance and fulfill certain delegated state powers. And if there is a well-established social, transport and other infrastructure necessary for the independent implementation of their competence by the local government bodies of the adjacent municipal area, it is included in the competence of the constituent entity of the Russian Federation.

Federal Law No. 136-FZ of 05.27.2014 introduced two new types of municipal entity: urban districts with urban divisions, and inner-city districts created within these urban districts. The features of local government in these municipal entities were analyzed in the works of P.A. Astafichev[3], I. V. Babichev[4], O. I. Basenova[5], M. V. Korostelieva[6], S. M. Mironova[7].

With the adoption of Law No. 136-FZ, public authority of a constituent entity of the Russian Federation revised the right to introduce a two-level system of local government in urban districts with an inner-city division by creating inner-city municipalities, the right to establish the powers of local government bodies of an urban district and inner-city districts and the right to determine the composition of municipal property and sources of income for local budgets. T.M. Byalkina agrees with this opinion, she believes that the situation with the division of a single urban district into several independent municipal entities cannot be viewed positively. The judgment that the city government in a large city is too remote from the population and therefore ineffective, seems to be pointless. The problems existing in some large cities may well be resolved within the framework of the current legislation which is preserving the integrity of municipal organization of urban districts [8, p. 1610].

Chelyabinsk was the first city to switch to a two–level system of local government in the urban districts. It formed seven inner-city districts. In 2015, Samara formed inner-city districts.

This procedure is quite complex and time-consuming both in terms of regulatory support and in terms of the differentiation of financial resources between urban districts and inner-city districts, which is predetermined by the lack of financial resources at the municipal level and mainly deficient budgets. It was made to persuade other municipal entities to establish inner-city districts [7, p. 205].

This practice of two-level organization of local government has not been developed and is an ineffective tool for managing the city, which is confirmed by representatives of the expert community[9], [10], [11], [12], [13], [14].

Since 2021, the State Duma of the Russian Federation has been considering a draft Federal Law No. 40361-8 "On the General Principles of Organizing local Government in a unified system of public Authority," which proposes the definition of an urban district. An urban district should meet the following criteria: the territorial principle (for example, an urban district may include territories intended for the development of social, transport and other infrastructure of an urban district, the size of which may not exceed two or more times the area of the territories of cities and (or) other urban settlements that are part of the urban district districts), and quantitative characteristics of the territory of an urban district (territories where at least two thirds of the population of an urban district lives; in an urban district, the population density should be five or more times higher than the average population density in the Russian Federation). At the same time, the criteria for classifying a municipal entity as one of these types, as noted by experts from the Institute for Urban Economics, are vaguely formulated, which can lead to fundamental differences in the territorial organization of local governments in different constituent entities of the Russian Federation and the instability of such a territorial organization.

As the authors of the draft law believe the structure of local government bodies will not change significantly (it is also assumed that there will be a representative body of the municipal entity, the head of the municipal entity, the local administration, the control and accounting body of the municipal entity, and other bodies provided for by the charter of the municipal entity).

3. "Urban issues": the search for public and private interests balance.

Each level of public authority is assigned its subjects of competence and powers by relevant federal laws due to the fact that the range of public affairs of the state is implemented by the state authorities of the Russian Federation, state authorities of the constituent entities of the Russian Federation and local governments.

The Federal Law of 1995 established a single competence for all municipal entities, regardless of their types, including both issues of local importance and individual state powers. Therefore, the competence of a particular municipal entity was a purely technical norm of law, which does not take into account the infrastructure, material and financial resources in each municipal entity. The formal approach remains, despite the fact that Federal Law 131-FZ separately fixes issues of local - importance of the urban district (art. 16).

It should be noted that since the enactment of Federal Law 131-FZ in 2003, the number of issues of local importance for urban districts has increased from 27 to 46. The evolution of issues of local importance in the urban district has one general trend. It is an increase in the share of expenditure obligations in the municipal entity budget, an expansion of the competence of executive and administrative bodies and the predominance of bodies formed on an industry basis.

Thus, in accordance with Federal Law No. 447-FZ of December 22, 2014, the urban district ensures the organization, in accordance with Federal Law No. 221-FZ of July 24, 2007 "On the State Cadastre of Real Estate", of complex cadastral works and the approval of the map-plan of the territory.

There may bring up legal disputes regarding competence while implementing certain issues between the levels of power.

This may lead to the fact that each inner-city district would have separate standards for solving issues.

The laws of the constituent entities of the Russian Federation may establish additional issues of local importance for urban districts with intra-urban

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districts with the transfer of material resources and financial resources necessary for their implementation.

Based on this law, the boundaries of the competence of the urban district are blurred, because there is an interest of constituent entity of the Russian Federation.

Federal Law No. 131-FZ establishes a procedure for the redistribution of powers in the form of the withdrawal by the laws of constituent entities of the Russian Federation from the competence of local governments of their powers to resolve issues of local importance and transfer these powers to the state authorities of constituent entities of the Russian Federation. As a result of such a redistribution, public authorities directly begin to solve issues of local importance, which, in fact, directly contradicts the constitutional principle of the independence of local government in solving issues of local importance [15].

N. V. Kochetkov says that the procedure for the transfer of powers cannot be regulated in one norm and requires more complete and detailed regulation [16].

V. I. Vasilyova says that the performance of the public authorities separate powers of local government is appropriate, because it is implemented to assist municipal entities in special circumstances and leads to the establishment or restoration of effective local government in these municipal entities. So the possibility of assignation to public authorities for the exercise of certain powers of local government bodies is a state guarantee to local governments in force majeure circumstances or in the case of persistent loss of solvency, i.e. severe financial difficulties [17, p. 167].

N. N. Chernogor believes that, by its nature, this measure is not a measure of legal responsibility, but a measure of protection [18, p. 39].

The Constitutional Court of the Russian Federation (Rulling No. 15-P2 of November 30, 2000) excluded a massive transfer of municipal powers for their execution by public authorities. The Constitutional Court of the Russian Federation also indicated that issues of local importance can and should be solved by local government bodies or the population in a direct manner, but not by public authorities. Public authorities have a duty to create the necessary legal, organizational, material, financial and other conditions for the establishment and development of local government and to assist the population in exercising the right to local government [19].

There is a fairly clear distinction between the territorial levels of local government in the Ruling of the Constitutional Court No. 30-P of December 01, 2015. According to it, only the settlement level, which is created by the natural settlement of people and being the closest to the population, is actually self-governing. On the other hand, the upper territorial level, represented by municipal districts and urban districts, combines the qualities of a territorial association of citizens who jointly exercise the right to local government in the relevant territory, and the qualities of a public and territorial entity integrated into the system of state power relations, whose public authorities are called to resolve issues of local importance and to participate in the implementation of state functions on its territory [5, pp. 10-11].

On April 3, 2017, the law on amendments to the Federal Law "On the General Principles of Organizing Local Government in the Russian Federation" (hereinafter - Federal Law No. 62-FZ) was adopted. It has radically changed the legal status of the urban district and the procedure for its formation. However, there is no competence issue in this law.

Draft Federal Law No. 40361-8 "On the General Principles of the Organization of Local Government in the Unified System of Public Authority" establishes 27 "inalienable" powers of local government bodies "to resolve issues of direct provision of vital activity of the population." Most of these powers relate to the formal legal side and are not directly related to the provision of vital activity to the population. Moreover, the list of such powers does not include the authority to develop strategic planning documents for municipal entities, which is provided for by the legislation on strategic planning.

The creation of comfortable conditions in urban space is directly related to the implementation of powers in the field of strategic planning of socio-economic development of territories. This issue certainly requires

special attention and the development of an effective legal mechanism for its resolution.

It is important to legislatively limit state arbitrary behavior in relation to municipal entities by creating the most optimal legal structure of state and municipal government, the correct differentiation and coordination of their powers. The public authorities should be legally exempt from functions that can be successfully implemented by local authorities. At the same time, local authorities should not be endowed with public administrative powers, because it would lead to undermining the authority of such a government by the people and its excessive bureaucratization[16].

Despite a great scientific debate on the optimization of issues of local importance and powers of local government in different types of municipal entities, there still remains uncertainty about the following concepts. The first one is the own powers of local government, the second one is separate public powers, the third one is additional issues of local importance of urban districts with **inner-city** division, and the fourth one is methods of establishment, allocation and redistribution of matters of local importance.

4. Conclusions Legislation on the organization of public authority in cities should be based on a balance of public and private interests in the organization of public authority and contain clear legal instruments for determining the list of "urban issues", which will lead to an increase in the effectiveness of city administration.

It appears to be that the main reason for attempts to remove any territories from the jurisdiction of local governments or limit their competence in them is a serious lack of trust in local authorities on the part of public authorities [20],[21]. The lack of trust well explains the desire of the leadership of some of the constituent entities of the Russian Federation to dramatically reduce the number of municipal entities and, therefore, to increase control and integration into the regional system of government and management [22, p.18].

The different levels of government are interconnected and form a single system that functions with a real proportional division of powers between different levels of government. Without it there would be a crisis in the administration and in the entire public life of the constituent entity of the Russian Federation [23, p. 107].

The joint solution of local issues by its citizens is difficult due to the significant size of large cities and districts. V. V. Tabolin points out that large agglomerations comparable or equal to the territory of the constituent entity of the Russian Federation, cannot provide legal regulation and an effective system of governance only on the principles of local government [24,c.197]. Moreover, the objective conditions of the recent structure of regional and municipal government have contradiction between the governor and the heads of municipal districts and the mayors of large cities[23, p. 10-11].

The organization of management and self-government in a city can be considered in two aspects. On the one hand, the organization of management and self-government of the largest city can be understood as the established city management structure, which includes the highest official, state and municipal bodies endowed with the appropriate status and performing strictly defined managerial functions and tasks in accordance with it. On the other hand, the organization of management and self-government of the largest city can be considered as a process of streamlining the legal statuses, goals, functions and tasks of subjects of managerial relations [25, p.29].

Unconditionally, a municipal entity has the right to independently determine the structure, internal relationships, and the number of links to ensure effective management in its territory. This is one of the key provisions of the European Charter of Local Self-Government of 1985. Together they should correspond as much as possible to the goals, tasks, functions and powers assigned to this level of government. Their development and improvement should correspond to the evolution of local government.

Management methods are a kind of "toolkit" for imposing will, and self-management methods are ways of organizing life without imposing will [23, p. 101].

The effectiveness of the legal instruments of the "new public administration" depends on many

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factors. The first one is a clear vision of future socio-economic development based on the use of new strategic planning technologies. The second one is the construction of an optimal territorial management system.

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