

LOCAL COMMUNITIES IN CITIES AS A SUBJECT OF CONTROL OVER SOLVING LOCAL ISSUES

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The subject. This article is devoted to exploring the possibilities of formalizing the institution of local communities of citizens in urban areas, with the goal to more extensively involve local population in solving local issues, including controlling the organization of relevant processes.

The purpose of the article to refute or confirm the hypothesis that local communities may exercise local control functions effectively to improve the quality of local services and reduce the number of local government officials.

The methodology of the study includes methods of theoretical analysis, as well as legal methods, including the formal legal method.

The main results and scope of their application. The activities of subjects of municipal administration – bodies and officials of local government, aiming at improvement of control over the solution of local issues are subject to difficulties, and institutional and organizational measures to develop the mechanism of municipal management in this case are not sufficient. The territorial reorganization of the city administration is also not justified - the creation of intracity municipalities, as well as the formation of territorial subdivisions of the citywide administration is often costly and inefficient. At the same time, the population, being both a beneficiary of the solution of local issues, and, theoretically, the main subject of self-government and a source of legitimation of municipal authority in cities, is excluded from the mechanism of control over the organization of relevant processes.

The creation of local communities, in turn, could be an alternative to the proliferation of the apparatus of municipal bureaucracy in cities, providing legal guarantees for the implementation of citizens' right to self-government directly in territories of their residence. At

the same time, local communities, unlike the territorial public self-government, should be included into the general municipal management mechanism, which would ensure their financing at the expense of local administration. However, in contrast with the territorial bodies of city administrations, the functioning of local communities' bodies should presuppose mainly volunteer beginnings in their activities, whereas financial and material support should only assist in realization of their competence.

Conclusions. The expansion of existing forms of control over the solution of local issues by local communities would contribute to improving the efficiency and quality of municipal services, the livelihood of the local population in urban areas.

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1. Introduction

Managing urban areas in many countries around the world, including Russia, presents certain difficulties associated with the need to solve a large amount of resource issues and ensure the effectiveness of management in their decision and.

Subject to the provisions of the Constitution (Part 1 of Art. 132) and legislation, the main load in the local implementation of the functions entrusted to the subjects of professional municipal government are local government bodies: they are the ones who manage municipal property, form and execute local budgets, and are designed to ensure the solution of issues of local importance within the territorial limits of their competence. In the implementation and assigned functions, local governments use the powers granted to them, the applicable range of which varies depending on the specifics of the issue of local importance being resolved. The mechanisms of ensuring the implementation of the issue can also be different - from completely independent decisions by their bodies and local government officials to the outsourcing of individual services and processes to private entities. [1, p. 106; 2, p. 562; 3].

However, no matter how the procedure for solving the local issue is organized, the responsibility for its implementation continues to lie with the subject of municipal administration, while the population as the beneficiary of solving local issues in many cases is only a passive consumer of local services, without having significant tools for controlling the organization of relevant processes.

2. Control in the mechanism of solving local issues in urban areas: problems of providing professional municipal government with subjects

The effectiveness and quality of local issues and the provision of appropriate services requires not only the formation of a well-functioning system of related processes, but also the presence of clear feedback mechanisms in the event of emergency situations, failures in its work, poor or unfair performance of municipal organizations and institutions or third-party contractors municipal tasks and contracts [4, p. 26; 5; 6, p. 21]. Such a mechanism can be provided with monitoring tools – preliminary, current and subsequent.

The necessity of strengthening of control of activity of administrations of cities and districts as the

complexity of municipal problems and mechanisms of their solution grows, the obvious and the reaction of the subjects of municipal control on the relevant queries. It is expressed, first of all, in institutional measures – increase in the staff of municipal employees who implement control functions, the creation of specialized "control" units of local administrations, the formation of their territorial units with special control functions. There are also some organizational and technical measures, sometimes very innovative (for example, the use of the latest technical solutions – unmanned aerial vehicles ("drones"), video surveillance systems) for the implementation of activities within the framework of municipal control.

However, not always implemented policies, and especially those that involve extensive measures (increase in the number of control and the number of control measures) bear fruit.

For example, an attempt to embrace more tight control of the entire territory of the municipality through the creation of territorial divisions of city administration ("the administration of the districts in the cities") in small and relatively large cities (with a population of 500 thousand people) appeared to be materially and financially justified – requires the rental of additional premises, pay staff, etc. Nor is the appointment of individual "territorial inspectors" of the local administration in urban areas justified, as their functions are cross-sectoral and too broad in both content and territorial coverage, which reduces the effectiveness of their activities.

Thus, it is sometimes not possible to ensure constant ongoing monitoring of the solution of certain local issues of the administration of urban municipalities – and it is often quite standard tasks, such as cleaning and maintenance of roads, garbage removal by contractors.

Due to limited resources, a rather popular form of control is not systematic work, but individual activities – inspections and "raids" of municipal officials – random inspections of objects of the system for solving local issues or providing municipal services.

An attempt to solve the problem of quality and availability of municipal services and the implementation of functions, including the optimization of related control mechanisms was undertaken at the state level – and mainly by means of territorial reorganization of municipal management of urban areas. Thus, it is no accident that in 2014, the basic Federal law on local self-government – Federal law No. 131-FZ "On General principles of local self-

government organization in the Russian Federation" (hereinafter-FZ No. 131) introduced a new model of urban district with intra-urban division.

In the explanatory note to the bill on the basis of which amendments to the Federal law No. 131 were adopted, it was stated: "...in large Metropolitan areas, the city-wide municipal authority, which is poorly controlled by the urban community and has significant material and financial resources, is remote from the population, so it is often ineffective for ensuring the life of the population" [7]. Thus, the authors of the reform presented the creation of intracity municipalities as a way to "bring" the local government closer to the population, and the new intracity municipalities to provide more effective and qualitative solution of local issues within the relatively compact territory of the intracity district, including facilitating and monitoring their solution. Unfortunately, the law enforcement practice of implementing this model in some large urban districts in Russia has shown its inefficiency [8]. For smaller cities, the impact of organizational and financial costs is unacceptable.

The risks associated with this model and the full range of reasons for its non-viability are not the subject of this article, but an important aspect for this work should still be highlighted – it is the actual territorial indivisibility of the city as a complex unified infrastructure and socio-economic system on a number of issues of life support of the population. In the absence of real authority and sufficient material and financial base to address the most important local issues only produce unnecessary municipal democracy and become the basis for the emergence of conflicts of interest and the struggle for the attention of the city authorities, the financing of their activities from the city budget [7].

3. Citizens and their communities as subjects of city self-government

Thus, the complexity of municipal functions, the expansion of the list and content of local issues in urban areas due to the increase in population, intensification of socio-economic processes and infrastructural growth of cities requires the formation of more effective related control mechanisms, and the adaptation of the municipal management mechanism to solve this problem through institutional and organizational measures is not enough.

Moreover, the excessive enthusiasm for

professionalism and the growth of the bureaucracy at the city municipal level, without adequate compensation forms of self-government devalues, if not destroys self-government. We should not forget that when we talk about the management of urban areas in Russia, we mean primarily the territorial organization of not just local government, but self-government, whether citywide or (taking into account, among other things, the legal status of cities of Federal importance) intracity level, and this requires the provision of proper mechanisms and procedures of democracy.

As Professor V. V. Tabolin correctly notes, the municipal power, speaking on behalf of the city, has to understand that acts not on behalf of buildings, streets, yards, highways and other things, and on behalf of a community of inhabitants (citizens) possessing all completeness of the power in the city. The termination of legal personality of residents leads to the termination of legal personality of all other subjects of urban law – even the state in the person of its bodies due to the loss of meaning and objects of their activities. Thus, the author emphasizes that the presence of at least one legally official resident provides the legitimacy of the existence of the entire system of subjects and objects of legal relations in the city [9, p. 109].

Individual citizens, as well as their totality, thus act as a source of legitimacy of municipal authorities in the city. However, often beyond the theoretical recognition and minimum – due to the need to comply with the requirements of the Constitution of the Russian Federation – the mechanism of practical implementation of this concept (for example, through the election of a representative body of the city municipality), it does not receive its development. In the last decade, and in particular in connection with changes in the Federal legislative regulation and the accompanying dynamics of regional legislation, the head of the municipality, the head of the local administration, following the administration and other Executive bodies of local self-government in urban municipalities are increasingly formed on a non-elected basis, take on the full solution of local issues, citizens are excluded from self-government of the city [10]. It is done under the slogan of improving the efficiency and quality of solutions to local issues, and talking about the local government level, it is impossible to say that this is completely unnecessary – the solution of vital questions of life of the population of the city requires a high level of professionalism and selection of municipal managers in accordance with

their skills, experience and level of education.

At the same time, compensation of the people's power, with expansion of self-governing opportunities, as it seems, can and should take place. We are talking primarily about the submunicipal, local level of the city, the closest to the interests of the local population – where citizens work, live, provide their lives and organize leisure. The tendency to attract the local population to take an active part in solving local issues, improvement and development of urban areas can be seen both in Western countries and in Russia. An example of this is the program of local initiatives, the introduction and support of self-taxation mechanisms to address local issues, the development of territorial public self-government in cities.

However, in Russia this trend needs further legal formalization, while in the cities the formalization and endowment of their own competence in the field of local issues submunicipal, local groups (communities) of the population are extremely relevant.

4. Local community and the mechanism of its control over the solution of local issues in urban areas

The local community within the submunicipal territory (district, microdistrict of the city) seems to be characterized by stronger than the territorial public collective of the city (the total population of its inhabitants), social ties, as well as the interest of its members in solving specific issues, maintaining within the boundaries of the submunicipal territory conditions acceptable for the life support of the population. At the same time, it should be noted that many of the issues of local importance, the implementation of which is provided by the mechanism of General municipal management, by their nature have a local character. Garbage removal, cleaning and landscaping, maintenance of roads, although often require a citywide scale of organization and logistics of the relevant processes, but target primarily submunicipal areas – areas of residence, work and rest of individual citizens. Thus, being the final consumers of local services within the boundaries of the local territory, citizens are the best in comparison with the subjects of municipal management "inspectors" and "inspectors" of the quality and efficiency of local issues and services.

The problem is that an individual citizen or a community of citizens, being sources of legitimization of the mechanism of municipal government, do not

have, with the exception of the institution of treatment as a feedback channel with the citywide (or district in the city) administration, significant instruments of influence on the situation in the implementation of municipal tasks at the local level. At the same time, the institution of citizens' appeal, which is regulated at the Federal level, has a number of shortcomings that do not make it an effective tool for public control over the activities of local self-government bodies, including in relation to the solution of local issues.

First, an individual or collective appeal to the bodies of state power and local self-government, not related to the implementation of the unconditional right of a citizen, is mandatory for the relevant bodies only in the sense that they are obliged to react to it. Based on this, any changes in the functioning of local governments in connection with the incoming criticism or suggestions from citizens remain at the discretion of the bodies themselves. The solution of local issues, despite the fact that their ultimate goal is the livelihood of the local population, is difficult, with some exceptions, attributed to the implementation of the unconditional rights of citizens. For example, in the absence of approved rules of improvement of norms on the device of flower beds in the city, can a citizen demand their creation in the submunicipal territory? The scope and methods of solving local issues are known to be the prerogative of local authorities, and are implemented by them, outside the standards and requirements defined by the state, based on financial and material resources, as well as their own "vision" of local tasks and needs.

Secondly, the legislative terms of response to the appeal of citizens are quite long – 30 days (as a General rule). Of course, currently in various regions of the Russian Federation at the regional and municipal level, separate feedback programs "citizen-municipality" are being implemented, providing for a shorter response time. However, these programs do not have national coverage, and the experience of their implementation, including the use of not always well-tested information technology solutions (electronic platforms, applications, etc.) and routing of incoming calls, shows mixed results [11].

The mechanism of the treatment as a means of social control and contains a number of other flaws, needs further optimization, including the harmonization of norms of the Federal law of 02.05.2006 № 59-FZ (ed. from 27.11.2017) "On the procedure of consideration of citizens of the Russian Federation" and from 21.07.2014 № 212-FZ (ed. from 29.12.2017) "On the basics of public control in the

Russian Federation" in terms of clarifying the range of citizens as subjects of treatment and subjects of control, expanding opportunities associated with the treatment of citizens in local governments, through the introduction of new forms of it, having for the subjects of municipal government mandatory [12].

In addition, the appeal of citizens to the municipal authorities for the solution of problems in the submunicipal territories, in itself, can hardly be called an active participation in the solution of local issues, therefore, it is necessary to expand the opportunities of local residents to participate in the mechanism of implementation of local issues, including monitoring their solution. The greatest impact of such participation will be in the conditions of collective interaction of citizens, United by common interests in the territory of their residence and work, United by network and neighborhood ties.

The local community, being a formalized subject of municipal government, could give citizens the opportunity to participate. At the same time, the local community as a form of local self-government should be distinguished from the already enshrined in the law Institute of territorial public self-government (TPSG).

First, the territorial coverage of the local community should be different from the CBT, because the formation of the community should be carried out using the criteria of the presence of socio-economic, infrastructure, historical and managerial ties at the appropriate primary, sub-municipal level. Data as the reference point for formation of TPSG in Art. 27 of the Federal law of 06.10.2003 No. 131 "About the General principles of the organization of local government in the Russian Federation" such territories as "entrance of the apartment house; apartment house; group of houses" are not suitable as a territorial base of the local community, its coverage should be wider, perhaps – equal to the area of residential areas, isolated settlements within the boundaries of cities.

Secondly, there should be a wider range of local issues that would be solved with the participation of the local community (including, for example, the adoption of rules of improvement in its territory, plans for the construction of social, municipal and transport infrastructure, etc.). If the TPSG involves the implementation of its own initiatives on local issues [13, p. 8-13; 14, p. 79-82], the functioning of local communities within the framework of the municipal mechanism would also imply their mandatory participation in the solution of General principle

issues affecting the interests of the development of the respective territories. One of the most important functions of the local community, in the context of this article, could also be a control function in relation to those issues of local importance that are carried out within the boundaries of the relevant submunicipal territory.

At the same time, it seems that the territorial coverage of the activities of local communities should not duplicate the boundaries of the jurisdiction of the territorial bodies of the city administration in the areas of large cities ("district administrations"). First, such areas may be too large in size and population for the effective functioning of the local community. In addition, it is necessary to avoid duplication of functions of territorial administrations and local communities, ensuring productive interaction, but not the struggle for the spheres of competence between them. The local community should function on a relatively compact territory, conducting more thorough work in the field of control over local issues and informing the territorial (where they are) and city administration on emerging issues and needs in the field. We should not forget about the imperative forms of participation of local groups in the implementation of municipal government and the implementation of city-wide policy, as already mentioned above.

From an organizational point of view, the local community can be represented by a Council consisting of residents of the submunicipal urban area elected at the primary meetings. The Council could form various groups, including standing commissions to monitor local issues. In contrast to the CBT, local communities should be included in the overall management mechanism, which would allow them to be financed by the local administration. However, in contrast to the territorial bodies of the city administrations, the functioning of the bodies of local communities should involve mainly voluntary beginnings in their activities, financial and material support should only assist in the implementation of their competence. This practice of organizing community councils and other forms of self-government of residents in urban areas exists in many countries of the world [15, p. 185-186].

5. Conclusions

The introduction of the mechanism of local communities could be an alternative to the creation of a large number of both grass-roots municipal units in cities and territorial bodies of local administration, allowing at the same time to save on the formation of

the apparatus of municipal bureaucracy and provide legislative guarantees for the realization of the right of citizens to self-government directly in the territories of their residence. In the end, this mechanism, involving the expansion of various forms of control over the solution of local issues, would contribute to improving the efficiency and quality of municipal services, life support of the local population in the cities.

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