

## IMPROVEMENT OF THE EXTERNAL MUNICIPAL FINANCIAL CONTROL SYSTEM IN THE CONTEXT OF PUBLIC AUTHORITY REFORM

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The subject. The implementation of external municipal financial control cannot be called fully competent in Russia. Many practical problems are currently being addressed mainly through the transfer of powers to implement external financial control to a higher level. Amendment to Art. 131–133 of the Russian Federation's Constitution in terms of clarifying the powers of local self-government and incorporating it into public authority, predetermines subsequent amendments to the legislation on local self-government, which can be aimed, among other things, at improving the system of external municipal financial control. The aim of the article is to confirm or disprove the following hypothesis. The reform of public authority will lead to a change in the system of external municipal financial control. Therefore it is possible to propose ways to improve the activities of municipal auditing and accounting authorities on the basis of constitutional novels and the analysis of the existing problems of implementing external municipal financial control.

The methodology. The authors apply general scientific methods of comparative, logical and statistical research. The study is based on the analysis of academic literature, statistical data about the practice of the auditing and accounting bodies of municipalities. Russian judicial practice is also analyzed.

The main results, scope of application. The organization of a modern system of external municipal financial control shows that it actually works only at the level of urban districts and municipal regions, and that is not always effective. Municipal control and accounting bodies are not created in settlements and the authority to exercise external financial control is transferred either to the level of the municipal district or to the level of the region of the Russian Federation.

Conclusion. The municipal auditing and accounting body should retain the authority to exercise control without transferring it to the level of the constituent entity of the Russian Federation. However, at the same time, its role should be strengthened by increasing its status (for example, fixing at the federal level the criteria for the number of employees of the control and accounting body, financial support guarantees).

## 1. Introduction.

In the context of a shortage of funds from local budgets, a critical role is assigned to the implementation of external municipal financial control, which is implemented by municipalities' control accounting bodies.

Article 12 of the Russian Federation's Constitution establishes that "in the Russian Federation local self-government is recognized and guaranteed. Local self-government is independent within the limits of its powers. Local self-government bodies are not part of the system of public authorities". In financial control, this is expressed in the fact that the control accounting bodies of municipalities, as bodies of external municipal financial control, are independent and are not part of the centralized system of bodies of external municipal financial control (the Accounts Chamber of the Russian Federation, the control accounting body of a constituent entity of the Russian Federation, control accounting body municipality), each of these bodies exercises financial control on their territory independently of each other.

Financial control, as a whole, including external municipal financial control, is an object of study by both scholars in the field of jurisprudence [1-6] and economists [7-8]. It is due to the control function of finance, which "permeates all activities of the state and municipal entities for the creation, distribution (redistribution) and use of funds, i.e. covers by its impact all social relations arising in the process of financial activities" [9].

The general trend of lack of sufficient financial resources in municipalities, which led to a high level of intergovernmental transfers coming to municipalities from higher budgets, creates a situation where many municipalities cannot "afford" the maintenance of control accounting bodies. This situation leads either to their actual incapacity (the presence of 1-2 employees on the supervisory body's staff does not allow adequate financial control) or to the transfer of powers to exercise external municipal financial control to a higher level. Against this background, one can find in the literature a proposal to strengthen

(quantitatively, methodically and financially) regional control accounting bodies and legalize the transfer of powers to them to exercise external municipal financial control within the framework of agreements with representative bodies of municipal authority [7]. Nevertheless, would not such an approach mean an even more significant weakening of local self-government and its even greater state power dependence? Such tendencies have been repeatedly studied in modern legal literature [10-12].

All this poses many questions for municipalities and legislators aimed at improving external municipal financial control. The need for such changes is also due to the introduction of amendments to the Russian Federation's Constitution, according to which "state authorities can participate in the formation of local self-government bodies" (Part 1<sup>1</sup> of Art. 131), Art. 132 of the Basic Law of the country was supplemented with part 3 stating that "Local self-government bodies and state authorities are included in the unified system of public authority in the Russian Federation and interact for the most effective solution of problems in the interests of the population living in the relevant territory", as well as an addition Art. 133 with the provision on the possibility of "performing public functions by local self-government bodies in cooperation with public authorities"<sup>2</sup>.

The adoption of these norms raises to a new level the issue of the relationship between state power and local power in the public power system and also raises many concerns associated with the absorption of local self-government by state power. At the same time, studies of the concept and content of public authority [13-16], the place of local self-government in the system of public authority [18-

<sup>1</sup> Powers can be transferred from a settlement to a municipal district and from a municipal formation to a constituent entity of the Russian Federation.

<sup>2</sup> Law of the Russian Federation on the amendment to the Constitution of the Russian Federation of March 14, 2020 No. 1-FKZ "On improving the regulation of certain issues of the organization and functioning of public authorities" // Collected Legislation of the Russian Federation. 2020. No. 11. Art. 1416.

21], as well as the distribution of powers [22-23] and financial resources [24] between different levels of public authority are being conducted long ago.

The adoption of constitutional amendments will inevitably cause an adjustment of the legislation on local self-government in terms of the redistribution of powers between state authorities and local self-government bodies, which will affect the change in external municipal financial system control. The hypothesis is that the reform of public authorities will lead to a change in the system of external municipal financial control, in connection with which it is possible, based on an analysis of the existing problems of the implementation of external municipal financial control, to propose our ways of improving the activities of municipal control accounting bodies (hereinafter - MCAB) and to adjust the legislation and practice of the MCAB.

The study is based on the analysis of scientific literature, data on the work of control and accounting bodies of municipalities, and an analysis of judicial practice.

## **2. Modern problems of the implementation of external municipal financial control.**

Let us outline the issues that arise in financial control performance by the control accounting bodies at the municipal level and figure out whether these problems can be solved with Art's amendment. 132-133 of the Constitution of the Russian Federation.

The municipal control and accounting body is an objective and independent body that not only identifies violations and shortcomings in the financial and budgetary sphere, but also works to prevent them, controls their elimination, signals about existing risks, develops effective proposals for improving the budget process, for rational the use of municipal resources and improving the quality of municipal governance [8].

The legal status of municipal control accounting bodies is enshrined in the Federal Law of October 6, 2003, No. 131-FZ "On the General Principles of Organization of Local Self-Government in the Russian Federation", as well as the Federal Law of February 7, 2011, No. 6-FZ "On General Principles organization and activities of control and

accounting bodies of the constituent entities of the Russian Federation and municipalities ". The direct authority to exercise budgetary control is established by the Budget Code of the Russian Federation.

One of the main problems of implementing external municipal financial control should be called the contradictions between the powers and resources, which are endowed with the control accounting bodies of municipalities.

As of January 1, 2020, there are 20,846 municipalities in Russia, 665 municipalities less than on January 1, 2019<sup>3</sup>. At the same time, 87.4% of all municipalities are urban and rural settlements. Simultaneously, it is the settlement level that is least provided with financial resources: in the structure of the distribution of own revenues of local budgets by type of municipal formations, the own revenues of rural settlements are only 7.1%, urban settlements - 5.2%. In the total volume of local budgets revenues in 2019, the share of intergovernmental transfers excluding the return of balances (including subventions) is 66.0%<sup>4</sup>.

How does this affect the formation of municipal control accounting bodies? Although the Russian Federation's Budget Code prescribes external municipal financial control within the framework of the budgetary process at the municipal level, it should be stated that not all municipalities have created their control and accounting bodies. As of January 1, 2019, control and accounting bodies were created in 86.8% of urban districts and municipal districts and only in 0.97% of municipalities of other types [8]. For example, in all constituent entities of the Russian Federation that are part of the Southern Federal District, control and accounting bodies have been created in each urban district and municipal district. The exception is the Rostov region, where, as of January 1, 2019, control and accounting bodies were not created in 25 urban

<sup>3</sup> Information on the results of monitoring the execution of local budgets and interbudgetary relations in the constituent entities of the Russian Federation at the regional and municipal levels for 2019 // Website of the Ministry of Finance of the Russian Federation URL: [https://www.minfin.ru/ru/performance/regions/monitoring\\_results/Monitoring\\_local/results/](https://www.minfin.ru/ru/performance/regions/monitoring_results/Monitoring_local/results/) (date of access 06/08/2020).

<sup>4</sup> *ibid*

districts and municipal districts [8].

Simultaneously, one should critically approach those data when presented as a whole for all municipalities since they do not reflect an objective picture with the creation of control accounting bodies. So, I. Egorov points out that by the beginning of 2019, 26% of the total number of municipalities were not covered by external municipal financial control, only 10% of municipalities created their CSR, and 64% transferred their powers to exercise external financial control to control accounting bodies of subjects or municipal districts [7]. If one concludes only based on the presented data, it may seem that municipal financial control is entirely inappropriate. In the literature, the point of view is expressed that the creation of control accounting bodies of municipalities should be subordinated to the principle of expediency: "control accounting bodies of municipalities should be created only where there is a real need for this, and the criteria for creation should be the size of the territory of the municipal formation, the number population and the volume of cash flows" [6, p. 86].

So far, this issue is being resolved by transferring powers to exercise external municipal financial control from the municipal formation or to a higher municipal formation (for example, a rural settlement transfers its powers to exercise external financial control to a municipal district) or to a constituent entity of the Russian Federation. Moreover, if, concerning cases of transferring the powers of external financial control from settlements to municipal districts, we can talk about the expediency and effectiveness of financial control (which is due, among other things, to the relatively small territorial remoteness of objects of control) [8], then the expediency of transferring powers from municipalities to a constituent entity of the Russian Federation raises the question. An exception should be the transfer of powers from intracity municipalities to cities of federal significance (Moscow, St. Petersburg and Sevastopol) due to local self-government peculiarities in these territories.

The transfer of powers to exercise external financial control from municipalities to the Russian Federation's constituent entities is not advisable for

many reasons. On the one hand, the control and audit chambers of the Russian Federation's constituent entities are not provided with sufficient staff and resources to assume additional powers to exercise control over municipalities. Moreover, Art. 142 of the Russian Federation's Budget Code, which establishes the forms of interbudgetary transfers from local budgets, does not provide for the possibility of transferring subventions from a municipal formation to a constituent entity of the Russian Federation to exercise the authority to exercise external financial control. In its letter dated May 16, 2019, the Ministry of Finance of the Russian Federation indicates that the financial burden in the event of a transfer of powers falls on the Russian Federation's subject.

On the other hand, relying on Art. 12 of the Russian Federation's Constitution, the authorities of the constituent entities of the Russian Federation should not substitute for local self-government bodies, which include the control and accounting body of the municipal formation. And despite the introduction of amendments to Art. 131-133 of the Russian Federation's Constitution, public authorities still should not assume the powers of local self-government bodies.

Trends in the unification of municipalities, including the creation of municipal districts, indicate the consolidation and gradual decrease in the number of municipalities in Russia, resulting in increased financial independence of local self-government, the need for which has been talked about for so long. These processes occur not only in Russia but also abroad [25-26]. This will help to strengthen the position of the control and accounting bodies of municipalities. At the same time, the formation of a unified public authority, the formation of effective interaction between state authorities and local self-government in the field of external financial control should positively affect the strengthening of municipal external financial control. This becomes especially important in the implementation of national projects, which are financed through municipalities. According to the Ministry of Finance of the Russian Federation, local governments take part in 12 national projects (most of all municipalities' expenditures are presented in such national projects as: "Housing and Urban

Environment" - 72.1%; "Culture" - 55.0%; "Ecology" - 46.4%; "Education" - 42.5%). The total expenditures of local budgets for implementing national projects in 2019 amounted to 431.7 billion rubles. At the same time, almost a third of regional projects are implemented by local governments.

This is relevant for the implementation of improvement projects, where, among other things, residents of municipalities themselves are involved, choosing projects for improvement, providing both labour and financial (through self-taxation means of citizens) participation. In this regard, the national goals and strategic development objectives designated by the President of the Russian Federation (Decree of the President of the Russian Federation of May 7, 2018 N 204 "On national goals and strategic objectives of the development of the Russian Federation for the period up to 2024") require increased attention from the MCAB, which in turn makes it necessary to change the existing approaches to expert-analytical and control work. Control and accounting bodies of municipalities should closely monitor the effective use of funds allocated to implement national projects. Simultaneously, they do not have any additional labour resources for this or the corresponding competencies. Because the Russian Federation is interested in the effective implementation of national projects, the Accounts Chamber of the Russian Federation should coordinate the activities of the MCAB to exercise financial control over such projects. Thus, in order to preserve and further develop the system of external municipal financial control in Russia, it is now necessary to determine unified organizational approaches for its implementation with the strengthening of the role of municipal control and accounting bodies, and for small municipalities, in extreme cases, to allow the transfer of powers to external municipal authorities. Financial control to a higher municipal level (from a settlement to a district) using unified transferring powers [8].

One more controversial point should also be identified, related to the lack of unified approaches to the status of municipal control and accounting bodies and the status of positions and personnel, the lack of a unified methodology for calculating the staffing of a control and accounting body.

Despite the establishment by the Federal Law of 07.02.2011 No. 6-FZ of the general principles of the organization and activities of the control and accounting bodies of municipalities, many issues are resolved directly by the municipalities themselves, without taking into account any general criteria for the formation of the MCAB. On the one hand, the federal legislator, in order to ensure the unity of the legal status of control and accounting bodies and their independence, has determined the composition, which is mandatory for all control and accounting bodies of municipalities (clause 2 of article 5 of the Federal Law of 07.02.2011 No. 6-FZ ). In this regard, the exclusion of full-time employees from the Control Body's apparatus, the presence of which is mandatory under direct instructions from the federal legislator, for example, based on the need to optimize the costs of the city municipality, will be contrary to the law<sup>5</sup>.

On the other hand, the establishment of paragraph 8 of Art. 5 of the Federal Law of 07.02.2011 No. 6-FZ, the provisions on the independent determination of the staff size of the MCAB by the regulatory legal act of the representative body of the municipality, in practice leads to discrepancies in terms of determining the number of MCAB employees based on various criteria: funds, and often without any justification, as well as attempts to reduce the number of employees of the MCAB due to budget savings, as shown above. At the beginning of 2019, 27.7% of the MCAB consisted of only one person; another 31.7% of the MCAB consisted of two people [7]. For example, the control accounting body of the municipal formation "Votkinskiy District" of the Udmurt Republic is 1 unit. Simultaneously, the control accounting body "Votkinskiy District" is delegated the authority to exercise external municipal financial control from the municipalities that are part of the district. One auditor cannot exercise full financial control and all the powers to implement it, enshrined in legislation.

In this regard, it seems necessary in the Federal Law of 07.02.2011 No. 6-FZ to fix the criterion following which the staffing of the MCAB should be formed, for example, based on the volume

<sup>5</sup> Appeal ruling of the Judicial Collegium for Administrative Cases of the Supreme Court of the Russian Federation dated July 31, 2019 N 45-APA19-18 // ConsultantPlus.

of the local budget. Determining the status of officials working in municipal control and accounting bodies also requires a solution. The ambiguity of federal legislation and municipal legal acts leads to contradictory situations, which is confirmed by numerous judicial practice<sup>6</sup>. The same problems arise when determining officials' status of the control and audit chambers of the RF constituent entity [27]. On the one hand, the principle of independence of local self-government should be implemented. On the other hand, the establishment of clear criteria for the legal status of MCAB officials will make it possible to more effectively implement the principle of independence, since officials of control and accounting bodies will be less dependent on the discretion of other local government bodies, for example, in terms of guarantees provided to them.

### **3. The problem of methodological support and professional development of the MCAB staff.**

One of the acute problems that have not yet been resolved by the control and accounting bodies is the need for the inflow and work of highly qualified personnel in CSR, as well as the methodological support of their activities, the introduction of modern methods and techniques into the practice of control and accounting bodies. This is also indicated in the literature [7]. Legal and economic relations are becoming more and more complicated, new digital technologies are emerging, which, on the one hand, can be used in education, on the other hand, the use of digital technologies in practical activities when municipalities exercise their powers dictates the need to master the relevant skills. It should be noted that MCAB, on its own, is not coping with this area of work due to the lack of often both

financial resources for training and advanced training of employees and insufficient own methodological base. Moreover, it is in this issue that it is necessary to find a "golden mean" between the independence of the control and accounting bodies of municipalities and the establishment of, if possible, "uniform rules of the game" in terms of a centralized institution of methodology and standardization of external financial control at all levels.

In practice, this is achieved by creating associations of control and accounting bodies to exchange experience and develop uniform methodological recommendations for work. In 2002, the Union of Municipal Control Accounting Bodies was created, whose activities aimed to increase the efficiency of the ICSO. In 2012, the MCAB Union was headed by the Accounts Chamber of the Russian Federation auditor, Vladimir Katrenko, which testified to the vital role of the Accounts Chamber of the Russian Federation in the formation of municipal control and accounting bodies. For a long time, the Association of Control Accounting Bodies (ACAB) website was functioning, on which information was posted, including information about the activities of the MCAB, as well as recommendations on their work, model documents. At present, the site works only as an information source of information; materials have not been updated since 2012.

Methodological assistance and assistance in advanced training can be carried out through specially created scientific and educational institutions. So, from 2002 to 2018, the State Research Institute of System Analysis of the Accounts Chamber of the Russian Federation operated at the Accounts Chamber of the Russian Federation, which was engaged in researching topical financial control problems. Some of the goals of the research institute were: "development of proposals for the formation of a methodological and regulatory framework for the audit of information technology; providing, following the established procedure, scientific and methodological assistance to the control bodies of the constituent entities of the Russian Federation, ensuring the exchange of information within the framework of cooperation on issues of mutual interest; training of highly qualified scientific personnel, development and organization

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<sup>6</sup> Definition of the Constitutional Court of the Russian Federation of November 28, 2019 N 3009-O; Appeal ruling of the Judicial Collegium for Administrative Cases of the Supreme Court of the Russian Federation dated July 31, 2019 N 45-APA19-18; Appeal ruling of the Judicial Collegium for Administrative Cases of the Supreme Court of the Russian Federation dated 09.10.2019 N 45-APA19-28; Appeal ruling of the Judicial Collegium for Administrative Cases of the Supreme Court of the Russian Federation of 05/17/2017 N 93-APG17-1.

of programs of additional professional education"<sup>7</sup>. It was discontinued in 2018, and its website is currently not operational.

Thus, the activities of the formed MCAB Union, at the first stage of its work supported by the Accounts Chamber of the Russian Federation, subsequently, due to the lack of such support, ceased to play a significant role in methodological support and advanced training. At the moment, it is possible to observe individual interactions of the MCAB among themselves both within the framework of the association at the level of the constituent entities of the Russian Federation (including interaction with the control and accounting body of the constituent entity of the Russian Federation [28], and at the level of federal districts. For example, the MCAB union is actively working set the following tasks<sup>8</sup>:

1. Consulting and methodological assistance to MCAB.

2. Raising the level of professional competence of the MCAB employees.

3. Organization of interaction among MCAB.

In 2019, the following Consultative and methodological assistance was provided to MCAB. Information and analytical materials (analytical notes) were prepared:

1. Improvement of the institution of methodological assistance to implement the strategic tasks of the Russian Federation's development until 2024.

2. The practice of organizing and conducting an external audit of the annual report on the execution of the budget of the municipal formation.

3. Analysis and generalization of the practice of control over the formation and execution of municipal tasks.

4. The practice of attracting experts during control activities by members of the MCAB Union.

Other information materials:

1. Reports and presentations on the topic "The practice of assisting local governments in improving the quality of municipal resource management"

2. Review of judicial practice in the field of combating corruption in local government.

3. Materials of the best practices of the MCAB Union members.

An important role is played by the competitions held by the MCAB Union: "The Best Practice of Municipal Financial Control", "The Best Municipal Financial Controller of Russia", "The Best Official Site of the MCAB", within which the control and accounting bodies have the opportunity to exchange experience with each other on conducting municipal financial control.

For 2020, the MCAB was given such recommendations as increasing the share of performance audit in the total volume of external municipal financial control measures; improvement of approaches and methods of auditing in the field of procurement; assistance to local governments in the search and adoption of economically sound decisions, by identifying and identifying systemic violations and shortcomings; introduction and development of modern digital technologies in their activities.

Simultaneously, such activity cannot be considered sufficient without the leadership and support from the Accounts Chamber of the Russian Federation. It should be recognized that it is the Accounts Chamber of the Russian Federation that should become the flagship that will take on a coordinating link for all MCAB and provide them with methodological support. These powers have already been assigned to the Accounts Chamber and spelt out in the federal law establishing its legal status. So, one of the functions of the Accounts Chamber of the Russian Federation is "interaction with the control and accounting bodies of the constituent entities of the Russian Federation and municipalities, including on issues of external state audit (control), the conclusion of cooperation agreements with them" (clause 22, clause 1 13 of the Federal Law), as well as its powers include "providing the control and accounting bodies of the constituent entities of the Russian Federation and municipalities with organizational, legal, informational, methodological and other assistance, assistance in professional

<sup>7</sup> [http://old.ach.gov.ru/about/sri-iv.php?sphrase\\_id=12124306](http://old.ach.gov.ru/about/sri-iv.php?sphrase_id=12124306) (дата обращения 01.07.2020).

<sup>8</sup> XI General Meeting of the Representative Office of the MCAB Union in the Southern Federal District // materials of the Control Accounts Chamber of the city of Volgograd

training, retraining and advanced training of employees of control and accounting bodies of the constituent entities of the Russian Federation and municipalities "(subparagraphs 9, paragraph 1 of article 14 of the Federal Law of 05.04.2013 N 41-FZ "On the Accounts Chamber of the Russian Federation").

Taking into account the formation of a unified system of public power and within the framework of the powers of the Accounts Chamber of the Russian Federation to provide methodological assistance to the MCAB, it would be advisable to develop a unified methodology for the implementation of external financial control, inscribed in the general system. At the same time, agreeing with Shokhin that the powers of the Accounts Chamber of the Russian Federation should not cause an ambiguous assessment from the point of view of the principles of federalism and legislation on local self-government [29], the MCAB, along with unified methods, should be able to adapt its methods within the framework of those that are specific to a particular municipality. Building a unified methodological system would make it possible to optimize and make the advanced training system more effective. At the same time, modern methods can be used to train MCAB employees. The coronavirus pandemic conditions have shown the possibilities of introducing remote technologies and the possibility of their use, for example, for conducting training events and exchange of experience. This will reduce MCAB travel expenses, reduce travel time, and more quickly resolve issues that require immediate resolution. Such training will allow MCAB to share experience and explore foreign experience in financial control, for example, the use of quadcopters for its implementation [30]. All this requires financing the costs of the MCAB to improve the technical base, the introduction of information technologies, which can be resolved through subsidies from higher budgets.

#### **4. Conclusions.**

The organization of a modern system of external municipal financial control shows that it actually works only at the urban districts and municipal districts, and even then, it is not always practical.

At the level of settlements, municipal control and accounting bodies are generally not created. The powers to exercise external financial control are transferred mainly to the municipal district's level, and in exceptional cases, to the level of the constituent entity of the Russian Federation. The consolidation of municipalities through their unification can strengthen the financial component of local self-government, and after that, increase the efficiency of external financial control. In this case, the municipality should retain the authority to exercise control without transferring it to the level of the constituent entity of the Russian Federation. However, at the same time, the municipal control and accounting body's role should be strengthened by increasing its status (for example, fixing the criteria for the number of control staff at the federal level). - accounting authority, guarantees of financial support for the MCAB). The work of the control and accounting body as a local self-government body should not be replaced by government bodies' work represented by the control and accounting bodies of the constituent entities of the Russian Federation. At the same time, there is a need to build a system of assistance, primarily the Accounts Chamber of the Russian Federation, in terms of methodological support and creating a single methodological centre for the MCAB regarding external financial control. This is especially true in the context of the implementation of national projects, financing of which is also carried out through municipalities.

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