

Publicity Problems in the Formation of Representative Bodies of Municipalities in the Russian Federation

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Abstract: In recent years problems connected with local self-government in Russia have been becoming increasingly relevant. This is a natural development. Local self-government allows people, united by common interests of the local territory to resolve important everyday issues. Regular amendments to the federal and regional legislation indicate continuing improvement of the local government institution. Previous studies in municipal law make it possible to draw a conclusion that the publicity principle is the most important part of successful local self-government operation. This principle is particularly important to ensure dialogue between citizens and local authorities. The researchers therefore place emphasis on ensuring the publicity principle when forming local self-government bodies. This study explores the main trends and innovations in Russian legislation regarding regulation of the procedure for formation of local self-government bodies. The researchers propose a series of legislative initiatives aimed at the direct involvement of citizens and their associations in the formation of local self-government bodies.

Key words: Local self-government, local self-government bodies, local elections, institution, principle

INTRODUCTION

In order for the local self-government to be truly effective institution, not a fictitious but a real democracy tool, it is necessary to ensure a number of conditions for its real functioning, both legally and practically. Besides providing sufficient financial base and necessary standard regulation, it is very important to create conditions of openness and transparency in the work of local self-government bodies (Mikheev, 2014). These conditions are also important in the interaction of local self-government bodies with the population which requires the local government to be accountable and its decisions to be open to the citizens. Implementation of the publicity principle when citizens and their associations are involved in the formation of local self-government bodies has become particularly significant (Kudryavtsev and Mikheeva, 2015). Experience from the countries with a developed system of democratic institutions shows that formulation of optimal local authorities formation mechanisms significantly contributes to the creation of a sustainable local self-government system overall (Kudryavtsev *et al.*, 2015). Recently, there have been regular amendments in the local self-government Russian legislation regarding changing patterns of local government elections. These changes are being made both in the federal and regional legislation fairly regularly which speaks about the search of legal policy course in

the matter under consideration (Kudryavtsev, 2016). Of interest is therefore the study of problems of local government formation from the position of the citizens' rights to self-government and the publicity principle in local self-government. The objective of the research is comprehensive and integrated examination of the issue of ensuring the publicity principle when forming local self-government bodies in Russia. The objective of the research was to study, reveal and analyze the main problems connected with the implementation of the publicity principle when forming local government. Another objective was to formulate practical recommendations for legislation improvement. The study is devoted to scientific search for different ways to strengthen democracy, increase efficiency and transparency of local self-government operation. The research is based on a study of the legal framework of the state and municipalities, law enforcement practices, statistics.

MATERIALS AND METHODS

Different scientific research methods provided the methodological basis for this study. Among these methods of particular significance was the dialectical research method that involve the study of legal and social phenomena in their historical and logical interrelationship and interdependence. Principles of scientific objectivity

and historicism have also been used in the study. These principles imply a comprehensive analysis of the factual material, taking into account concrete historical situation and the whole complex of legal, political, economic and social factors that influence the development and change of the citizens' and their associations' rights to be involved in the formation of local self-government bodies in Russia under constitutional law and legal regulation.

Of great importance was the method of dialectical materialism which allowed a deeper analysis of the issues related to the local authorities work and their interrelation with the various factors of society life.

Formal legal approach was of particular significance for the research. This approach in conjunction with the formal logical rules allowed to formulate the main legal definitions and categories to determine their components and to specify the main essential aspects. Synergistic method has provided substantial help with proving the significance of the processes addressed in this work through the prism of the right to participate in the formation of local self-government bodies.

In the course of the current study, general scientific research methods were applied: comparative historical method, analysis and synthesis, systematic analysis, problem-chronological method. Private-scientific research methods were also used: normative-logic, comparative-legal, historical-legal.

The combination use of various methods has allowed us to solve the assigned tasks and achieve the objective of this research.

RESULTS AND DISCUSSION

Local self-government bodies while being vested the powers of a public authority are at the same time a form for the realization of the right for local self-government through their representatives (Belousov *et al.*, 2015). In 2013, the President of the Russian Federation V.V. Putin, in his Address to the Federal Assembly, said that local self-government bodies had to be more responsible for their actions and be accountable to the public in such a way "that any citizen could reach out to it, figuratively speaking." The president emphasized that such changes in local self-government must take place by means of increasing political competition at the local level. At the same time, the president noted that these processes were not possible without clarifying the general principles of local self-government organization. Therefore, the actual implementation of the citizens' and their associations' rights to be involved in the formation of local self-government bodies is extremely important. Currently there are several contradictions in the course of

implementation of these rights both from the point of view of the local self-government theory (Shugrina, 2015) and in regards to the consequences of law-enforcement practice. Let us examine them in detail using the examples of formation of each local self-government body.

Formation of a representative body through delegation of representative bodies members, heads of rural settlements and intracity areas in the municipal and urban districts is a rather controversial issue. Before in 2014 amendments that would make this system in municipal districts the only possible option if a constituent region of the Russian Federation adopts the law, has entered into force, only about 40% of established municipal districts used this way to form a representative body (Mironov, 2006). For instance, this method for a regional representative body was elected and successfully functions in the following districts of Kamchatka Krai: Tigilsky, Bystrinsky, Ust-Kamchatsky, Aleutsky, Yelizovsky, Olyutorsky, Penzhinsky. Taking into account the positive experience this system had in these areas on 5 September 2013 the representative body of Karaginsky District of Kamchatka Krai has put forward an initiative to adopt the formation procedure using the principle of delegation. Currently this initiative has full support of the representative bodies of rural settlements and relevant amendments were made to the Karaginsky District Charter.

Questions of democratic or undemocratic character of this system has been raised repeatedly in the scientific literature. This issue should be examined from a perspective of how much this system helps the citizens to exercise their rights for local self-government and corresponds with the population interests of the municipality. In our view, there are several factors of particular importance here.

First, delegation of representative body deputies saves a lot of funds from the local budget allocated for the local elections. Organization of the formation order of local self-government bodies, taking into account the optimum costs of the local budget allocated for all the necessary procedures of this process is of course also one of the important components of the right to participate in the formation of local self-government bodies.

Secondly, the delegation of deputies in a representative body of municipal district from among the representatives of the rural settlement bodies significantly increases the importance and the status of the representative bodies and heads of rural settlements elections. Thereby the level of public responsibility in the election increases and the importance of the local residents rights to participate in the formation of these bodies also increases.

Thirdly, the delegation of representatives from rural settlements in a representative body of a municipal district allows to represent the highest possible number of all rural settlements and district territories while in a direct elections system, district centre receives the largest quotas and its representatives get more opportunities and resources for the elections in the districts in other settlements of the area. Thus, the delegation system of deputies allows to cover and ensure the representation of interests of various municipal district territories to a greater degree.

In 2014, Federal Law No. 131 has been amended to give intracity areas of the major cities the municipal entities status. Now, if a constituent region of the Russian Federation adopts the relevant provision in its law, these representative bodies of the municipalities will be able to elect deputies of a representative body of the city district from among its members according to the established quota or to delegate the head of the intracity area there.

The explanatory note to the draft law states that today local self-government bodies in municipal and city districts are cut off from the population and their work system is extremely bureaucratized. As a result not all residents of these municipalities can feel the work of local authorities. In turn, according to the authors of the draft law, if a system of delegating deputies was established all over the country, it can promote closer, direct connection between authorities of the city district and municipal district and the residents of each particular urban area as well as rural settlement.

The very idea of creating such representative bodies with legal registration of intracity areas in principle, deserves attention. It seems that it is the development of local self-government bodies in the areas as close as possible to each specific person can really raise local government profile and contribute to solving the problem of giving the population access to the self-government institutions. In fact, formation of local authorities at this level may become a peculiar form of “quarterly” self-government. According Belousova (2011), the development peculiarities of the representative bodies in the municipal district have no influence on the representative nature of these bodies.

However, the possible abolition of the direct elections of deputies of city districts representative bodies seems to us controversial in terms of providing guarantees that citizens and their associations will be able to participate in the formation of local self-government bodies.

In this regard, we consider it important to draw attention to the need for actual participation of citizens in the formation of local self-government bodies in the conditions of a two-level control system in the municipal and urban districts. This issue should be considered

through the prism of the right of citizens to implement local self-government and whether or not this two-level system is in the interests of the local population. It seems that a lot of today’s problems of local self-government in particular, the issue of the accessibility of local authorities are also connected with the two-level control system at the district level and at the level of rural settlement that exists in municipal districts (Kostyukov, 2015). In our opinion, E.B. Sultanov gave an accurate assessment of this system. He thinks that the blend of the settlement and territorial principles of local self-government organization is the main flaw of the existing Federal Law No. 131. It is this blend as stressed by E.B. Sultanov that acts as a real obstacle in the formation and development of local self-government in the Russian Federation. The law analysis leads us to the firm belief that the municipal district has in fact a potentially large administrative resource in respect of local self-government bodies settlements.

With regard to the possibility of legal registration of intracity areas in the major cities and creations in them elected representative bodies, this idea seems to be promising and important in the context of development of the citizens’ and their associations’ rights to be involved in the formation of local self-government bodies in urban municipalities. It should be taken into account that as many major cities urbanize and grow they turn into agglomerations and have a difficult system of internal social relationships. Under these conditions local self-government bodies of the city district have to decide a lot more issues, connected with the development of large-scale industry, large-scale infrastructure, cultural development, interaction with public associations and big business, than local self-government bodies of medium and small towns or municipal districts.

These issues belong to the sphere of local importance too but on a different scale: workload of intracity local self-government bodies makes it more difficult to take into account interests of the local population in each district and in each territory of the urban district. In this case, decentralization of local authorities in the major cities and delegation of some powers to representative bodies of the administrative districts which would be elected directly by the public, seems to be more logical. In contrast to the existing situation in the municipalities in this case a real right of citizens to elect representative bodies of the administrative districts should not be nullified by the intracity authorities minimizing the role of local population (Sergeev, 2015).

Unlike municipal districts where sometimes for various reasons there is no strong indestructible connection between rural settlements and the way of life of each of them is different, urban district is essentially

a holistic compound united by the same way of life and development issues this municipality has. Therefore, the necessity to choose one or another formation model of a representative body of the municipality should be based on the way of life in a particular area and be a result of the objectives the area has. Local self-government in the municipal district bases its decisions on the need to ensure the functioning of rural settlements and the need to resolve the issues of its residents. For this purpose local self-government bodies should be formed in rural settlements. And local self-government bodies of the municipal district, as rightly notes E.B. Sultanov, act as bureaucratic system that controls the work of local authorities in the settlements and consequently, the citizens' right to form this government.

As for local self-government bodies of the urban district, they act as important legal authorities responsible among other things for providing strategic decisions for the development of a big city as an important single economic, social, public and cultural center. And in this case, the existence of local self-government bodies at city level should not be limited to the direct participation of the population in the formation of local self-government bodies at the level of intracity areas, since the presence of these local authorities in a large urban district is necessary for addressing various issues at these two levels. Therefore, we consider it counter-productive to form the representative bodies of the urban district through the delegation system of deputies.

CONCLUSION

Since, local self-government is the closest to the population in terms of power, methods of forming its bodies should take into account as many interests and needs of the residents of the municipality as possible. In municipal districts the delegation system from among deputies of representative bodies and heads of settlements is admittedly corresponds best with this principle. This system helps to reduce local government bureaucratization. Taking into consideration the specificity of the municipal district, this particular system is able to enhance the publicity of the district authorities, since the authorities in the settlements get the opportunity to control the activity of district authorities, thus, increasing their accountability.

However, this pattern is counter-productive in urban districts with intracity areas. Unlike municipal district, this type of municipal entity represents a united city agglomeration based on the same history and the way of life. To deal with critical issues of the agglomeration at this level, a specific representative body of the local self-government should be formed directly by the citizens while representative bodies of the intracity areas

have to ensure partial decentralization of the urban district authority in order to improve the effectiveness of the local government in the city. Therefore, the deputies of representative bodies of the intracity areas should not delegate their members to the representative bodies of city districts. Accordingly, based on the need to delimit the authority between intracity areas and urban districts, publicity level at their formation has to be the same and that is possible only if the elections in local self-government bodies were direct.

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