

Public Chambers (Councils) in Municipalities in Russia as a Subject of Public Control

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This article is concerned with the study of the most numerous type of subjects of public control in the Russian Federation – public chambers and councils in municipalities.

The purpose of the research is to analyze modern problems associated with the participation of public chambers (councils) in municipalities in the organization and implementation of public control measures, as well as the development of a system of measures to resolve them in order to optimize the formation and functioning of this institution of civil society at the municipal level.

Material and methods. *The material for studying the topic was the legislative and doctrinal aspect of the study of the problem, including normative legal acts, concepts of the authors, sociological surveys. The research methods were the dialectical and materialistic, the comparative, the method of system analysis. The following research methods were used the comparative legal, the formal logical and the historical legal.*

Findings and their discussion. *The object of research in the article is public relations arising in connection with the participation of public chambers (councils) in the organization and implementation of public control measures, and the subject of the research is the regulatory and legal framework for the formation and functioning of public control in the Russian Federation at the municipal level, educational and scientific literature in the field of legal doctrine of public control, materials of judicial practice in the field of organization and implementation of public control.*

Conclusion. *The author identified the main problems associated with the participation of public chambers (councils) in municipalities in the mechanism of organizing and implementing public control at the local government level, and also developed a system of measures to resolve them (both in terms of optimizing the current legislation on public control, and in terms of creating the necessary conditions for its implementation at the municipal level).*

Key words: *public chamber, public council, municipal formation, public control, democracy, constitutional principles, object, subject, constitution, Russian Federation.*

Общественные палаты (советы) в муниципальных образованиях в России как субъект общественного контроля

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Данная статья посвящена исследованию наиболее многочисленной разновидности субъектов общественного контроля в Российской Федерации – общественных палат и советов в муниципальных образованиях.

Цель исследования состоит в анализе современных проблем, связанных с участием общественных палат (советов) в муниципальных образованиях в организации и осуществлении мероприятий общественного контроля, а также разработке системы мероприятий по их разрешению в целях оптимизации формирования и функционирования данного института гражданского общества на муниципальном уровне.

Материал и методы. *Материалом для изучения темы послужили законодательный и доктринальный аспекты исследования проблемы, включающие нормативные правовые акты, концепции авторов, проведенные социологические опросы. Методами исследования выступили диалектико-материалистический метод, методы компаративистики, толкования норм права, системного анализа, сравнительно-правовой, формально-логической, историко-правовой и другие.*

Результаты и их обсуждение. *В качестве объекта исследования выступают общественные отношения, возникающие в связи с участием общественных палат (советов) в организации и проведении мероприятий общественного контроля, а предметом исследования – нормативно-правовая база формирования и функционирования общественного контроля в Российской Федерации на муниципальном уровне, учебная и научная литература в области правовой доктрины общественного контроля, материалы судебной практики в области организации и осуществления общественного контроля.*

Заключение. *Автор выявил основные проблемы, связанные с участием общественных палат (советов) в муниципальных образованиях в механизме организации и осуществления общественного контроля на уровне местного самоуправления, а также разработал систему мероприятий по их разрешению (как в части оптимизации действующего законодательства об общественном контроле, так и в плане создания необходимых условий для его реализации на уровне муниципальных образований).*

Ключевые слова: *общественная палата, общественный совет, муниципальное образование, общественный контроль, народовластие, конституционные принципы, объект, субъект, Конституция, Российская Федерация.*

The legal foundations of the organization and functioning of the institution of public control in the Russian Federation are widely studied in the works of Grib (2014; 2016), Filippov (2017), Dernova (2015), Moros (Moros & Goncharov, 2020), Sakhbieva (Sakhbieva et al., 2021) and a number of other authors. These works make it possible to analyze the system of objects of public control, to study the problems and prospects of their development. At the same time, research devoted to the problems and prospects of the formation and functioning of this institution of civil society at the municipal level has recently acquired an important role. Articles by Mikheeva (2018), Maslov (Mikheeva & Maslov, 2016), Belousov (Mikheeva & Belousov, 2015), Vavilov (2015), Zhadobina (2020), Roslyakov (2017) and many other scientists actively investigate the mechanism of participation of subjects of public control. at the level of local self-government, and, above all, their permanent varieties – public chambers and public councils. However, in these works, the emphasis is mainly on the analysis of the powers of these subjects of public control, their interaction with local governments. At the same time, the share of complex resarches in which an attempt is made to analyze the genesis of modern problems that hinder the development of the institution of public control at the municipal level, increase the role and place of public chambers and public councils in municipalities in the system of public control in the Russian Federation, develop and substantiate a system of measures to optimize the legal regulation of the organization and activities of this type of subjects of public control, it seems insignificant. In this regard, the main purpose of this research is the analysis of modern problems associated with the participation of public chambers (councils) in municipalities in the organization and implementation of public control measures, as well as the development of a system of measures to resolve them in order to optimize the formation and functioning of this institution of civil society at the municipal level.

The purpose of the research is to analyze modern problems associated with the participation of public chambers (councils) in municipalities in the organization and implementation of public control measures, as well as the development of a system of measures to resolve them in order to optimize the formation and functioning of this institution of civil society at the municipal level.

Material and methods. The material for studying the topic was the legislative and doctrinal aspect of the study of the problem, including normative

legal acts, concepts of the authors, conducted sociological surveys. The article uses a number of research methods: comparative-legal; formal-logical; historical-legal and others.

Findings and their discussion. The Russian Federation has enshrined in its 1993 Constitution the provision that it is a democratic federal rule of law with a republican form of government. (Constitution, 1993) In this regard, the cornerstone of the Basic Law is the constitutional principles of democracy and the participation of citizens of the Russian Federation in the management of state affairs. According to these legal principles, the multinational people of Russia have the right to exercise their power both through direct forms of democracy and through indirect democracy. At the same time, the Basic Law of the Russian Federation classifies the institutions of referendums and free elections as direct forms of democracy (according to Article 2). However, in the chapter “Local self-government”, a reservation is made that other forms of direct democracy are also consolidated in Russia at the level of municipalities. Indirect democracy is directly related to the functioning of the system of public authorities in the Russian Federation (federal and regional state authorities, as well as local government bodies), which are either directly elected by the people (State Duma of the Federal Assembly and the President of the Russian Federation at the federal level, legislative (representative) government bodies and heads of executive power (heads of regions) of constituent entities of the Russian Federation at the regional level, as well as heads of municipalities and deputies of municipal representative bodies of power – at the level of municipalities).

Indirect democracy assumes that the people, by electing public authorities (their officials), delegate their powers to them in order to organize the preservation and development of Russian society and the state in the most optimal way. However, any delegated authority needs a complex system of control on the part of the person to whom it belongs. The people act as the main (basic) bearer of sovereignty in the Russian Federation, which cannot be challenged by anyone, limited (both domestically and internationally). In addition, according to the Russian Constitution, the people are enshrined as the only source of power. In order to avoid the illegal seizure of powers delegated by the people, or the usurpation of power in the hands of any public authority, as well as its officials, the Constitution of the Russian Federation and the current legislation enshrines a complex system

of legal guarantees of the constitutional principles of democracy and the participation of citizens in the management of state affairs. These legal guarantees also ensure the implementation, protection, protection, and restoration (in case of violation) of the entire system of rights, freedoms and legitimate interests of a person and citizen in Russia. The system of such legal guarantees also includes special bodies of constitutional control (including the Constitutional Court of the Russian Federation, the President of Russia as the guarantor of the Constitution of the Russian Federation, the bodies of the prosecutor's office of Russia, the system of courts of general jurisdiction, the Commissioner for Human Rights in the Russian Federation, etc.), and a complex mechanism of checks and balances that permeates the entire system of government and local governments. However, a key place in the system of these legal guarantees is occupied by civil society institutions, whose activities are aimed at monitoring the activities of the system of public authorities, and ensuring the implementation, protection and protection of the rights, freedoms and legitimate interests of a person and a citizen in Russia. The most important place among these civil society institutions is occupied by the institution of public control, under which the current legislation, in particular, Federal Law of 21.07.2014 № 212-FL "On the Foundations of Public Control in the Russian Federation" understands the activities of subjects of public control, consisting in control over activities bodies of state power and bodies of local self-government, state and municipal organizations, bodies and organizations that exercise certain public powers. (On, 2014)

The organizational core of the mechanism of public control in the Russian Federation is the subjects of public control. The above-mentioned Federal Law contains an open list of subjects of public control, referring to them in Article 9 the main and optional subjects.

Among the main subjects of public control in the Russian Federation are: 1) the Public Chamber of the Russian Federation; 2) public chambers of the constituent entities of the Russian Federation; 3) public chambers (councils) of municipalities; 4) public councils under federal executive bodies, public councils under legislative (representative) and executive bodies of state power of the constituent entities of the Russian Federation. (On, 2014)

In addition, on the basis of Part 2 of Article 9 of the above-mentioned Federal Law, for the exercise of public control in cases and in the procedure provided

for by the legislation of the Russian Federation, the following may be created: 1) public supervisory commissions; 2) public inspections; 3) public control groups; 4) other organizational structures of public control. (On, 2014)

It seems that in the Russian Federation, which stretches geographically over vast distances, the organization and implementation of public control at the municipal level is of key importance.

This circumstance is due to a number of reasons:

Firstly, in the Russian Federation, in accordance with the Federal Law of 06.10.2003 № 131-FL "On the General Principles of Organization of Local Self-Government in the Russian Federation", an extremely complex and cumbersome multi-level system of municipal entities, which includes municipal districts, is currently established. municipal districts, urban districts (without intracity division, with intracity division), intracity municipal entities (intracity territories of federal cities and intracity areas of an urban district with intracity division), rural settlements, urban settlements, which are reduced to 2 levels, totaling in total more than 20,300 municipal entities throughout the country. (On, 2003) And this colossal system of local self-government bodies needs constant and vigilant monitoring by civil society.

Secondly, it is at the level of municipal entities that the greatest number of contacts of citizens of the Russian Federation with the system of public power in the country takes place. For example, in the modern era of the COVID-19 pandemic, every citizen of the Russian Federation, being vaccinated against coronavirus infection, starts an office on the website of public services of the Russian Federation, receiving a QR code in multifunctional centers that are organized and coordinated by local authorities in each municipal entities.

Thirdly, at the level of municipal entities, a huge number of municipal employees work, forming the personnel basis of local self-government bodies, most of whom are directly involved in the mechanism of realization, protection and protection of human rights, freedoms and legitimate interests of a person and citizen in the Russian Federation at the municipal level.

Fourthly, local self-government bodies are often located in hard-to-reach regions of the Russian Federation, which makes it difficult to coordinate and exercise state control over them, which is fraught with an increase in the corruption component in the activities of local self-government bodies.

In this regard, it is the institution of public control at the municipal level that makes it possible

to practically in real time monitor the activities of local self-government bodies in terms of compliance by the latter with the current legislation of the Russian Federation, compliance, protection, protection and restoration in case of violation of human rights, freedoms and legitimate interests and citizen in Russia.

The most important place in the mechanism of organization and activity of the institution of public control at the municipal level is occupied by the subjects of public control, the key ones of which are public councils and public chambers in municipal entities.

Why do they occupy such an important place in the system of subjects of public control in Russia at the level of municipal entities?

Firstly, they belong to the main subjects of public control in accordance with the previously mentioned Article 9 of Federal Law of 21.07.2014 № 212-FL. And, consequently, the need for their creation is envisaged in most constituent entities of the Russian Federation at the level of regional legislation, as well as decisions of representative bodies of local self-government.

Secondly, in the event that their creation and activities are provided for by regional legislation and regulatory legal acts of local self-government bodies, then in the municipal budgets (and in some cases – in regional budgets), certain amounts are provided for financing their activities, which makes it possible, on the one hand, they function in a permanent mode, and on the other hand, they rent, use certain premises, organizational and computer equipment, consumables, etc. This greatly facilitates the tasks of organizing and conducting public control measures by public chambers (councils) in municipal entities.

Thirdly, public chambers (councils) in municipalities, functioning in a permanent mode, can provide constant support and assistance to other subjects of public control referred to in Article 9 of the above-mentioned Federal Law of 21.07.2014 № 212-FL, coordinating their activities, which increases the efficiency and effectiveness of the organization and implementation of public control at the municipal level.

Fourthly, the activities of public chambers (councils) in municipal entities are actively sanctified in the mass media, which makes it possible to actively involve the broad masses of the population in their activities, who report cases of violations of the current legislation, as well as the rights, freedoms and legitimate interests of a person and citizen by public authorities, as well as their officials.

However, the organization and activity of public chambers (councils) in municipal entities are associated with numerous problems of an objective and subjective nature, among the main ones are the following:

Firstly, the failure to enshrine in the Constitution of the Russian Federation the institution of public control as a form of direct democracy (including at the municipal level), as well as a legal guarantee for the implementation of the constitutional principles of democracy and participation of citizens of the Russian Federation in the management of state affairs, significantly reduces the level of importance of this institution of civil society both in the eyes of public authorities (their officials) and in the eyes of ordinary citizens of the country. Although in the regulatory legal acts of a number of municipal entities (for example, the city of Krasnodar), the institution of public control is presented as a form of direct democracy exercised at the municipal level. (About, 2010) At the same time, these municipal normative legal acts as a legal basis for this point of view indicate the provisions of Article 33 of the Federal Law of 06.10.2003 № 131-FL, according to which the list of forms of direct implementation by the population of local self-government and forms of participation of the population in the implementation of local self-government is open (provided that they do not contradict the Constitution of the Russian Federation, federal legislation and the legislation of the respective constituent entities of the Russian Federation). (On, 2003)

Secondly, regional charters and constitutions not in all constituent entities of the Russian Federation establish the legal basis for the organization and implementation of public control at the level of municipalities, as well as the role and place of public chambers (councils) in municipal entities in the implementation of public control measures. At the same time, there is no common understanding regarding the importance of the activities of this type of subjects of public control for the development, on the one hand, of the system of public control in the region, and on the other hand, of the institutions of civil society as a whole.

Thirdly, not all municipal entities have adopted the relevant municipal regulations on public control in the municipal formation, as well as the creation and operation of public chambers (councils) of the municipal formation. This is largely due to the beggarly subsidized nature of local budgets in the Russian Federation in most municipal entities, which do not have the financial capacity to finance

the organization and activities of public chambers (councils) in municipal entities.

Fourthly, in a number of municipal entities there are no public chambers (councils), which makes it practically impossible to exercise public control at the municipal level (especially when it comes to municipalities remote from the regional center in the constituent entities of the Russian Federation, located on a large territory).

Fifthly, an analysis of municipal regulations on the organization and activities of public chambers (councils) in municipal entities shows that in most cases they only duplicate the relevant provisions from federal and regional laws on public control and public chambers of the corresponding level.

Sixthly, at the federal and regional levels there is no clear mechanism for assessing the efficiency and effectiveness of public chambers (councils) in municipal entities, although they are created and operate on financial resources allocated from municipal (and in some cases, regional) budgets. This does not allow identifying the most effective forms, methods, measures of public control carried out at the municipal level in order to spread them to all municipal entities in the country [1–24].

Conclusion. In order to solve these problems, as well as to optimize the processes of organization and activity of public chambers (councils) in municipal entities, it seems necessary to organize and implement the following activities.

Firstly, the institution of public control should be enshrined in the Constitution of the Russian Federation, as well as the legal basis for its activities and interaction with public authorities (especially at the municipal level) should be laid in it.

Secondly, it is necessary to include in all regional charters and constitutions provisions on the organization and implementation of public control at the municipal level, as well as the place and role in this mechanism of public chambers (councils) in municipal entities.

Thirdly, it is necessary to create public chambers (councils) in all municipalities of the Russian Federation, providing for their organization and activities appropriate budgetary funding from the federal budget.

Fourthly, an analysis of the effectiveness and efficiency of the activities of public chambers (councils) in municipal entities should be carried out at the federal and regional levels in order to identify the most effective forms, methods and measures of public control at the municipal level, especially those carried out by public chambers (councils) in municipal entities.

Fifthly, it is necessary to develop and adopt at the federal level a model regulation “On the Public Chamber (Council) in a municipal entity”, which will increase the level of organization and activity of public control at the level of municipal entities, as well as the effectiveness of the work of public chambers (councils) in municipal entities in the Russian Federation.

Sixthly, it is necessary to introduce into the educational standards of higher professional education in the Russian Federation, as well as the corresponding other normative legal acts, additions dedicated to the inclusion of a new direction of training in undergraduate and graduate programs, within the framework of which future employees of public chambers (councils) will be trained in municipal entities.

References

1. About the Public Chamber of the municipal formation of the city of Krasnodar [Electronic resource]: Resolution of the administration of the municipal formation of the city of Krasnodar dated 18.08.2010 № 6214. – Mode of access: <https://docs.cntd.ru/document/446219111>. – Date of access: 16.05.2022.
2. Constitution of the Russian Federation. – M.: Legal Literature, 1993. – 40 p.
3. Dernovaya, A.O. Issues of public control in the field of procurement of goods, works, services for state and municipal needs / A.O. Dernovaya // *Legal Policy and Legal Life*. – 2015. – № 1. – P. 128–136.
4. Filippova, N.A. Public councils as a new model of representation of indigenous minorities in the system of public-power relations / N.A. Filippova // *Legal Policy and Legal Life*. – 2017. – № 3. – P. 113–118.
5. Development of state ideology as a basis for improving the executive power [Electronic resource] / V. Goncharov [et al.] // *E3S Web of Conferences*. – 2021. – Vol. 258. – Mode of access: <https://doi.org/10.1051/e3sconf/202125805031>. – Date of access: 16.05.2022.
6. Prohibition of abuse of rights in agribusiness [Electronic resource] / V. Goncharov [et al.] // *E3S Web of Conferences*. – 2021. – Vol. 258. – Mode of access: <https://doi.org/10.1051/e3sconf/202125805033>. – Date of access: 16.05.2022.
7. Problems of choosing the optimal system of executive power in the Russian [Electronic resource] / V. Goncharov [et al.] // *E3S Web of Conferences*. – 2021. – Vol. 258. – Mode of access: <https://doi.org/10.1051/e3sconf/202125805032>. – Date of access: 16.05.2022.
8. On the Importance of Philosophical Principles to the Social Concept of Global Constitutionalism [Electronic resource] / V. Goncharov [et al.] // *Wisdom*. – 2020. – № 16(3). – P. 78. – Mode of access: <https://doi.org/10.24234/wisdom.v16i3.332>. – Date of access: 16.05.2022.
9. The Place of a Person in the Ontological Principles of Global Constitutionalism [Electronic resource] / V. Goncharov [et al.] // *Wisdom*. – 2020. – № 15(2). – Mode of access: <https://doi.org/10.24234/wisdom.v15i2.333>. – Date of access: 16.05.2022.
10. Grib, V.V. Normative consolidation and scientific vision of the system of objects of public control / V.V. Grib // *Legal Education and Science*. – 2016. – № 3. – P. 154–160.

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11. Grib, V.V. Actual problems of formation of the legal foundations of public control / V.V. Grib // *Constitutional and Municipal Law*. – 2014. – № 12 – P. 32–37.
12. Mikheeva, T.N. On the role of public councils of municipalities in the implementation of public control / T.N. Mikheeva, E.V. Maslov // *Mari Legal Bulletin*. – 2016. – № 2(17). – P. 18–21.
13. Mikheeva, T.N. Implementation of public control in municipalities: problems of the subject composition / T.N. Mikheeva // *Bulletin of Tver State University. Series: Law*. – 2018. – № 3. – P. 101–113.
14. Mikheeva, T.N. Public control at the municipal level: analysis of new legislation / T.N. Mikheeva, E.I. Belousov // *Actual Problems of Economics and Law*. – 2015. – № 2. – P. 177–182.
15. Moros, E. Modern Dangers in the Development of the Russian Education System and Ways to Overcome Them: Socio-Philosophical Analysis [Electronic resource] / E. Moros, V. Goncharov // *Wisdom*. – 2020. – № 15(2). – Mode of access: <https://doi.org/10.24234/wisdom.v15i2.354>. – Date of access: 16.05.2022.
16. On the Basics of Public Control in the Russian Federation: Federal Law № 212-FL of 21.07.2014 // *Collection of Legislation of the Russian Federation*. – 2014. – № 30, part 1. – Art. 4213.
17. On the General principles of the Organization of Local Self-Government in the Russian Federation: Federal Law № 131-FL of 06.10.2003 // *Collection of Legislation of the Russian Federation*. – 2003. – № 40. – Art. 3822.
18. Roslyakova, M.V. Participation of public councils of municipalities in the implementation of national policy / M.V. Roslyakova // *Politics and Society*. – 2017. – № 10. – P. 88–104.
19. Some global economic realities and environmental impact in the context of the pandemic: causes and trends / A. Sakhbieva [et al.] // *E3S Web of Conferences*. – 2021. – Vol. 258. – Mode of access: <https://doi.org/10.1051/e3sconf/202125806054>. – Date of access: 16.05.2022.
20. Vavilov, N.S. The subject composition of civil society at the local level / N.S. Vavilov // *The World of Legal Science*. – 2015. – № 11. – P. 41–47.
21. Zaleśny, J. View of the social concept of global constitutionalism on the legal system [Electronic resource] / J. Zaleśny, V. Goncharov // *Journal of Legal, Ethical and Regulatory Issues*. – 2020. – № 23(2). – Mode of access: <https://doi.org/10.14742/ajet.1152>. – Date of access: 16.05.2022.
22. Zaleśny, J. Correlation Of Legal Regulation And Political Violence In The Social Concept Of Global Constitutionalism [Electronic resource] / J. Zaleśny, V.V. Goncharov // *Journal of Legal, Ethical and Regulatory Issues*. – 2020. – № 23(6). – Mode of access: <http://www.alliedacademies.org/public/Journals/JournalDetails.aspx?jid=14>. – Date of access: 16.05.2022.
23. Zaleśny, J. Model Of The Evolution Of Social Development In The Philosophy Of Global Constitutionalism [Electronic resource] / J. Zaleśny, V.V. Goncharov, M. Savchenko // *Wisdom*. – 2019. – № 13(2). – Mode of access: <https://doi.org/10.24234/wisdom.v13i2.277>. – Date of access: 16.05.2022.
24. Zhadobina, N.N. Public councils under the financial bodies of state power and local self-government as a form of citizens' participation in the financial activities of the state and municipalities / N.N. Zhadobina // *Eurasian Legal Journal*. – 2020. – № 9(148). – P. 197–199.

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