

ON CHANGES OF PUBLIC CONTROL IN THE LEGISLATION

Tatiana N. Mikheeva^{1*}, Denis S. Mikheev²

¹Prof. Dr., Mari State University, The Russian Federation, tnmiheeva @marsu.ru

²Prof. Dr., Mari State University, The Russian Federation, Mikheev_ds@mail.ru

*Corresponding author

Abstract

In modern democratic states public control is a necessary tool in the relationship between power and civil society. In many countries it has not received legal regulation yet, but in Russia the Federal Law "On the Basics of Public Control in the Russian Federation" has been in effect for about three years [Federal Law, 2014], a certain experience of its practical application has been accumulated. Today legal gaps, the need to change existing norms have already become apparent in it, questions connected with these were repeatedly raised by both scientists and practitioners. The purpose of the study is to analyze the bill aimed at improving the legal basis for public control. One of the tasks is to evaluate the proposed changes from the standpoint of their adequacy to the challenges of time. Therefore the proposed legislative novels are analyzed in the part of the expansion of subjects' list of public control, which are clearly not enough in the current law. The legal norms relating to the objects of the public control and the concept of the public control are also analyzed. Another task of the study was the development of author's proposals for the improvement of the legal act, which needs should to be included in the bill. In the study a complex of the various methods of investigation was applied. Among them, general scientific and special legal methods: analysis, synthesis, formal legal and system-structural methods were used. These methods allowed us to achieve our goal and to solve the research problems. The conclusions of the work do not have only scientific character, but they also have interest for the practice of public control, for improving the interaction of government bodies with public institutions, and citizens.

Keywords: public control, civil society, public interests, subjects of the public control.

1. INTRODUCTION

Only about three years have passed since the adoption of the Federal Law "On the Basics of Public Control in the Russian Federation", and we are near serious legislative changes. The first euphoria was replaced after the appearance of this law by much criticism very quickly. Criticism was not only on the part of scientists, but also practitioners, state and public figures. Thus, M.A. Fedotov notes that the federal law is not able to provide full legal regulation of relations for the implementation of public control. Subjects of public control's concept were not complete. There were no places for citizens and their organizations. The mechanism of the recording the results of public control leaves much to be desired (Fedotov, 2014).

We also commented on the inadequacy of law of public control's subjects earlier (Bujanov, Mikheeva, 2017). .A. Avakyan comments the law critically; he considers the public control as inadequate one to the hopes

which exist in society in connection with the need of influence on the state, the structures of state and municipal power (Avakyan, 2016). A number of other authors shares this view, they believe that the conditions for the implementation of this law are associated with the openness of power, its interaction with citizens invariably (Kudryavtzev, Mikheeva and Mikheev).

E.V. Kirichek agrees with it, considering that definition of the public control was not successfully formulated by the legislator entirely. In his opinion, in the definition public control's purpose are reflected, which are absent in the article 5 of the law (Kirichek, 2016).

The scientists also noted the insufficient of the legal regulation of public control's forms, the rights of public controllers and the legal consequences of obtained results (Mikheev, Mikheeva and Mokoseeva); the unresolved mechanism of cooperation between government bodies and public associations which would cope with control functions successfully (Belousov, Gornev and Mikheeva, 2015). It is difficult not to agree with all the authors. The numerous shortcomings of the law are becoming a serious brake on its implementation. In fact, the public control has not been properly developed and does not fulfill most of the tasks assigned to it. The President of Russia even notes in his Address to the Federal Assembly that it is necessary not only to organize effective control but to achieve a concrete result with its help which people wait for. (President's Message, 2016).

The wide discussion about the current law on the public control testifies to the insufficient scientific development of this public institution's theoretical foundations. In this connection, the aim of the work is to analyze the bill proposing amendments and additions to the current legal act "On the Basics of Public Control". In authors' opinion, their implementation will expand opportunities of citizens and their associations in the control of government bodies' activities significantly. At the end of study conclusions are offered contained author's opinion to legislative innovations, an assessment of their modern needs of society.

2. RESULTS AND DISCUSSION

At present, public control is becoming one of the key issues in the dialogue between government and civil society. According to scientists' opinion, the ability of citizens and their social formations to check the activity of state authorities and local self-government, to give it an assessment, is one of the most effective mechanisms for ensuring transparency of public authorities (Dementjev and Dementjeva, 2015).

The current Federal Law has consolidated only the foundations of this public institution. Therefore, the preparation of its changes became logical as the practice of implementation revealed obvious shortcomings. Let us dwell on some changes.

The significant achievement of the bill was the updated concept of public control contained in Article 4, perhaps. For the first time in it public control is associated with the public interest.

So, under public control the activities of subjects of public control for the study, analysis, verification and public evaluation of the activities of public authorities and local self-governments, state and municipal organizations, other bodies and organizations having separate state or other public powers for their compliance with public interests are understood.

The appearance of the term "public interests" is very pleasing. It is placed in the further mention not only in Article 5, which defines the goals and objectives of the public control, but also in many other articles of the bill, as, indeed, in subsequent provisions of the bill.

However, in the bill, the definition of the notion of public interest has not found a place, which is an obvious drawback.

We believe that in the bill the objects of control are not quite defined enough. We noted in one of the works that public control is aimed at strengthening and closer cooperation of civil society structures with local self-government bodies, getting knowledge of their activities to the local community, and identifying shortcomings in their work (Mikheeva and Belousov, 2015). This is also actual for other levels of public power. Therefore, the questions of objects, i.e. those areas of government's activity which can be checked by society, are extremely important.

The question of public control's subjects is also no less important. Today these are the Public Chamber of Russia and public chambers of the subjects of the Federation, public chambers (councils) of municipalities; Public councils at federal and regional enforcement authorities. In addition, public monitoring commissions, public inspectorates, and public control groups can be established. In this list criticism about the lack of citizens and public associations seems to be justified. The latter are the most active formations of citizens

which can exercise public control (Mikheev, Dudko and Mikheeva, 2015). In the legal literature, the issues about involving public organizations in governance were raised many times (Mikheeva, Kudryavtsev and Yaichnikova, 2015), to public control (Mikheeva and Likhoshva, 2016), to the implementation of public control over the sphere of public services (Yakhina, Yaichnikova and Mikheeva, 2015). Absence of citizens among the subjects of public control contradicts Article 32 of the Constitution of the Russian Federation, which fixes their right to participate in the management of the state's affairs both directly and through their representatives.

The bill took into account numerous critical remarks and supplemented the list with such subjects of public control as "citizens of the Russian Federation" and "citizens' associations". In our opinion, this norm has a great legal potential. Inclusion of these subjects increases the number of public controllers repeatedly which can become the main initiators and conductors of testing and expert activities (Mikheeva, 2015). This is especially actual for public groups, as they accumulate the most active citizens who want to realize themselves in public work.

But it is was done more in the bill and it expanded the number of subjects of public control with help of the advisory bodies under the President of Russia, expert-consultative bodies under the Government and chambers of the Federal Assembly, authorities and the prosecutor's office. Because of this, public control becomes transparent - from the activities of the highest federal agencies to municipal authorities.

V.V. Grib explains the inclusion of the President in the number of objects of public control by his special legal status and the character of his powers. This makes it necessary to exercise public control over his activities (Grib, 2016).

Another novel, meeting the spirit of the time, is a new chapter regulating system's use of e-democracy in the implementation of public control. It is supposed to place data on subjects and results of public control by means of this system. Citizens and their associations are required to register as subjects of public control with using this system. Information on their professional experience, knowledge and qualifications should be placed on the personal pages of citizens, registered as public inspectors or public experts.

3. CONCLUSION

The current Federal Law "On the Basics of Public Control" is a progressive legal act as it provides an opportunity for civil society institutions to monitor the activities of the authorities (Vavilov and Mikheeva, 2016). However, many issues did not receive an appropriate legal regulation. The introduction of these amendments will remove a number of problems and create wider opportunities for society.

However, the bill is also not ideal, it could be improved significantly. In our opinion, we should pay attention to a number of points.

1. It is necessary to supplement the legal act with such not disclosed definitions as "public interests" and "objects of public control". It is necessary to add a special article "Terms and concepts" for simplifying the use as in some laws. This innovation will create convenience for users who do not have legal knowledge.
2. In our opinion, the article about the obligation of citizens' registration and their associations as subjects of public control using the system of e-democracy is not democratic. It extends such claims from all subjects of public control for only two ones. We believe that such procedure should apply to all named as the law of subjects.
3. It is necessary to supplement the list of public control's subjects with one more - non-state mass media. They are one of the most active elements of civil society. Granting them the status of public controllers will increase the number and independence of public control's subjects significantly.

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