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## CONCEPTUAL ASPECTS OF THE MODERN MECHANISM OF LOCAL GOVERNMENT IN RUSSIA

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**Abstract.** *This paper investigates the understanding of the modern mechanism for the implementation of local self-government in Russia. The purpose of the paper is to analyze the problematic conceptual aspects of the modern mechanism of local government in the Russian Federation. The content and controversial aspects of two subsystems of the modern system of Russian local self-government are considered: self-government of the municipality population; and self-government of municipal officers. The existing directions for the development of the system of self-government of municipal officers are determined. A set of legal measures aimed at strengthening the role of the population in the implementation of Russian local government is proposed.*

**Keywords:** *local government, self-government of the municipality population, self-government of municipal officers.*

**Raktiniai žodžiai:** *vietos valdžia, savivaldybės gyventojų savivalda, savivaldybių tarnautojų savivalda.*

### **Introduction**

Proceeding from the meaning of Articles of the Constitution of the Russian Federation which consolidate the constitutional model of Russian local self-government (part 2 of Article 3, Article 12, Articles 130–133), local self-government in Russia should ensure

that the population independently resolves issues of local importance. In this regard, according to the creators of the Constitution of the Russian Federation, self-government was supposed to be formed not as a public-power system that solves local issues in forms, methods, and structures similar in essence to the forms, methods, and structures used in the state power system, but predominantly as a system of forms for the local population's self-organization. At the same time, local self-government bodies, being withdrawn from the system of public authorities, should (according to the creators of the Constitution of the Russian Federation) play a supporting role. Has it been possible to create this model, or are we witnessing a transfer of self-government functions from the population to municipal officials?

An article by G. Zaiden Benvindo (2017) that discusses the "forgotten" people in Brazilian constitutionalism, published in the *International Journal of Constitutional Law* in April 2017, prompted our discourse on "lost" people in Russian local self-government. To date, as noted by S.A. Avakyan (2000), N.V. Dzhagaryan (2010), and V.A. Shchepachev (2017), local issues are being addressed mainly by local authorities and officials. Such a situation not only raises questions regarding the conformity of the existing system of local self-government with the content of its constitutional model, but also does not meet the modern requirements of Russian society. This assessment is based on the fact that in the current, rather challenging, conditions, it is increasingly difficult for the state to resolve many local issues both directly (through state bodies authorities) and indirectly (through local self-government authorities).

The current process of the modern mechanism of local government in the Russian Federation takes place in the absence of a generally accepted theory of local self-government, the loss of historical traditions of local self-government, and the alienation of the population from public authority. This, as a result, creates an inadequate understanding of the essence of local self-government and the mechanism for its implementation. The formation and development of the institution of local self-government allows for ensuring an individual's right to their direct participation in governance, which is one of the necessary factors in the formation and strengthening of a democratic society. Local government as a form of democracy is designed to promote widespread involvement of the population, both in self-government activities and in the formation of civil society (Reif 2011). At present, in the context of reforming Russian society, the question of theoretical understanding and critical analysis has been sharply dealt with as never before, using the methodology of sociological science, the institution of local self-government in general, and the mechanism for implementing the principles of self-government at the level of one of the subjects of Russian society in particular.

In this regard, an assessment of the potential of the forms of self-organization of residents of municipalities that have been developed to date has been demanded (Ivanov et al. 2019). This potential is conditioned upon the fact that residents are objectively interested in order in their territory, most of them are not indifferent to how local issues are resolved, and many are willing to volunteer to participate in resolving issues of their community. In addition to this, the need for participation in a joint solution of common problems lies with many Russian citizens in a hereditary sense, since Russian commu-

nity traditions have firmly entrenched roots which should be factored in (Belyaev 1905; Rudenko 2017). Obviously, issues of municipal theory should always be oriented towards the needs of local government practice. An unacceptable situation occurs when municipal science and municipal practice are “parallel worlds” without intersection. However, municipal science should reflect not only what is in practice, but also what is being strove for.

## Materials and Methods

In the work of the article, both general scientific research methods (logical analysis and synthesis, induction and deduction, abstracting, the identification method), as well as traditional methods (the structural and functional analysis, historical, and institutional methods) were used. A special place in the work is occupied by the institutional method, which allows one to study local self-government from the perspective of an institution that ensures effective interaction between the government and society. The combined use of these methods allowed us to provide an integrated approach to the study of the issue at hand.

Proceeding from the approaches laid down in the constitutional model of Russian local self-government, we intended to analyze the problematic conceptual aspects of the existing subject matter of the mechanism of local self-government in the Russian Federation. On the basis of the identified shortcomings, including the needs of municipal practice, we then intend to propose directions for improving the ideology of the regulatory framework, consolidating key aspects of the modern mechanism for implementing Russian local self-government.

Upon the statutory declaration of the participation of the population in the control of local self-government authorities, it is planned to break off official assessments of the effectiveness of their activities from the population, implying the transfer of this function to public authorities. This conclusion is drawn from an analysis of the content and mechanism for evaluating the performance indicators of bodies of urban *okrugs* [districts] and municipal districts, consolidated in the Decree of the President of the Russian Federation No. 607 of April 28, 2008, “On the Evaluation of the Effectiveness of Local Authorities of Urban Districts and Municipal Regions.” This situation determines the corresponding tendencies in local officialdom, aimed at strengthening the autonomy of their legal status from the local population and freeing them of its control.

## Results and Discussion

In accordance with the definition of local self-government, consolidated in part 2 of Article 1 of the Federal Law No. 131-Φ3 dated October 6, 2003, local self-government in Russia can be performed by the population directly and/or through authorities of local self-government. It should be noted that the use of the conjunctions “and/or” in this provision indicates that the implementation of local self-government is possible in three varieties: by the population directly; by the population directly and through the authori-

ties of local self-government; and through the authorities of local self-government. Thus, Part 2 of Art. 1 of Federal Law No. 131-Φ3 of October 6, 2003, statutorily allows a situation which is quite controversial from the standpoint of the theory of self-government, whereby the municipality population does not take part in the implementation of local self-government. Local self-government in such a municipality is carried out exclusively by means of the activities of local authorities.

Such a legal opportunity seriously threatens the democratic foundations of local self-government, since, proceeding from the meaning of this Article, it is possible (by any name) to distinguish two subsystems of the modern system of Russian local self-government:

1. self-government of the municipality population;
2. self-government of municipal officials and other persons included in the municipal administration system (entities that actually exercise the powers of local self-government authorities).

It should be noted that this conclusion is not exactly innovative, since V. I. Vasiliev (2014) previously pointed out the phenomenon of the involvement in self-government of municipal officers in his works, arguing that in the majority of large modern Russian cities, self-organization of citizens to solve local issues is absent and is instead replaced by the self-government of municipal officers. In connection with the indicated use of the term “municipal officers” in scientific discourse, and factoring in the proverbial expression of Friedrich Engels that “all social science is essentially an extensive system of definitions,” there is an objective need to determine its content, since “correct definitions of concepts and strict definitional formulas to some extent replace the mathematical formulas of exact sciences in social science” (Rudenko 2019; Velikhov 1996; Ozerskiy 2018).

Meanwhile, the science of municipal law currently lacks a clear definition of such a phenomenon as “municipal officers,” which would provide an understanding of the essence of this concept. If we proceed from general scientific approaches to the concept of “officer,” then an officer should be understood as an employee with a certain class rank (Efremova 2000; Prokhorov 2005; Sanzharevsky 2010). Due to the fact that class ranks, in accordance with the Federal Law No. 25-Φ3 “On Municipal Service in the Russian Federation” dated March 2, 2007, are provided only for municipal employees, then from a legal standpoint only they can be formally considered as municipal officers. However, if we consider municipal officers from the substantive side, as persons endowed with competences that allow them to participate in the management of the resources of the municipality (material, financial, organizational, informational) and who have specific interests that may not coincide with the interests of the majority of the population of the municipality, then, factoring these criteria in, the category of elected officials of local self-government is very close to the category of municipal officials.

In connection with the proposed definition, the question also arises as to the possibility of talking about the equivalence of individual attributes of the legal status of municipal officers and deputies of the representative authority of local self-government. Upon answering this question, it should be borne in mind that, formally and from the legal standpoint, municipal deputies are primarily representatives of the population that

elected them. However, in practice, many voters do not know their deputies, being unable to bring into action the procedure for the revocation of non-working deputies (for a standard municipal voters' turnout of 25–35%, it is required for at least 50% of the votes to be cast in favor of the revocation of a deputy), which is consolidated by Article 24 of the Federal Law No. 131-ФЗ "On the General Principles of the Organization of Local Self-Government in the Russian Federation" dated October 6, 2003. As for the deputies elected by party lists, revocation cannot be applied at all.

These circumstances (together with the fact that a number of deputies work on a permanent paid basis and modern technologies for the election of deputies involve the use of the administrative and financial potential of municipal elites) suggest taking a closer look at certain categories of deputies of a representative authority of local self-government as special types of municipal officers. It should also be noted that, at present, the system of self-government of municipal officers is actively developing in various directions:

1. All-Russian and regional organizational structures are being created to coordinate their activities and disseminate interesting practices (All-Russian Congress of Municipalities, All-Russian Council of Local Self-Government, Regional Associations of Municipalities, Association of Municipal Lawyers).
2. New algorithms are created for the legal isalegitimization of the controversial decisions of municipal officers (involving initiation of an appeal to the court by controlled individuals or legal entities with a knowingly losing position as to the disputed decisions of municipal officers in order to form the required judicial precedent).
3. Arrays of excessive and enormous (in terms of volume – some numbering up to a thousand) legal acts, that are unsystematised in terms of content, are being created at the level of specific municipalities. Furthermore, they have serious internal inconsistencies and contradictions. Such circumstances, together with the complex and incomprehensible (and often underdeveloped and very contradictory) legal terminology used upon the creation of corresponding municipal legal acts, determine their "priestly bias," which excludes the real possibility of understanding their content for many residents of the municipality (Bychkova 2017; Soloviev 2013).
4. In relation to municipal officers, a gradual transformation of the objectives of their functioning is taking place. The general purpose of their activities, performed in the interests of the local population, changes to activities aimed at the provision of municipal services, which reduces both the social orientation of the system of bodies and officials of local self-government, and the measure of their responsibility to the local population. As fairly pointed out by V. A. Shchepachev (2017), we have to admit that the general purpose of local self-government as one of the forms of public authority involved in the implementation of the tasks of the state and society as a whole is sometimes forgotten. Instead, municipal services are brought to the foreground.
5. Given the identity of the forms of activity of state and municipal officials at the expert level, ideas are being promoted for a temporary transfer (if past experience is any guide, there is nothing more permanent than temporary) of municipalities (urban okrugs and municipal districts) to the state governance regime at the highest level. Naturally, the implementation of such (far from new) ideas will inevitably entail the transfer of mu-

nicipal officers to the category of state officers (Vasiliev 2017). A. D. Gradovsky (1899) also justified the thesis that self-government is part of the general state system, but that it is built on the involvement of public elements.

The population is consistently moving away from the exercise of municipal authority, and relations between municipal managers and the population are weakening. As noted in the recommendations of the parliamentary hearings held by the State Duma Committee on the federal structure and issues of local self-government on April 14, 2014, "... in large cities, the implementation of local self-government only at the citywide levelled in many cases to the loss of direct connection between the population and the city government" (Babichev and Shugrina 2015). With that, the scientific literature repeatedly notes the passivity and inertia of residents of municipalities, the poor motivation for self-organization of the population, and the habit of paternalism and patronage of the state (Reif 2011; Pickl 1983). Firstly, it is necessary to introduce the following provisions into Article 24 of the Federal Law No. 131-Ф3 of October 6, 2003:

- the possibility to revoke deputies, members of an elected local government body, and elected officers of local government by the number of votes equal to the number of votes received by them upon election;
- mechanisms of responsibility for deputies' failure to perform election promises, ignorance of voter receptions, or failure to report before voters;
- consolidation of the obligation of the leadership of the local representative authority to publish the voting results of the deputies in the presence of a written appeal from local residents;
- consolidation of the obligation of municipalities to maintain, on their official website, a set of all applicable local regulations systematized on issues of local importance.

Secondly, the following provisions should be enshrined in municipal legislation at the federal level, being aimed at developing mechanisms for factoring in the opinions of the population when local authorities and officials handle local issues:

1. To consolidate that public hearings are given the status of a mandatory form of revealing the opinion of the population of an urban okrug upon deciding on the issue of changing the status of an urban okrug to an urban okrug with an intra-urban division.
2. Through the Regulations governing public hearings, to oblige municipalities on a statutory basis to consolidate the following:
  - grounds for refusing the initiative of a group of citizens to conduct public hearings;
  - the minimum number of residents with the participation of which a public hearing can be considered as duly constituted;
  - rules for determining the time and place of public hearings, setting the priority for holding public hearings on weekends and in municipal buildings closest to the objects under discussion;
  - a ban on holding public hearings on several issues or objects simultaneously, and on public hearings being located in different parts of a municipality by the same composition of participants;

- grounds for accounting or ignoring the results of public hearings by authorities and officers of local self-government;
- the possibility of exercising the population's right to directly resolve certain local issues by adopting binding decisions at public hearings.

Thirdly, it makes sense to statutorily stimulate the development of the system of territorial public self-government at the federal level (as the most efficient model of direct self-organization of the local population) in the following areas:

- To develop a system of territorial public self-government operating in the form of a legal entity, it is required to improve the legal form, which is provided for in clause 2 of part 3 of Article 50 of the Civil Code of the Russian Federation. Their legal form, a public organization, not only creates a lot of legal conflicts (Federal Law No. 131-Φ3 of October 6, 2003, does not stipulate fixed membership for territorial public self-government nor membership dues for territorial public self-government participants), but also largely renders the original meaning of territorial public self-government innocuous, depriving it of the benefits of a union of citizens stimulated by the state due to the social significance of the tasks at hand.
- The increase in the number of forms of self-organization of the population as territorial public self-government will undoubtedly be facilitated by the simplification of the procedure for their registration, enshrined in the Federal Law No. 129-Φ3 of August 8, 2001, and the Order of the Federal Tax Service of Russia No. MMB-7-6/25 of January 25, 2012, by means of establishing a simplified procedure of registering territorial public self-government as a legal entity.
- The introduction of a simplified taxation system by analogy with patent-based taxation for individual entrepreneurs provided for in Chapter 26.5 of the Tax Code of the Russian Federation will contribute to reducing the bureaucratic burden on operating the territorial public self-government.
- The development of the municipal activities of territorial public self-government will be facilitated by the legislative consolidation of objects of their jurisdiction in the list of socially useful services, including the introduction of amendments to Art. 3 of the Federal Law No. 135-Φ3 of July 26, 2006, and Art. 1 of the Federal Law No. 44-Φ3 of April 4, 2013. This will provide for the exclusion of relations arising between local governments and bodies of territorial public self-government from the scope of application of the indicated legal acts, regulating the contract procurement system to ensure state and municipal needs.
- The amendment to the Federal Law No. 131-Φ3 of October 6, 2003, will contribute to raising the legal status of territorial public self-government, providing for the endowment of territorial public self-government with concordance and authorization powers on local issues of particular importance to the population (including urban densification and changing the type of permitted use of land and capital construction projects).



## Conclusions

1. Summing up the study, we would like to point out the fact that the future of Russian local self-government must not only be predicted in an abstract manner, but also be constructed statutorily by creating legal technologies for the transition to the optimal model of future Russian local self-government.
2. All of the aforementioned tendencies in the development of the modern system of Russian local self-government testify to its transformation towards the development of self-government mechanisms of municipal officials, which intrinsically implies a weakening of legal mechanisms of direct participation of the population in local self-government.
3. The result is not the only important factor in the implementation of local self-government, but also the process of the population's participation. In connection with this, it is our understanding that, to overcome the above tendencies, it is necessary to statutorily stimulate the mechanisms of direct participation of the population in the implementation of local self-government. This includes the development of mechanisms for a population's control of municipal officers and other persons included in the municipal administration system which, incidentally, is relevant internationally and not only for Russia.

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## Konceptualūs šiuolaikinio Rusijos vietos valdžios mechanizmo aspektai

Anotacija

Straipsnyje nagrinėjamas šiuolaikinio Rusijos vietinės savivaldos įgyvendinimo mechanizmo dalyko supratimas. Straipsnio tikslas – išanalizuoti probleminius konceptualius šiuolaikinio Rusijos Federacijos vietos valdžios mechanizmo aspektus. Nagrinėjamas dviejų šiuolaikinės Rusijos vietos savivaldos posistemų turinys bei prieštaringi aspektai: savivaldybės gyventojų savivalda ir savivaldybių pareigūnų savivalda. Nustatomos esamos savivaldybių tarnautojų savivaldos sistemos plėtros kryptys. Siūlomas teisinių priemonių rinkinys, skirtas sustiprinti gyventojų vaidmenį įgyvendinant Rusijos vietos valdžią.

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