

Федеральное государственное автономное
образовательное учреждение высшего образования
«РОССИЙСКИЙ УНИВЕРСИТЕТ ДРУЖБЫ НАРОДОВ
ИМЕНИ ПАТРИСА ЛУМУМБЫ»
Юридический институт
КАФЕДРА МУНИЦИПАЛЬНОГО ПРАВА

МУНИЦИПАЛЬНАЯ ВЛАСТЬ В СОВРЕМЕННОМ МИРЕ

**СБОРНИК МАТЕРИАЛОВ
НАУЧНО-ПРАКТИЧЕСКОГО ФОРУМА**

Москва, 19-27 апреля 2023 г.

Москва
Российский университет дружбы народов
им. Патриса Лумумбы
2023

УДК 342.553(063)
ББК 67.400
М90

Утверждено
РИС Ученого совета
Российского университета
дружбы народов

М90 **Муниципальная власть в современном мире** : сборник материалов научно-практического форума. Москва, 19-27 апреля 2023 г. / под редакцией Л. Т. Чихладзе, Е.Ю. Комлева. – Москва : РУДН, 2023. – 265 с. : ил.

ISBN 978-5-209-12181-7

Сборник содержит материалы научно-практического форума «Муниципальная власть в современном мире», который состоялся в Российском университете дружбы народов им. Патриса Лумумбы 19-27 апреля 2023 г. Включает материалы участников конференций форума: VII Ежегодной Всероссийской конференции с международным участием «Проблемы и перспективы развития местного самоуправления в Российской Федерации и зарубежных странах»; Всероссийской студенческой конференции с международным участием «Организация местного самоуправления в современных государствах» и Всероссийской студенческой конференции с международным участием на иностранных языках «Local self-government: interstate experience».

УДК 342.553(063)
ББК 67.400

ISBN 978-5-209-12181-7

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ПРЕДИСЛОВИЕ

19-27 апреля 2023 года в юридическом институте Российского университета дружбы народов им. Патриса Лумумбы на базе кафедры муниципального права был организован научно-практический форум «Муниципальная власть в современном мире», включающий мероприятия (конференции) для ученых, преподавателей и студентов из России и зарубежных стран.

Рабочими языками форума стали русский, английский и испанский. В работе форума приняло участие более 200 человек. Мероприятия подобного рода приобрели традиционный характер и проводятся уже в седьмой раз.

Форум 2023 года ознаменовался расширением состава участников как среди представителей отечественной науки, так и среди практиков, преимущественно государственных и муниципальных служащих. География участников включала более половины субъектов Российской Федерации, а также зарубежные страны (Аргентина, Беларусь, Бразилия, Испания, Италия, Казахстан, Колумбия, Куба, Кыргызстан, Мексика, Нигегия, Перу, Уругвай).

Проблемные аспекты правового регулирования института местного самоуправления схожи во многих государствах, в связи с чем обмен опытом в рассматриваемой сфере представляется важным, актуальным и своевременным.

Российский университет дружбы народов им. Патриса Лумумбы зарекомендовал себя в качестве площадки, на которой ведущие представители отечественной и зарубежной науки муниципального права, практикующие юристы и молодые ученые могут внести свой вклад в развитие института местного самоуправления в России и за рубежом.

В настоящем сборнике представлены статьи участников форума, в которых отражены авторские позиции по вопросам организации муниципальной власти и смежным темам. Таким образом, сформулированные в рамках мероприятий форума идеи и предложения будут доступны для ознакомления и критического анализа широкому кругу лиц.

Taking into account the above, it is advisable to note that the provisions of the draft law on efficiency need additional study, since the norm securing responsibility for the failure to achieve performance indicators is not focused on practical application.

Taking into account constitutional changes, it is important to consider the institution of efficiency comprehensively, continuously from other levels of government, therefore, as the introduction of new mechanisms in this area, it seems advisable, taking into account the opinion of the scientific community, to consider the need for an individual approach when solving problems of criteria for the effectiveness of LG.

References:

[1] For example, the decision of the Constitutional Court of the Russian Federation of July 18, 2018 №. 33-P «In the case of checking the constitutionality of paragraph 3 of Article 242 of the Budget Code of the Russian Federation in connection with the complaint of the municipality – the urban district «City of Chita» // Official Internet portal of legal information, <http://www.pravo.gov.ru> 17.04.2023.

[2] For example, Benyaminova S.A., Larichev A.A. Constitutional and legal problems of the effectiveness of public power in Russia and foreign states: collective monograph/Ed. A.A. Laricheva. Petrozavodsk: Karelian branch of RANEPa, 2017. 327 p.

[3] Federal Law of October 6, 2003 № 131-FZ «On General Principles of Organization of Local Self-Government in the Russian Federation» // Collection of Legislation of the Russian Federation, 06.10.2003, № 40, Art. 3822.

[4] Decree of the President of the Russian Federation dated April 28, 2008 №. 607 «On Assessing the Effectiveness of Local Self-Government Bodies of Municipal, Urban Districts and Municipal Districts» // Collection of Legislation of the Russian Federation, 05.05.2008, № 18, Art. 2003.

[5] Decree of the Government of the Russian Federation of December 17, 2012 № 1317 «On Measures for the Implementation of the Decree of the President of the Russian Federation of April 28, 2008 № 607 «On Assessing the Effectiveness of the Activities of Local Self-Government Bodies of Municipal, urban districts and municipal districts and subparagraph and paragraph 2 of the Decree of the President of the Russian Federation of May 7, 2012 № 601» On the main directions for improving the public administration system» // Collection of legislation of the Russian Federation, 24.12.2012, № 52, Art. 7490.

[6] Draft Federal Law № 40361-8 «On General Principles of Organization of Local Self-Government in a Unified System of Public Authority»

[Electronic Resource] // <https://sozd.duma.gov.ru/bill/40361-8>, 17.04.2023.

EXTENT OF STATE PARTICIPATION IN LOCAL SELF-GOVERNMENT OF RUSSIA AND CHINA: ITS VASTNESS AND DEVELOPMENT TRENDS

Vasilyeva Anna V.

St. Petersburg State University (SPbU), student, 2nd year

Abstract. Despite the fact that in most modern legal orders there is a tendency to increase the autonomy of citizens and open them all possibly available political and social rights, as a rule, there are serious obstacles to this. Thus, the Center's desire to centralize the

governance of the country and, consequently, to turn local self-governments into the bottom tier of the «executive vertical» can significantly limit the political opportunities of local self-governance and largely reduce the effectiveness of agents' strategies to achieve municipal autonomy. In this article I will examine the degree of state intervention in the system of local government in Russia and China, highlight its minuses and pluses, and reflect on what these legal orders have in common.

Key words: local self-governance, China, autonomy, public authority, rural area, central cities.

When it comes to local self-governance, its perception within the Russian constitutional and legal and municipal legal doctrine is often limited either to the interpretation of its essence as one of the constitutionally defined forms of democracy with the consequent need to ensure the characteristic and necessary in this case democratic procedures at the local level, or, conversely, its perception as a special institution for addressing issues of local importance, the activities of which are not limited to the local government [2].

L.A. Velikhov in his work «Fundamentals of Urban Economy» called the relationship between local self-government and center «subordination», bearing in mind that local government is a power that operates within the framework established by the state through the adoption of laws [3]. In other words, it is a power that cannot reform itself. Local self-governance must be regulated only by laws, which limits the possibility of interference in its competence by state bodies and state officials. Taking into account the federal structure of Russia and the independence of local government guaranteed by the Constitution of the Russian Federation, the legislator defined the competencies of each level of government in the sphere of local government and, as already noted, the own competencies of local government [1].

At the federal level, the «Federal Program of State Support for Local Self-Governance», approved by the RF Government on December 27, 1995, is still in effect. Defining the need for new approaches to local government, the program states that the independence of local government within its authority and the non-state status of its bodies require a transition from centralized management of their activities by state executive bodies to legislative regulation and methodical support of local government and the formation of an effective system of control over the compliance with federal and regional legislation of decisions made by bodies.

For example, Article 3 of the Law on the Interaction of Public Authorities and Local Self-Government of the Tambov Region acknowledges that the bodies of state power of the region create the necessary legal, organizational, material and financial conditions for establishment and development of local self-governance, and provide assistance to the population in exercising their right to local self-governance.

It is emphasized that the population in the exercise of the right to local self-government, contribute to the provision of guarantees for the implementation of their authority to address issues of local significance, adopting programs to support local self-government, establishing and developing a system of training and professional development of municipalities and municipal servants.

On the one hand, everything seems fair - local government independently solves issues of local importance, while the state helps them by limiting its scope of intervention. On the other hand, no matter how good everything is in theory, these days, for example, in Tatarstan and Bashkortostan, where local self-governance is limited to the level of villages and settlements, while in cities and districts it is simply absent. This includes, for example, the

Saratov region precedent as well, where the heads of local government were once «elected» by municipal councils from, as a rule, the only candidate proposed by the governor - in practice the built system does not work as we would like it to.

Let us turn to the Chinese self-government system. Immediately after the Cultural Revolution, China's political system was still relatively typical of totalitarianism. This system was characterized by a high degree of centralization of political power, with complete state control over society and the economy. There were no independent social organizations outside the government; almost all aspects of social life were regulated by the state [4].

In the next three decades of China's openness reforms, the government gradually began to transfer its powers to local governments.

In the political dimension, the central government was able to gradually relinquish power and transfer much of its decision-making power to local governments at all levels, allowing local governments to make their own decisions by granting them a degree of autonomy, thus creating a structure similar to the federal system. This structure has contributed significantly to high economic growth rates, reduced political absenteeism, and helped more Chinese to incorporate into the system and influence decisions.

These days local governments in China enjoy a certain degree of autonomy and a certain degree of democratic elections at the grassroots level, but at the same time develop under the strict control of the government, which guarantees respect for the rights of every individual. Thus, over the past 20 years, the opportunities for citizen participation in public affairs have increased considerably following the spread of elections to committees of rural and urban residents. Thus, with the spread of rural and urban committee elections, more and more Chinese citizens began to use their votes to influence the affairs of their communities [4].

Nevertheless, decentralization in the social dimension was from the beginning selective and based on the premise that government control would not be shaken.

Local governments (local administrations) are an integral part of the central government of the unitary state. Local governments exist only when there is a central government, and vice versa. Of course, local government enjoys local prerogatives that the central government cannot interfere with, such as the right to determine finances, the right to determine security, the right to specify education, etc. However, fiscal power is the material basis for the functioning of local government. The scope and degree of local autonomy is determined by the scope of the local government's fiscal and financial powers, and central government control over local government finances is the most powerful means by which the central government can control local government. There are many classifications according to the level of government intervention, but the most common is this:

1. The three central cities are Beijing, Shanghai and Tianjin.
2. Twenty-two provinces are Hebei, Shanxi, Liaoning, Jilin, Heilongjiang, Shaanxi, Gansu, Qinghai, Shandong, Jiangsu, Zhejiang, Anhui, Jiangxi, Fujian, Henan, Hubei, Hunan, Guangdong, Sichuan, Guizhou, Yunnan, Taiwan.
3. The five autonomous regions are Inner Mongolia, Ningxia, Xinjiang, Guangxi and Tibet.

In fact, any central government must control local governments, even if they have a high degree of local autonomy. In this sense, it can be said that there is no such thing as complete and absolute local self-government. The degree of central control varies according to the degree of local decentralization, resulting in different structures of the relationship between central and local government.

The state emerges and is constituted as a representation of public interests, as a force above society, but from the very beginning it has acted as a system of organized political domination of some people over others. In any case, the early as well as the later forms of the state, being public institutions, rarely expressed real public interests.

Conclusion: Despite the fact of having a big extent of governmental interference in both Russian and Chinese self-government systems, we should not regard state intervention as something bad, but rather count it as an aid to local government. Thus, it is the state that can apply specific sanctions if something in places works not how it should have been. Such sanctions are the dissolution of municipalities in established cases and the transfer of their functions to bodies appointed by the government, as well as the forced resignation of municipal officials, deprivation of subsidies, etc. It is important to understand that the goal of the state is to take care of its citizens, and therefore its interventions always have the goal of improving and supporting.

References:

1. Chikhladze, Levan T., Alexander A. Larichev. 2020. «Local self-government in Russia at the crossroads: the dynamics of constitutional doctrine and legal regulation.» *Vestnik (Herald) of Saint Petersburg University. Law 2*: p. 273-292.

2. Kostiukov, Aleksandr N. 2016. «Democracy as a Constitutional Value». *Gosudarstvennaia vlast' i mestnoe samoupravlenie 6*: p. 3–8.

3. L.A. Velikhov «Urban economy fundamentals: general theory on cities, urban management, finances and economic management methods», Moscow - Leningrad. Gosizdat. 1928. - 468 p., p. 4.

4. 放权与改革：中国的中央、地方及公民社会 郑永年 单伟 东亚论文 第 76 期

Научное издание

МУНИЦИПАЛЬНАЯ ВЛАСТЬ В СОВРЕМЕННОМ МИРЕ

Издание подготовлено в авторской редакции

Технический редактор *Е.В. Авдеева*
Дизайн обложки *М.В. Рогова*

Подписано в печать 28.11.2023 г. Формат 60×84/16. Печать офсетная.
Усл. печ. л. 15,58. Тираж 100 экз. Заказ 1869.

Российский университет дружбы народов
115419, ГСП-1, г. Москва, ул. Орджоникидзе, д. 3

Типография РУДН
115419, ГСП-1, г. Москва, ул. Орджоникидзе, д. 3.
Тел.: 8 (495) 955-08-74. E-mail: publishing@rudn.ru