

Public Control as Instrument of Realization and Protection the Interests of Citizens

Galina Ivanovna Avtsinova¹, Irina Victorovna Orlova¹, Lyudmila Efimovna Ilicheva², Grigoriy Nicolaevich Kuzmenko¹ and Marina Yuryevna Martynova¹

¹Russian State Social University, Russia, 129226, Moscow, Wilhelm Pieck St., 4

²Russian Presidential Academy of National Economy and Public Administration,
Prospect Vernadskogo, 82, Moscow, Russian Federation 119571.

DOI: <http://dx.doi.org/10.13005/bbra/1744>

(Received: 13 January 2015; accepted: 07 February 2015)

In article discuss a process of an institutionalization of social control in the Russian Federation. Article is proving the importance of adoption of the federal law "On the basis of social control" in protection and realization the interests of citizens. Expansion of possibility of participation of citizens and public associations in state administration, ensuring transparency and openness of activity instruments of the public power is emphasized. The conclusion that thanks to public control there has to be an increase of efficiency of activity of public authorities and local governments is drawn. Decrease in risks of acceptance and implementation of decisions illegal and (or) contradicting public interests has to result from action of public control. Action of the law will provide social and political stability in the society, fuller realization of constitutional laws of citizens on participation in state administration.

Key words: Civil society, Non-profit organization, Public control,
Public examination, The protection of citizens' interests.

The Constitution of the Russian Federation in 1993, proclaiming Russia a democratic state with a republican form of government (Article. 1) defines the only source of power its multinational people (Art. 3). However, trusting the government and delegating to him full power, the population objective should have an effective feedback mechanism that allows you to legally and reasonably influence the activities of the State, without such a mechanism, the most important constitutional provisions remain a mere

declaration. (Constitution of the Russian Federation, 1993).

In this regard, the President of the Russian Federation rightly pointed out: "Our citizens, quite objectively justified want to control the power. All took corruption, stupidity got the system all we want justice, because almost all social groups do not feel fully involved in the processes of governance, it is believed that they are not always considered. This is not normal, and I'm sure we have a chance to rectify this situation. "(The second stage of the XII Congress of the All-Russian political party" United Russia ", 2011)

Russia is currently in the way of global economic and socio-political changes that gave rise to, and are accompanied by a number of conflicting trends and crises, including complicated

* To whom all correspondence should be addressed.

by crime situation. Large-scale corruption, organized and narkoprestushosg not only overcome, but also significantly mutated, becoming a serious threat to national security. Previously, many of these problems were solved by the state and society together. In the history of the Russian state has accumulated considerable experience in raising the institutions of civil society in the management of a variety of areas of public and social life. Unfortunately, it is not so in demand, even though the country's leadership has been constantly emphasizes the need to create conditions for the formation of an active civil society and the development of effective forms of public control over state and municipal authorities. (Medvedev 2010)

Social control as a legal institution is very controversial. As an obvious feature of the implementation of the people of power in doing so he does not explicitly designated by the Constitution of the Russian Federation, in formal legal terms, complicates the development of its constitutional and legal concepts. There is currently no federal law and the base, securing the status and concepts of social control to ensure the reality of its impact on the activity of the bodies of state power and control. (Presidential Address to the Federal Assembly, 2010)

In our opinion, the mere fact it only requires a thorough critical understanding of the historical and state-legal values of the Russian experience of creation and functioning of the institution of social control, evaluate its effectiveness and appropriateness of the (development) at this point in history.

Despite the fact that the historical and legal retrospect public control is not new for Russia, in the domestic science theoretical and methodological study of issues of legitimacy and implementation is still incomplete, unsettled even the original concepts and approaches. At the same time, in the Soviet period, the existence of our country had a strong and an effective system of national control, a real impact on public administration and public relations as a whole. Legal status, the forms and methods of social control is firmly entrenched in the constitutional and legal systems of many other countries. (Poleshuk 2010; Smorgunova, 2004).

In Russia, public control, unfortunately,

has not yet become truly valuable tool for influencing the state apparatus in order to prevent malfeasance and other conflicts between state and society, which we have seen in recent times. Citizens are still unable to effectively defend their rights and freedoms through the institutions of civil society. (Poleshuk 2011)

In this regard, the present study on the comprehensive analysis of the problems associated with the implementation of public control in the Russian Federation, which aims at ensuring the reduction of the institution in accordance with the requirements of the time, increasing the efficiency of its organization and the use of relevance and practical significance.

METHOD

To the subject of their research, the authors applied a set of proven theoretical and legal science methods of scientific research, including the dialectical materialist approach to the knowledge of the social and legal reality in conjunction with the general scientific (analysis, synthesis, system, and functional approaches) and chastnonauchnogo methods (criticism of regulations and empirical sociological research).

The theoretical basis. During the preparation of the study authors based on the ideas and theoretical development problems of interaction between state and society, contained in the works of modern and pre-revolutionary Russian scientists I.A.Ilyin, N.M. Corcoons, N.N. Alekseev, E. H. Trubeckogo, A.G. Anikevicha, V.G. Ataman-chuk, V.F. Khalilov, L.A. Morozova, G.V. Maltsev, V.E. Chirkina, V.A. Chetvernina, V.C. Nersesyants, S.V. Kalashnikov et al. (Poleshuk 2010; Smorgunova, 2004)

As the empirical data in the study used statistical, analytical and empirical material, the results of sociological research, materials of scientific conferences and print survey data and monigoringov public opinion conducted by state and non-governmental organizations, independent institute for strategic studies, human rights organizations and individual researchers and by the author. (Uryupin, 2008)

The authors investigated material: the Public Chamber of the Russian Federation and the Public Chamber of the Russian Federation a number

of regions, archival materials and reports of the Ombudsman for Human Rights in the Russian Federation, illustrated information of other organizations (public councils at public authorities, public reception, supervisory commissions, etc.), including including transcripts of the meetings and the meetings of the various government agencies, regulatory legal acts of public authorities, administrative documents, recommendations and declarations of experts writing online conferences, materials of official web sites of state organs, specialized and non-governmental organizations.

Regulatory framework study were as follows: The Constitution of the Russian Federation, international legal instruments and foreign laws, federal laws, decrees and orders of the President of the Russian Federation, decisions and orders of the Government of the Russian Federation, decisions of the highest courts of the Russian Federation, the orders of the Russian Interior Ministry, regional and municipal legislation, the legislation of the Russian Empire and the Soviet Union, reports, treatment, findings of the Public Chamber of the Russian Federation, the Commissioner for human Rights in the Russian Federation, political programs and statutes of political parties and other public associations.

Scientific novelty of the research is primarily in specific copyright proposals aimed at improving the institution of social control in the Russian Federation, based on the results of a comprehensive analysis of the current understanding of social control (essence, goals, objectives, principles), the particular characteristics of the given institution and its security measures in Russia and abroad.

The results

Public control, in our view, is a means of analyzing and evaluating implementation by state and municipal authorities of their functional tasks to society. This aspect implies, on the one hand, increasing the degree of responsibility of public authorities, on the other ù High degree of citizen participation in the self-initiation and resolution of matters of public interest.

We believe that the state should create the necessary conditions for effective and efficient system of public control. However, a full public control is only possible when in parallel with the state support the formation and organization of

social control will be its self-organization, which is a fundamental condition for the development of civil society. However, as practice shows, a possible scenario for the affiliate institution of social control, with a high level of civic engagement and sufficient state support of civil society organizations, will be the most preferred and realistic.

After analyzing the historical background of the formation and development of the public (civilian) control, the author came to the conclusion that the features of the so-called “modern participatory democracy” were developed relatively recently - about the mid-80s. However, in Western countries, the ideological basis is not so much the idea of control over the bureaucracy or direct involvement in any act of government, as an organization of opportunities for citizens to take action on the issues that concern them.

Defined constitutional and legal mechanisms for implementation, ways to improve the effectiveness of social control in modern Russia. The author’s classification of social control subjects were studied constitutional and legal forms, methods and forms of social control, which allowed a number of suggestions to improve this legal institution. Argued the modern concept of building the institute of social control in the Russian Federation, taking into account the best international and domestic experience in the formation and development dannoyu Institute. In particular, regarding the implementation of the concept of social control, the author argues that such a control system consists of four linked models (subsystems): “Official),” informal “,” mixed)) and “specialized”. The first includes a set of self-regulatory organizations of public control of public status, ie their powers and the formation are determined by law. “Informal” model of social control involves the control of informal associations and individuals, and the government declares and provides it. “Mixed” model assumes use of the models described above in the aggregate. Separately, one can speak of “specialized” approach when it comes to organizations specifically created to implement the functions of social control.

In Russia at present mechanisms of the institutionalized civil participation in public control are presented quite widely at federal level and at

the level of subjects of federation: civic chambers, institutes of Commissioners for Human Rights and by the rights of children, youth parliaments, etc. As we see, the most developed forms that are most associated with the government formed by it, are integrated into the power structures.

Rather new form of public control are the public councils established at federal executive authorities (further – FIEP). And, present competence of councils keeps within all as the sphere of regulation of laws on addresses and an order of informing on activity of public authorities. At the same time, according to sociologists, in Russia more than a half of representatives of NPO considers: “pocket” NPOs or the NPOs which have been selected by not clear principle (Orlová and Rogaov, 2013) participate in activity of the public advisory boards. The international practice of public control testifies - as the controller of the state all society in which each citizen could participate in work of institutes exercising public control (Orlova, 2013) has to act. The adopted law “About Bases of Public Control” gives such opportunity.

Within the law the main forms of public control become:

- a) public examination – the form of public control based on use by subjects of public control of special knowledge and (or) experience for research, the analysis and an assessment of documents and the materials concerning activity of objects of public control, regarding their compliance to public interests;
- b) public monitoring (audit) - the form of public control representing continuous, systematic supervision from subjects of public control over compliance to public interests of activity of objects of public control;
- c) public hearings (discussion) – the form of public control consisting in realization of the rights of citizens on participation in decision-making process by public authorities, local governments by means of carrying out meeting for public discussion of drafts of the specified decisions with obligatory participation of authorized officers of authorities and local governments, representatives of the citizens

which interests are directly infringed by the relevant decision, and also existing regulations concerning their compliance to public interests:

- d) public check (investigation) – the form of public control representing set of actions of subjects of public control on collection of information, establishment of the facts and the circumstances concerning activity of objects of public control for determination of its compliance to public interests;

Certainly, after adoption of law of change won't occur automatically. Efforts are necessary from all subjects - participants of public control. And they are already applied. Activity of already created civic chambers can be an example.

So, the majority of regional civic chambers carry out annual expertize of the budget of the region. For its carrying out in Chamber the Intercommission working group is, as a rule, formed, members of Civic chamber, public experts, and recognized experts are a part in the field of economy and finance, individuals.

In civic chambers of discussion take place with broad involvement of the public (representatives of NPO). Following the results of hearings, taking into account the sounded remarks, the Civic chamber will prepare and sends letters to the relevant structures of executive power with offers on joint completion of projects taking into account wishes of citizens.

DISCUSSION

Public control – the system activity which is carried out in public interests by non-state actors (institutes of civil society and certain citizens), directed on identification and elimination of violations of rules of law by public authorities and local government, and also their officials. Public control is an important instrument for ensuring of legality in the sphere of public administration, protection of interests of citizens.

In Russia in July, 2014 the law “About Bases of Public Control” (Federal Law of 09.07.2014) was adopted. This law has no direct analogs with foreign countries. The concept of public control abroad isn't registered legally, and its functions are referred to various authorities or institutes of civil society. In the separate directions public

control is exercised by parliaments, judicial authority, public funds, non-profit organizations, groups of citizens (Report of the Organization for Economic Cooperation and Development, 2014). Adoption of such law in Russia considerably expands possibilities of participation of citizens and public associations in state administration, the law provides transparency and openness of activity of bodies of the public power. Increases number of citizens and the organizations which are carrying out different types of public examinations, expands forms and methods of public control.

In action of this law to the sphere of public administration increase of efficiency of activity of public authorities and local governments (Avtsinova, 2012) has to result from introduction. As a result of action of public control decrease in risks of acceptance and implementation of decisions illegal and (or) contradicting public interests is predicted. Action of the law will provide social and political stability in the society, fuller realization of constitutional laws of citizens on participation in state administration, decrease in level of corruption and permissiveness among officials.

Introduction in practice of the law "About Bases of Public Control" will allow to involve broad masses of the population and institutes of civil society, in particular real non-profit organizations (further – NPO) in implementation of public control over activity of government bodies of the power and local government.

So far public control was in most cases realized through addresses of citizens (public associations) about violations of the law known for it. However procedure of obtaining such data and ensuring response of authorities in the form of adoption of concrete decisions practically wasn't regulated by rules of law. By existing rules all help was reduced before providing information which is adjusted by the Federal law "About the order of consideration of addresses of citizens of the Russian Federation" (Federal Law, 2006) and the Federal law "About ensuring access to information on activity of governmental bodies and local authorities" (Federal Law, 2009).

Important step in establishment of bases for control of society of the state is acceptance of the array of regulations in the areas of

counteraction of corruption and realization of new mechanisms of participation of institutes of civil society in the state administration, found the reflection in the Decree of the President of the Russian Federation of May 7, 2012 #601 "About the main directions of improvement of system of public administration" (Presidential Decree of May 7, 2012).

CONCLUSION

Public control necessary constitutional and legal institution, is an important element of democratic society model. This legal construction of civil society, ensuring a democratic procedure for the formation of critical State bodies should have modern and effective tools for independent monitoring of the activities of the government and management that will significantly strengthen the constitutional and legal framework for the development of relations between the individual, society and the state.

Approaches to the definition of social control in the broad and narrow aspects

In a broad sense, social control is understood as an organized system (mechanism) of the control activities carried out by civil society organizations and individuals aimed at the detection and suppression of violations of human rights and freedoms by the public authorities, government officials, local authorities, enterprises of different shapes property, in order to strengthen the stability of civil relations in society, improve the reliability and efficiency of the state, as well as ensuring the maintenance of discipline and order.

In the highly specialized sense under public control is proposed to understand the process of influencing people by public authorities and administration in order to ensure the quality of the latter with their obligations to society. At the same time, the entire range of possible actions for the implementation of social control can be represented, in general, two components: a) a multilateral system of constant public monitoring (observation); b) active efforts to prevent and eliminate the identified deviations.

The conclusion that at the present time in Russia there is a large body of normative legal acts constituting the legal activity of institutions of social control. However, these legal acts

disjointed, contradictory, and most importantly - does not fully regulate all aspects of relations between the state (through its authorized bodies) and controlling these organs of civil society institutions. Such a wide range of regulatory legal acts adopted at various levels in the absence of structure-law, leads to the fact that the principles of social control, implicitly embodied in the legislation do not always receive adequate reflection of the specific laws and regulations. In this context, rationale for the adoption of the Federal Law "On public control in the Russian Federation" and offered his concept..

The dependence of the individual subjects of public scrutiny of the influence of the public sector on the formation and activities of these entities. In this paper, driven by the primary role of civil society in the formation and activities of which public authorities have no direct (direct) participation (eg, NGOs, human rights organizations, the initiative of citizens and other troupes.). With respect to the subjects directly dependent on the state (for example, the Public Chamber of the Russian Federation, public councils formed at government and others.), The author considers it necessary to develop a system of checks and balances, including a special procedure for the formation and funding of these institutions, clear regulations and control of the consideration of the results, a high degree of importance of decisions taken as a result of monitoring, the rights and obligations of the parties in the implementation of control measures, the professional code of conduct, etc., which will provide a guarantee of the objective of such entities and eliminate the problem of conflict of interest on a personal and organizational level.

Under the form of realization of social control, we mean that the organization, and the existence of an external expression of specific acts committed by agents of social control. Accordingly, social control can be carried out in the following main forms: the degree of participation - in the form of direct public control (realized by citizens and their informal associations) and in the form of indirect social control (implemented by pro-government and specialized organizations); by the method of exposure - a

systematic monitoring of the activities of the authorities, the election monitoring activities of the authorities, to ensure wide publicity of the complete information about the activities of government, public participation in decision-making socially significant.

After analyzing a broad spectrum of subjects of public scrutiny, we conclude that the most common methods (methods) of social control can be subdivided into: initial and subsequent methods; public and nonpublic methods; methods of direct and indirect participation of the people in the implementation of public control; expertise and international practices.

Conclusion that the public examination of the state and municipal decisions - currently the most up-to-implement method of social control. At the same time the concept of a single public examination in the legislation yet. In this regard, the work presents the author's position and suggested wording, including the concept of a public examination of the subject and the object of public examination, the goals and objectives of the public examination, the list of participants of the control action and the possible order of the meeting, the methods of assessment of public examination results.

The adopted law allows expanding areas of activity of public subjects, more widely to involve the population in implementation of public control, rendering legal and other aid to the persons, participating to protection of public interests (Laurent-Ledru *et al.*, 2011).

The aspiration of the power to attract the population through constructive interaction to questions of implementation of public control has to find society support. In return public organizations can create system of public relations (Sommerfeldt, 2013) for participation in control of activity of bodies of the public power, develop techniques of implementation of public control, having generalized foreign experience, to develop the international cooperation in the sphere of public control.

To protect the rights and interests the population can only if takes active part in development of regulations, formation of various social programs and society development plans.

REFERENCES

1. The Constitution of the Russian Federation (adopted by national referendum 12 December 1993) // Russian newspaper on December 25, 1993 - ! 237.
2. The second stage of the XII Congress of the All-Russian political party "United Russia" // "Rossiyskaya Gazeta" - Federal Issue number 5643 (267). electronic resource - <http://www.rg.ru/2011/11/27/prezident.html>
3. D.A. Medvedev criminal situation in Russia does not meet the expectations of society // Official site of United Russia party, 2011. <http://old.er.ru/text.shtml76/3677>.
4. Address of the President of the Russian Federation Federal Assembly // Russian newspaper. - 2010 - 30 November; Speech V.V. Putin at a meeting of the Presidential Council for Combating Corruption // <http://www.gkrf.ni/84@>.
5. Poleshuk A.C. Public (civilian) control as a guarantee of the rights and freedoms of man and citizen // Moscow University Affairs of Russia. 2010. ! 5. S. 131-137.
6. Polishchuk A.C. On the subject of public (civilian) control in the Russian Federation and their system // Moscow University Affairs of Russia. 2011. ! 6. S.
7. Smorgunova V.Y. Civil society and the formation of civic virtues: theoretical and legal problems: Monograph. SPb.: Publ RSPU. A.I. Herzen, 2004
8. Federal Law of 09.07.2014 # 471327-6 "On the basis of social control in the Russian Federation."
9. Uryupin Alexander. Constitutional and legal status of the Public Chamber of the Russian Federation: the dissertation ... The master of laws: 12.00.02 / Uryupin Alexander; [A protection Place: Mosk. Univ Interior Ministry], Moscow, 2008 164 c..
10. Report of the Organization for Economic Cooperation and Development, 2014, www.oecd.org/mena/governance/36785341.pdf
11. Avtsinova G.I. 2012. Theoretical and methodological foundations and directions of interaction between civil society and the state in contemporary Russia. In: Ilicheva, LE (eds.), The State, business and society: theory and the realities of Russia (p.207-222). M: Analyst.
12. Federal Law of April 21, 2006 # 59-FZ "On the order of consideration of citizens of the Russian Federation"
13. Federal Law of February 9, 2009 # 8-FZ "On providing access to information about the activities of state bodies and local self-government"
14. Presidential Decree of May 7, 2012 # 601 "On the main directions of improving the system of governance."
15. Orlová I.V., Rogaov S.V. 2013. Neziskové enské organizace v ruské eknomice: perspektivy rozvoje. V: Rusko v 21. století. Politika, ekonomika, kultura. Eds, Ilieva L. Komarovskij V. PlzeH., Vydavatelstv1 a nakladatelstv1 Aleš eněk. pp: 210-216.
16. Orlova I.V. 2013. Civil society institutions as subjects of social modernization. The materials of the III All-Russian Scientific and Practical Symposium on, pp. 10-11.
17. Laurent-Ledru V., A. Thomson, J. Monsonego, 2011. Civil society: A critical new advocate for vaccination in Europe. In Review Article Vaccine, Volume 29, Issue 4, pp 624-628
18. Sommerfeldt, Erich J. 2013. The civility of social capital: Public relation in the public sphere, civil society, and democracy In Public Relations Review Volume 39, Issue 4, pp: 280-289
19. Maloletko A.N., Kaurova O.V., Grunin A., Zotova A.I., Kourbanov T.V., Revyakina T.Y. The management of regional tax potential. Life Sci J 2014;11(12):412-414] (ISSN:1097-8135). <http://www.lifesciencesite.com>. 79
20. Kaurova O.V., Maloletko A.N., Maloletko D.N. Problems monitoring tax contribution catering collective accommodation: monograph (in rus.) / O.V. Kaurova, A.N. Maloletko, D.N. Maloletko: 2-nd edition, revised and expanded. – M.: publisher Stepanenko, 2014. – 124 p.
21. Kaurova O., Maloletko A., Yumanova O. Cross-country Comparison of Statistical Indicators. Life Sci J 2013; 10(4):1915-1917]. (ISSN:1097-8135). <http://www.lifesciencesite.com>.