

# Local self-government in the context of civil society formation in Russia: theoretical and legal aspects

Nifantiev S.<sup>1</sup>, Kuznetsova E.<sup>2</sup> (Russian Federation)

## Местное самоуправление в контексте формирования гражданского общества в России: теоретико-правовой аспект

Нифантьев С. Ю.<sup>1</sup>, Кузнецова Е. В.<sup>2</sup> (Российская Федерация)

<sup>1</sup>Нифантьев Сергей Юрьевич / Nifantiev Sergey – студент;

<sup>2</sup>Кузнецова Екатерина Владимировна / Kuznetsova Ekaterina – студент,

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Институт государства и права

Тюменский государственный университет, г. Тюмень

**Abstract:** the article deals with theoretical and legal issues of professional personnel formation in the municipal service as one of the most promising directions in implementing the local self-government's potential. Amongst all the vexed problems of building municipal staff capacity authors dwell upon the identification of municipal staff potential and it's future assessment, the necessity of creating a unified system for training municipal employees. To sum up, authors emphasize that in order to develop an efficient, not just the declared system of local self-government, there is the need to rely mostly on those who will put it's functions in practice, and therefore, setting up a productive system of training municipal staff and enhancing it's professionalism is really in demand.

**Аннотация:** в настоящей статье авторами рассматриваются теоретико-правовые проблемы в сфере становления профессиональных кадров муниципальной службы, как одним из перспективных направлений реализации потенциала местного самоуправления. Одними из актуальных проблем современного состояния подготовки кадров для муниципального управления являются выявление и оценка кадрового потенциала муниципального образования, формирование единой системы по подготовке муниципальных служащих. Резюмируя, следует отметить, что успех развития эффективной, не просто задекларированной системы местного самоуправления во многом зависит от тех, кто будет реализовывать его функции на практике, а потому важно выработать продуктивную систему обучения и повышения профессионализма муниципальных служащих.

**Keywords:** local self-government, potential, civil society, human resources, professional skills of municipal employees.

**Ключевые слова:** местное самоуправление, потенциал, гражданское общество, кадровый потенциал, квалификация муниципальных служащих.

Creating an effective model of civil society and establishing the productive interaction within the state are the most fundamental issues of establishing a law-bound state. The political changes of previous decades stimulated numerous scientific debates devoted to consideration of a local self-government as an institute of civil society. In particular, the question of local self-government's essential characteristics in modern conditions and the topic of its potential, incorporated by the legislator, is really urgent nowadays.

According to G. Ellinek, self-government should be understood as a «governance opposite to the state-bureaucratic authority, which is controlled by the immediate stakeholders» [3, p. 466]. However, it is important to emphasize that we can not consider local self-government outside of the state-legal regulation. We reckon that the degree of state power's adjustment into self-government activities plays the key role in its organization in Russia.

Nowadays, «state power is the dominant part of the «society-authority» relationships in Russia. That is why it has an exclusive right of political decision-making, considering civil society only as a supporting «tool» [9, p. 116]. Therefore, one can hardly argue that the local self-government has to stick to the state policy due to the direct dependence on a state power. Unfortunately, it often leads to infringing citizen's rights on independent resolving of local issues.

S. A. Avakyan points out that «it is kind of strange to assume that there is a state power up to a certain level and then the power of local self-government begins, and it turns out to be separate from the state one» [1, p. 10]. We suppose that in Russia local self-government is a sui generis «continuation» of the state power. We claim that the governmentalization of municipal authorities is quite logical in terms of looking back on the previous model of local self-government, when it was entirely included in a single system of state power.

The above-mentioned means that the essence of this legal category has a dualistic nature. On the one hand, we can point out that there is the need for citizens to have legally ensured ability to form their own local self-governments, and, on the other hand, their activities must be carried out in the framework of legal regulations, established by the state.

Consequently, one of the key principles, defining the essence of local self-government's functioning, is its independence on a certain territory. Moreover, the implementation of this thesis in practice is possible only when "the state does not create the local community but acknowledges its existence» [4, p. 47]. That is why it is crucial to have a self-regulated society, which is capable of limiting the state power in order to promote its own interests. Civil

society can be defined as «a group of individuals, who have certain independence and autonomy from the state, who are also capable of limiting the state power for the sake of their own interests» [8, p. 204].

In the view of the above, it can be followed that local self-government is a true institute of civil society, with the proviso that future arising questions require both scientific and practical understanding. Firstly, is there a real opportunity for citizens to solve the questions of local value on an independent basis and under its own responsibility? Secondly, are we able to claim that «local self-government» do exist in Russia? Is it capable of limiting the state power to promote its own interests?

There are many gaps and problems in our legislation. Frankly speaking, federal legislation does not provide citizens, officials of state power bodies and local self-government with a real legal liability for non-executing of municipal legal acts. It is essential to clarify that the institute of «public hearings» aimed at creating a quasi-control over the law-making process of local self-government bodies is extremely formalized. It means that local administrations are not actually interested in the dialogue with the population. Consequently, public hearings are held only when it is a legal provision. In this regard, we have to support the point of view that "if there is no such necessity to get the approval of discussing acts by the participants of public hearings, the mechanism of direct democracy turns to nothing» [11].

Without any doubts, we have no illusions on the qualities of democracy as a real form of interaction between the state power bodies, local self-government and the population. We can not consider «democracy» as the actual will expression of the majority of citizens as we are sure that the model of any control is based on the minority's manipulation over majority despite of her outward appearance. Thus, the theory of minority's domination «is supported by numerous historical evidence and a large number of circumstances of which we are intended to think during our busy routine and everyday activities. Everyone who is active in the organizational life can not miss the fact that even in supposedly democratic organizations there is a small group that makes decisions, and the larger one that obeys» [2, p. 408].

These objective circumstances, determined by the historical peculiarities of Russian statehood's development cause a number of other problems, which remain unsolved during a long period of time. Some of the problems include:

- The issue of expanding the list of competencies outlined for local significance without guaranteeing a corresponding intensification of the federal budget for their implementation;
- Extremely abstract model of differentiation of law-making powers between the Russian Federation and its constituent entities in the sphere of local self-government.

From our point of view, the transition to the new paradigm of communication between municipal authorities and local population would give a start to the formation of a new level of interaction. The very idea is set up not on the directives from «top», but on the multi-level involvement of wide layers of population. The significant role in the context of developing of a new model of interaction is attached to the citizen's mentality, which must be taken into account in order to coordinate the state regulation of local self-government. We are roughly on the same page with the point of view that «the local self-government may act in harmony and cooperation with the state power on an equal basis» [7, p. 119]. It is possible due to the current realities, which dictate a natural necessity for the delegation of authorities to the local level. Nevertheless, we should not forget that it could be done only under the condition of corresponding financial support. However, the federal authority is filled with the distrust to the low-qualified local staff, which means that there a constant need to control and monitor their activities, as sometimes their improper management decisions are too expensive for the state.

In this regard, we have to conclude that in order to unleash the potential of local self-government it is indispensable to find the most highly qualified members of civil society, who are able to solve the questions of local value efficiently and effectively.

The reason is that the «commitment of municipal officials to work depends on their professionalism and willingness to take actions for the sake of the local community. And that in turn determines the effectiveness of municipal socio-economic policy implementation on the territory of municipal formation» [6, p. 133]. With an eye to such a transition, it is required to:

- reject imposition of the state's policy in the scope of local self-government;
- endeavor tremendous efforts of the most productive members of civil society;
- improve legal consciousness of citizens who have their own opinion on political fate, even at the local level.

Is there any chance to implement such model into reality? With no hesitation, we can confirm that it could be introduced. Nonetheless, in order to do that, every member of our society has to overcome his or her own paternalism and etatism, which is par for the Russian mentality. This challenge is as difficult as building the relationships, which are called «state for the society» (not «the society for the state»). That is why the municipal staff mostly determine the potential of local self-government.

Staff capacity of local community could be defined as «a set of existing, ongoing and developing professional qualities, abilities, skills and also hidden personal reserves of local governors, which could they use in demand to achieve current and future goals for the sake of the local community» [5, p. 11].

The main problem in the context of fostering a municipal workforce is the professionalism of employees. And it consequently opens a question of updating the system of professional training and raising the qualification of local officials. We have to note that the extensive municipal reform has not resulted much in improving the level of municipal staff's professionalism. We also can not ignore that only by «...training, introducing changes in

management, mindset and habits of people we could achieve the results of a successful reform of local self-government in Russia» [10, p. 14]. Accordingly, the course of municipal reforms and its outcomes are in close correlation with people who execute the basic guidelines. We assume that the current process of reforming is extremely retarded due to the low level of municipal governor's professionalism, thus it requires appropriate amendments.

In order to solve the stated problem we find it necessary to come up with the following suggestions:

First of all, it is crucial to create an effective permanent system of training the municipal employees under the conditions of increasing their willingness to improve their educational and professional level. In particular, it makes sense to involve municipal employees in the system of grant provision on a competitive basis with the prospect of creating a viable work background among the best personnel.

Secondly, there is a demand for the introduction of special regional programs, aimed at the development of a candidate's pool in municipal bodies.

Thirdly, it is essential for municipal employees to take part in the activities focused on the formation of their professional identity, sense of responsibility for their actions, their desire for constant improvement of the professional skills. In order to ensure the effective implementation of this provision there should be done a complex revision of the existing measures of administrative liability of local self-government's officials in the direction of tightening.

To sum up, the recognition of local self-government as one of the foundations of the constitutional order presupposes the establishment of decentralized management system, confirmation of the other principles of interaction between the state power bodies of Russian Federation, its constituent entities and the local bodies (different from those, established in centralized systems). Authors believe that the formal guarantees of local self-government in the Constitution of Russian Federation and its settlement in the Federal law «On General principles of organization of local government in the Russian Federation» can not provide its proper functioning in practice. At the same time, resolving questions of local importance is an objective necessity for the population. Therefore, we should find ways of the current practice's modernization, considering its potential and analyzing the urgent issues, which do not allow local self-government to be implemented in practice at the full extend.

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