

ON THE ISSUE OF IRRESPONSIBILITY OF MUNICIPAL DEPUTIES TO THE POPULATION: A VIEW FROM RUSSIA IN THE CONTEXT OF THE FORMATION OF THE INFORMATION SOCIETY

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ABSTRACT

The article is devoted to the analysis of problematic legal issues related to the prospects for improving the mechanism of responsibility of deputies of a local representative body to the population. The paper uses dialectical, logical, historical, formal and legal methods of scientific knowledge using reference, value, system and functional approaches. The paper analyzes the key problematic legal issues of the theory and practice of functioning of the mechanism of responsibility of deputies of a local representative body to the population in the context of the formation of the information society in Russia.

Keywords: Local Self-Government, Municipal Legal Responsibility, Responsibility of Municipal Deputies.

INTRODUCTION

The current transformation of the traditional components of Russian society into an informational state causes the actualization and exacerbation of many ongoing legal problems related to the implementation of local self-government in Russia. One of these long-standing “pain” points is the issue related to the efficient functioning of legal procedures governing the mechanism of responsibility of municipal deputies to the population, as well as ensuring the speedy termination of their powers in the event of systematic failure to fulfill their parliamentary duties. Today, it is obvious that the proper functioning of the institution of legal responsibility of a deputy of a representative body of local self-government is a necessary condition for the effectiveness of activities not only of a particular municipal deputy, but of the entire representative body of a municipal formation.

However, the mechanism of responsibility of municipal deputies to the population that is normatively enshrined in the current legislation, which presupposes elements of a free mandate

(by the way, applied in many foreign countries (Kuzko, 2007; Mikhaleva, 2012; Fiorina & Peterson, 1998; Batley & Stoker, 1991), an unfeasible procedure for recalling a municipal deputy (Nudnenko, 2018; Kondrashev, 2008), lack of legal responsibility for the systemic ignorance of voters and failure to implement reports on the work done Regular non-attendance of meetings of a representative body for non-valid reasons, non-participation in voting (Tikhaleva, 2015; Alekseev, 2005; Solovev, 2018), non-fulfillment of election promises (Avakyan, 2013), absolutely does not stimulate an elected representative to properly fulfill his deputy duties.

Currently, the specified mechanism of deputy responsibility is increasingly not in line with the realities of the information society, which involves the use of a wide range of information and communication technologies that provide an extremely high degree of transparency of the activities of the local deputy and the awareness of the population about various aspects of its implementation, as well as ample opportunities for prompt public discussion of the deputy activities and the formation of public opinion among the population of the respective constituency.

RESEARCH METHODOLOGY

Based on the analysis of the theoretical foundations and experience in the practical application of legal structures that normatively govern the procedures of responsibility to the population and the succession of municipal deputies, an attempt was made in the framework of this study (using the dialectical, logical, historical, formal-legal methods of scientific knowledge using standard, value, systemic and functional approaches) to analyze the main problematic legal aspects of the identified topic and suggest promising areas for improving the analyzed legal structures in the context of the formation of a modern information society.

Modern Legal Procedures Governing Responsibility to the Population and the Rotation of Deputies of an Elected Local Government: Problems of Theory and Practice

Despite the fact that the era of moving from representative democracy to democracy is approaching, the direct, direct (via the Internet) role of deputies of an elected local government in the local government system remains extremely important. The responsible fulfillment by municipal deputies of their duties depends on the quality and efficiency of solving many issues of local importance. At the same time (in accordance with the current legislation) in their activities, deputies of the municipal level are controlled by residents of the municipality who have elected them.

An electoral legal relationship arises between a deputy of an elected local government body and his voters, which implies the rights, duties and responsibilities of the corresponding deputy. Within the framework of this legal relationship, a legal construction seems to be logical, fixing the system of effective sanctions imposed on the municipal deputy in case of failure to fulfill his obligations to the population.

However, at present, the mechanism of responsibility of municipal deputies to the population that is normatively enshrined in the current legislation is largely nominal due to a set of subjective reasons (corporate solidarity of the deputy corps of different levels, efforts of followers of the free mandate theory), as well as a number of objective reasons (the legislator's desire to provide stability and continuity of the functioning of the system of municipal authority, to maintain political stability in municipalities, to exclude mechanisms for settling accounts with "inconvenient" candidates, as well as mechanisms that enable the use of the results of manipulating public opinion).

Moreover, the lack of a really working mechanism of responsibility of municipal deputies to the population raises a number of serious problems that cast doubt on the representative nature of the current status of a deputy of a local representative body.

As the first problem, it should be noted that as of today, no measures of legal responsibility are provided for a deputy of an elected local government body to the residents of the municipality who have elected him for failure to carry out actions related to the fulfillment of his election promises (Roi, 2019). As S.A. Avakyan (2013) notes, depreciation of the obligations of deputies to voters abolished as a whole their obligation to be in contact with voters.

However, it is obvious to everyone that the choice of the voter to vote for this candidate (and not for his competitors) is primarily due to his election promises, which he intends to realize if elected. In this regard, in our understanding, the electoral promises of the candidate (making up his electoral program) should be formalized into a single legally significant document, and its publication should be a legal fact giving rise to the obligation to fulfill the obligations undertaken by the deputy. Nomination of deliberately unfeasible campaign promises (Volzhsky, 2012) or the absence of actions aimed at fulfilling election obligations should be qualified as an abuse by a deputy of his right to campaign. As V.A. Cherepanov (2013) accurately notes, "... *to assert otherwise is to believe that ... the legislator allows the candidate to abuse his right to campaign and mislead voters*".

Moreover, at the present time, one should take into account the fact that in the conditions of the modern technological revolution there is a real opportunity to clearly formalize the election promises given by the deputy and the orders taken by the voters (starting from receiving him the status of a candidate for deputy) in a standardized form, placed in the individual page of the deputy on the website of the relevant local representative body. In the process of filling out this page, the deputy can promptly inform voters about the plan for fulfilling the obligations undertaken, the current situation and the actions taken to address them.

The second problem is related to the fact that the current Russian legislation does not have effective legal sanctions for the non-fulfillment by the deputy of the municipal level of such an important public element of his activity as conducting annual reports on the work done (Gorodskoe, 2014). At the same time, the fact that such measures of influence against deputies as announcing public censure by a representative body, informing voters through the media does not provide effective incentives in modern realities to conduct annual reports on work done for undisciplined deputies, it is becoming increasingly obvious. Ignoring the performance of a specified obligation (Kudryavtsev & Shisterova, 2018).

The third problem is due to the fact that the current Russian legislation does not provide for effective measures of legal responsibility for the systematic failure of municipal deputies to receive voters. However, if the reception of voters is considered as the main means of contacting the population with the deputy, as well as the form of the current control of the residents over the effectiveness of the activities of deputies of the municipal level, then the absence of serious measures of legal responsibility in relation to undisciplined deputies violating the established procedure for the reception of citizens seems to be a rather serious problem, requiring a prompt decision in the current federal legislation.

As the fourth problem, it should be pointed out that currently there are no effective measures of legal liability in relation to municipal deputies in federal legislation for systematic non-attendance at meetings of a local representative body for unjustified reasons, as well as for arbitrary withdrawal from a meeting of a local representative body. As a result of such actions of municipal deputies (non-performing their duties or abusing procedural deputy rights at meetings of a local representative body), representative bodies of municipalities quite often face the serious problem of the lack of a quorum for adoption of municipal legal acts necessary for the prompt resolution of issues of local importance to the population.

The fifth problematic topic is that the current municipal legislation does not have any sanctions against deputies that distort the legitimacy of the decision-making process of the local representative body by using their procedural rights, which enable them not to participate in voting on issues of local importance. As a result of these actions of municipal deputies, the local representative body, having a quorum for considering issues, takes positive or negative decisions with a relatively small (from the number of those present at the meeting) number of votes of deputies, which objectively casts doubt on their legitimacy.

The sixth long-standing pain point of modern legislation on local self-government is the practically unrealizable (declarative) procedure for recalling a deputy of a local representative body. In the scientific literature, the norm enshrined in Clause 2 of Art. 24 of the Federal Law of October 6, 2003 No. 131-FZ that a deputy of a local government is considered withdrawn if at least half of the voters registered in the municipality (constituency) vote for the recall (Nudnenko, 2004; Trofimova, 2016; Kuzko, 2007; Sergeev, 2019). Obviously, without the practically implemented recall procedure, citizens feel the short duration of their exercise of democracy. The actual procedure for recalling deputies would protect voters from the consequences of inaction of non-working deputies and quickly release local representative bodies from random people who do not feel responsibility to their voters and systematically perform the acts described in the above paragraphs.

A Set of Legal Measures Aimed at Eliminating the Irresponsibility of Municipal Deputies Guaranteed by Federal Legislation to the Population

The electoral relationship between voters and the winning candidate should not end after the election. A deputy, acquiring specific rights and obligations, acquires specific forms of responsibility. However, as shown above, the mechanism of responsibility of municipal deputies to the population objectively needs to be improved. In this case, the recall should be an extreme

measure of responsibility applicable to the deputy. Therefore, on the one hand, its design must be improved, and on the other hand, it is necessary to fix in the legislation a system of other working sanctions applied to deputies in a certain sequence. The system of parliamentary sanctions must be deployed in such a way that it systematically encourages deputies to fulfill their duties, these promises and, ultimately, meet voters' expectations.

In order to achieve these goals, we propose the following set of organizational and legal measures aimed at improving the system of normative regulation of procedures of responsibility to the population and rotation of municipal deputies.

Firstly, in order to quickly and comprehensively reflect information on the goals, content and effectiveness of the work of deputies of the municipal level, it is proposed to introduce directly into the legislation of the Russian Federation (not the Subjects of the Russian Federation or municipalities) the rules establishing:

1. Mandatory creation and maintenance of personal pages of deputies on the website of the local representative body, including the following mandatory elements: a map of the problems of the electoral district, election promises of the deputy and measures for their implementation, the schedule of voter receptions and information on the receptions, the schedule and content of periodic reports, voters' questions and answers of the deputy.
2. It is mandatory to have the following information on the work of a specific deputy on the website of the local representative body and on the personal pages of deputies: on attending and early termination of meetings (plenary and commissions), on non-participation in the vote and on the results of the deputy's vote on each agenda item (plenary meeting, commissions).

Secondly, in order to improve the existing procedure for recalling municipal deputies, it is proposed to normatively consolidate at the federal level the following powers of the local representative body:

1. Powers to establish the fact that a municipal deputy committed the following acts: systematic (more than three times a year) non-attendance and early abandonment of plenary meetings and commission meetings, systematic non-participation in voting, systematic violations of the rules of the local representative body; systematic failure to hold voter receptions on time; systematic violation of the terms of a written response to voters' appeals, failure to complete the annual report on time.
2. Powers to initiate the procedure for recalling a deputy of a local representative body for the guilty commission of the above acts.

Thirdly, in order to eliminate the irresponsibility of the deputies of the local representative body guaranteed by federal legislation, it is proposed to normatively consolidate at the federal level the following legal mechanisms aimed at improving the existing procedure for recalling deputies of the local representative body:

1. The legal institute of expressing no confidence in a deputy of a local representative body, which involves the creation of permanent voter dashboards on the website of the election commission of a municipality and provides the possibility for a voter to quickly express distrust of a municipal deputy by participating in an appropriate online vote or (which seems more promising) by withdrawing his vote in personal account.

2. The legal institute for recalling a deputy of a local representative body, which provides for the addition of a standard voting form with the possibility of conducting online voting of voters on the website of the election commission of a municipality with the establishment of a minimum threshold for voting for a deputy corresponding to the number of votes by which the corresponding deputy was elected, subject to the participation of voters in number not less than the number of voters who participated in the election of the candidate.

Fourthly, in order to take into account the regional specifics, traditions and customs existing in certain constituent entities of the Russian Federation in the field of normative regulation of procedures of responsibility to the population of deputies of the local representative body, it makes sense to normatively establish at the level of the Russian Federation the right of the subjects of the Russian Federation to detail the content established at the federal level measures of deputy responsibility, as well as establish specific measures of responsibility of municipal deputies, determining (in order to exclude possible violations of the constitutional principle enshrined in Part 3 of Article 55 of the Constitution of the Russian Federation) the most important principles of this legal procedure.

CONCLUSION

Summing up the study, we would like to emphasize the fact that the existing mechanism of responsibility to the population and rotation of municipal deputies is one of the key elements that ensure the effectiveness of the work of such an important component of the Russian system of local self-government as local representative bodies. In the conditions of the information society, the irresponsibility of municipal deputies guaranteed by federal legislation to the population more and more does not meet the requirements of a democratic political regime, which objectively involves a comprehensive scientific analysis of the current situation and making proposals for its correction. The study is directed to solve these problems.

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