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Rationalitation of the Organization of the Local Russian Self-Government

Racionalización de la organización del autogobierno local ruso

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ABSTRACT

The article is devoted to the organization of local self-government in the context of the search for new rationality. Moving on to the individual powers of local self-government bodies, the authors discuss the need to modernize management in municipalities, which is designed to guarantee every citizen the right to participate in the implementation of local self-government. In relation to the main functions of local self-government bodies contained in the legislation (in ensuring a favorable environment, collective actions), the authors give judicial practice as an example and identify problems of law enforcement, stated in the final part of the work.

Keywords: Constitutional order, law, local government, rationalitation.

RESUMEN

El artículo está dedicado a la organización del autogobierno local en el contexto de la búsqueda de una nueva racionalidad. Pasando a los poderes individuales de los órganos de autogobierno local, los autores discuten la necesidad de modernizar la gestión en los municipios, que está diseñada para garantizar a todos los ciudadanos el derecho a participar en la implementación del autogobierno local. En relación a las principales funciones de los órganos de autogobierno local contenidas en la legislación (en asegurar un entorno favorable, acciones colectivas), los autores dan como ejemplo la práctica judicial e identifican problemas de aplicación de la ley, expresados en la parte final del trabajo.

Palabras clave: Gobierno local, ley, orden constitucional, racionalización.

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INTRODUCTION

Modern upheavals of the foundations of social order lead to the growth of irrationalism in the minds of people, the strengthening of class prejudices and national hatred. The transformation of the institutional regulation of public relations carried out in the last decade, built on the prevalence of conventional rules implemented in informal relations, has had an extremely negative impact on the legal thinking of citizens (Akim et al.: 2019, pp.1408-1428).

The indicated crisis tendencies, set by evolutionary processes, lead to a rethinking of the role of state-legal institutional structures and the peculiarities of their functioning in the formation of the subject of law.

METHODOLOGY

Understanding the subject's social behavior in addressing the reality he contacts with is closely related to understanding rationality. According to Parson, "Rationality occupies a logical place in systems of action, analogous to entropy in physical systems (at least within the framework of classical physical theory). The energy of efforts in the process of actions is transformed into the implementation of goals or compliance with norms" (Parsons: 2012, pp.299).

According to V.S. Stepin, several types of rationality should be distinguished, such as classical, non-classical and post-non-classical. The first type of rationality focuses on the object; the second forms knowledge about the object based on the means and operations of activity; and post-nonclassical rationality correlates knowledge about the object not only with the means, but also with the value-target structures of activity (Stepin: 2000).

K. Huebner, along with logical, empirical, operational intersubjectivity (rationality), distinguishes regulatory intersubjectivity, which is the reduction of goals and norms to other goals and norms, no matter what their content is (Huebner: 1994, pp.234).

The Center for the Study of Sociocultural Changes at the Institute of Philosophy of the Russian Academy of Sciences back in 2016 in its report on the results of the monitoring "Our Values and Interests Today" (1990 - 2002) formulated the conclusion that at the moment the value gap supports the earlier anomie in society. In the short term, its consequences depend on whether the discrepancy is fixed as a stable confrontation of traditional-terminal values liberally - instrumental, or it acquires the character of a dialogue promising a more complex structure in the future.

According to P. Schlag, law is aesthetic education, which combines aspects of such phenomena as images and schemes, rhetorical forms (Goodrich: 1987, pp.85–124), metaphors and other tropes (Amsterdam& Bruner: 2000, pp.189–192), perceptual forms and sensory perception (Grey: 1990, pp.1569), dramatic tension, sensory impressions, emotions and feelings (Jean ribaut: 2020).

Thus, value attitudes that regulate the interrelated functioning of the basic spheres of social space, where a person's stay in legal reality is set by the parameters of law, dominate in the regulation of human activity. For example, the draft Federal Law No. 983984-6 "On State Social Assistance to Persons below the Poverty Line" introduced a definition of the concept of "persons below the poverty line" - these are persons whose income is below the subsistence minimum established for the main population groups in accordance with the Federal Law No. 134-FZ of October 24, 1997 "On the Subsistence Minimum in the Russian Federation", multiplied by 1.3 (Merás& Arbesú: 2017).

In other words, the legislator, legitimizing the linguistic practices such as "beggar", "poor", expresses the subjective vision of a person in law. Will such an approach prove fruitful for practical jurisprudence? We do not think so. On the one hand, the subject of law in this capacity becomes convenient and provides significant advantages for legal manipulations, but on the other hand, it is at least immoral and leads to discrimination.

In our opinion, legislative activity will not pay off if it neglects social expectations, feelings and emotions of citizens (Peck: 2007).

For example, people's trust in corporate relations is based on the principles of ensuring equal and fair treatment of everyone in the exercise of their right to participate in the management of the corporation and creating the most favorable opportunities for everyone to participate in the affairs of the corporation.

When we talk about the genuine legislative consolidation of social claims, we mean, among other things, the unhindered implementation of the constitutional rights of citizens to local self-government, which ensures the stability of society and the integrity of the country's political system (Sebastian cabot: 2018).

By virtue of the foundations of the constitutional system in force on the territory of the Russian Federation, local self-government (hereinafter LSG) is not included in the system of public authorities. At the same time, the functioning of local self-government is closely related to the organization and functioning of government bodies. With this understanding, local self-government bodies are included in the process of exercising power relations, ensuring the participation of the local population in the political life of society, through a referendum, elections and other forms of direct expression of will (John hawkins: 2020).

As statistics shows, there are 1600 municipal districts in the Russian Federation, including 1400 urban settlements and 17 thousand rural settlements, urban districts - 600. At the same time, over the past 11 years there has been a significant reduction in the number of municipalities - by 13.5 percent, mainly due to the reduction in the number of settlements (Setiowati et al.: 2015, pp.47-57).

The monitoring report on the state of local democracy in the Russian Federation prepared by the European Club of LSG Experts notes a significant deterioration in the situation with LSG is noted. In particular, in 2014–2017, the institution of self-government was nationalized. Although the Russian Federation, having ratified the European Charter of Local Self-Government on May 5, 1998, has been guided by the basic principles of organizing local self-government since September 1998.

The rational establishment of the state is associated with the epistemological foundations of the 1215 Magna Carta, the 1787 US Constitution, the 1789 French Declaration of the Rights of Man and Citizen, the 1948 Universal Declaration of Human Rights, the 1804 Napoleon Code (French Civil Code), etc (Taruté&Gatautis: 2014, pp.1218-1225).

The main features of local self-government, by virtue of existing international acts, include close relations with the population, action within the boundaries of a territorial entity based on a communal (settlement) association of citizens, implementation of its own legal regulation in relation to citizens inhabiting the specified territory (Ridzwan: 2017, pp.80-84).

By virtue of clause "n" of part 1 of Article 72 of the Constitution of the Russian Federation, the main element of the legal status of local self-government is relative independence, the limits of which are limited by the influence of the Russian Federation, through federal laws in force throughout the territory of the Russian Federation (Article 71, clause "c"; Article 76, part 1 of the Constitution of the Russian Federation) and the constituent entities of the Russian Federation that issue normative legal acts in force in the respective territory (Article 72, point "b" of part 1; Article 76, part 2 of the Constitution of the Russian Federation) (Morozova et al.: 2019, pp.2167-2177).

The Federal Law "On General Principles of Organization of Local Self-Government in the Russian Federation" enshrines state guarantees for the implementation of local self-government, which basic principles of organization ensure the functioning of the local population, considering the traditionally established characteristics and traditions. At the same time, local self-government, in comparison with the regional and federal levels of public authority, opens up ample opportunities for the expression of the will of citizens by empowering local self-government bodies capable of regulating public activity, managing it within the framework of the law in the interests of the local population (Tsvetkova: 2019, pp.598-612).

The degree of participation of the population in public affairs of local self-government largely depends on the activity of local communities in accordance with their size and organization, ensuring the integration of

interests and needs, which mainly come down to solving local problems - housing and communal services, improvement, transport provision, and health protection (Indris & Primiana: 2015, pp.188-196).

Government bodies, as they transfer state powers to municipalities, must guarantee the implementation of the preferences of the local population adequate to the realities of modern development. Unfortunately, the small-numbered municipalities - rural and urban settlements, either do not receive state powers at all, or receive some of them only with a small scope of work or services (Kelchner: 2017).

The problematization of the powers of local self-government brings two benefits: firstly, to look at oneself, re-check, and rethink, compare with the available law, and secondly, to analyze the associated financial encumbrances (Rasid: 2019).

RESULTS

The devaluation of the classical model of organizing local self-government, expressed in the legislator's misunderstanding of the state of social expectations of citizens, leading to mass protests and rallies, gives grounds to speak of a crisis in the interaction of society and the state.

The practical vector of modern transformations of local self-government comes down to the implementation of various projects - "Formation of a comfortable urban environment", "Housing and urban environment", "Smart city", etc., which are aimed primarily at the spatial development of the territory, modernization of urban infrastructure, including development of the urban landscape.

However, the understanding of the interests and needs of the local population in municipalities differs significantly. For example, for the population of an urban district, the project of digitalization of the urban economy, "Smart City" is applicable to more specific problems. For rural settlements, the issues of interbudgetary redistribution of funds allocated for the development of infrastructure are important.

Revealing the real situation of the local population in relations with state and legal institutional structures in a socially significant space is of particular importance. The formation of local self-government largely depends on the set of dominant practices of the subject of the municipality. For example, free use of common areas (highways, parking lots), recreational areas, including sports grounds, comfortable playgrounds, transport services, etc.

DISCUSSION

The imperfection of the organization of local self-government is largely due to the fact that the citizen is, as it were, drawn from the community. For example, the local population is influenced by a number of adverse consequences: teenage groups - in the urban environment, family clans - in the countryside. Of course, these negative manifestations are not statutory, although in reality they create a social space in which the studied norms of law unfold.

At the same time, along with the classical understanding of the subject of law, law enforcement practice considers the constitutive role of consciousness in relation to the subject of law. For example, in case of refusal to grant ownership of a land plot on the grounds of the presence of wild green plantations (several trees and shrubs) on the site, municipalities proceed from the assumption that in the future a citizen may demolish green spaces located on the requested land plot.

CONCLUSION

Finally, we should say that the proposals we put forward, can be considered in the process of developing new Fundamentals of State Policy in the field of local self-government development and further unification of legislation on municipalities.

Given the above, the decision on reforming the legislation on local self-government in terms of globalization processes should be based not only on the benefits gained from the new statutory position of the municipality, but, first of all, on the new position of a person as a rational substance.

Thus, the new model of local self-government, as a form of public-territorial self-organization of the population, is associated with the rationality of actions expressing the identity of the local population and their own positioning in the social environment through norms, rules, politics, ethics.

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