On Some Issues of Modeling the Processes of Monitoring the Effectiveness of the System of Subjects of Public Control in Russia

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Abstract

Monitoring of the effectiveness of the public control system in the Russian Federation. The work analyzes the role and place of this institution of civil society in the system of its other institutions. The role and importance of the institution of public control is substantiated as a key legal guarantee of the implementation, protection and defense of both the constitutional principles of democracy and the participation of Russian citizens in the management of state affairs, as well as the entire system of human and civil rights and freedoms, the rights and legitimate interests of associations and other non-state non-profit organizations. The author’s classification of subjects of public control is carried out. The importance of these subjects achieving a high level of efficiency of their organization and activities is substantiated. It is noted that the dynamics of changes in the level of efficiency of functioning of subjects of public control should be constantly monitored both by public authorities, which are responsible for organizing budgetary financing of the activities of subjects of public control, and by higher-level varieties of these subjects. The article discusses the main features of monitoring the effectiveness of the public control system in Russia, and the author’s definition of it is formulated and justified. The analysis and formalization of the main indicators of the monitoring system of the effectiveness of the public control system in the Russian Federation is carried out. The authors formalized and investigated the main problems that hinder the organization and functioning of the system for monitoring the effectiveness of the public control system in the Russian Federation. The work has developed and justified a system of measures to resolve these problems in order to ensure the preservation and development of the institution of public control in Russia.

Keywords: Public control, Model, Monitoring Processes, Efficiency, System of Subjects, Russian Federation, Democracy, Assessment, Optimization, Rights (Freedoms).

INTRODUCTION


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Methods and Methodological Basis of the Research

The research methodology consists, in particular, of the following scientific methods of cognition: historical-legal; statistical; formal-logical; sociological; methods of financial analysis; comparative-legal; method of studying specific legal situations. The empirical basis of this scientific article is, first of all: the Basic Law of the Russian Federation; materials of international and national law; documents of judicial practice; materials related to the activities of subjects of public control; sources of Russian and foreign scientific legal doctrine of civil society control over the apparatus of public power.

Main Text.

Modern democratic states are distinguished, on the one hand, by the efficiency of the organization and functioning of the apparatus of public power, and on the other hand, by a high level of participation of the population in the forms of direct and indirect democracy. The Constitution of the Russian Federation of 1993, for the first time since the collapse of the USSR as a totalitarian state, assigned to the multinational people of the country the high legal status of the bearer of sovereignty and the only source of power in the state. [6] Thus, after the overthrow of the communist regime, Russia set a course for incorporating democratic principles into its state structure. Man, his rights and freedoms became a kind of ideological basis of the new Russian state. [7, p. 1] At the same time, the people of the Russian Federation received the opportunity to exercise their powers through a complex system of direct and indirect forms of democracy and participation in the management of state affairs. However, the procedure for organizing and implementing direct forms of democracy, as well as powers delegated by the people to public authorities, require a complex system of legal guarantees, without which the constitutional principles of democracy and the participation of citizens of the country in managing the affairs of the state will be an empty formality, and real power will be exercised outside the opinions of the majority of the Russian population. This system of legal guarantees, enshrined in the Constitution of the Russian Federation, is represented, in particular, by a complex system of checks and balances, which does not allow some public authorities to usurp the powers belonging to other public authorities. In addition, these guarantees include: the presence in Russia of bodies of constitutional control and supervision (for example, the Constitutional Court of the Russian Federation); enshrined in the Basic Law of the country, the prohibition of public authorities and their officials, under threat of punishment, to seize power, appropriate or illegally retain power; the presence of a complex system of civil society institutions, the most important of which is the institution of public control.

Thanks to the institution of public control, the opportunity to control the actions, acts and decisions of public authorities and any structures endowed by law with the right to exercise certain public powers is available not only to subjects of public control (for example, the Public Chamber of the Russian Federation), but also to any adult citizens of Russia, as well as non-governmental non-profit organizations (both traditional, in particular trade unions, and modern ones, for example, charitable, human rights and other public associations).

The subjects of public control in the Russian Federation are very numerous and they can be divided (classified) on several grounds.

So, depending on the level of territorial structure at which the formation of the subject of public control was carried out, it can be attributed: a) to the federal level (for example, the Public Chamber of the Russian...
Federation); b) to the regional level (in particular, the public chamber of the subject of the Russian Federation, or the public council under the regional subdivision of the federal executive authority); c) the municipal (local) level (for example, the municipal public chamber or the municipal public council of a particular municipality).

 Depending on the goals and objectives of their activities, several groups of subjects of public control can be distinguished: a) those for whom public control is the only type of activity (for example, regional public chambers); b) those for whom public control is the main type of activity (in particular, public monitoring commissions); c) those for whom public control is one of the types of activity, but not the main one (for example, trade unions of various levels).

 Depending on the period for which subjects of public control were created, they can be divided into: those created for an indefinite period (in particular, the Public Chamber of the Russian Federation, the dissolution and liquidation of which is not provided for by the legislation on public control); created for a certain period of time (for example, a public observer at a specific election or a specific referendum of one level or another (federal, regional, municipal).

 Depending on the intensity of their functioning, subjects of public control can be classified into: a) permanent (in particular, the Public Chamber of the Russian Federation); b) periodically functioning (for example, public observers invited to observe the voting procedure in free elections and referendums).

 Depending on the degree of participation of public authorities in the formation of subjects of public control, the latter can be classified into a number of groups: a) those that are formed exclusively by public authorities (for example, the Public Chamber of the municipal formation of the city of Krasnodar, 12 members of which are appointed by the head of the local executive body self-government, 12 members – representative body of local government, 12 members – previous 24 members); b) those of them that are predominantly formed by public authorities (in particular, the Public Chamber of the Russian Federation); c) those of them in the formation of which public authorities do not participate in any way (for example, trade union organizations at various levels).

 However, the positioning of the activities of subjects of public control in Russia as a key legal guarantee of constitutional principles, as well as the rights, freedoms and legitimate interests of individuals and legal entities, largely depends on how effective this activity is.

 At the same time, the factor of effectiveness of both their functioning as a whole and the individual public control measures they carry out is of great importance when assessing the results of the processes of organization and activity of subjects of public control.

 If the activities of subjects of public control are effective, then the above-mentioned principles, rights, freedoms and legitimate interests will be optimally implemented, protected and defended. Otherwise, they will be largely fictitious in nature.

 The effectiveness of any system (the system of public control is no exception) is characterized by certain dynamics. That is, it can rise or fall over time.

 In order to maintain and even improve the efficiency of the functioning of the system of subjects of public control, the results of their activities must be subjected to constant monitoring processes of effectiveness.

 Who should carry out this monitoring?

 In our opinion, this monitoring should be carried out, on the one hand, by public authorities who are responsible, in accordance with the legislation, for organizing the financing of the activities of these subjects of public control (that is, in fact, it checks whether budget funds have been spent in a targeted manner or not), and on the other hand, by subjects of higher-level public control.

 However, there is no higher-value subject of public control for the Public Chamber of Russia. How can we monitor the effectiveness of its activities?
We propose to create a Union of subjects of public Control in the Russian Federation (especially since the legislation on public control, in particular, Federal Law dated of 21.07.2014 № 212-FL "On the Basics of Public Control in the Russian Federation", provides for the creation of associations and unions of subjects of public control).

The governing body of this Union can be made by the Council of Representatives of Subjects of Public Control (for example, 10 members from each subject of the Russian Federation).

This governing body of the Union of Subjects of Public Control must be authorized by the legislation on public control to organize and conduct monitoring of the effectiveness, on the one hand, of the entire system of subjects of public control, and on the other hand, of the Public Chamber of the Russian Federation.

What should be understood by monitoring the effectiveness of the system of subjects of public control? What criteria should it meet?

Firstly, this monitoring is an activity, as we noted earlier, on the one hand, of public authorities, and on the other hand, of higher-level subjects of public control (as well as the proposed creation of the Union of Subjects of Public Control of the Russian Federation).

Secondly, this activity should be aimed at collecting and analyzing information about the activities of subjects of public control.

Thirdly, in the course of this activity, it will be assessed, on the one hand, the degree to which subjects of public control in the Russian Federation have achieved the goals and tasks of public control, and on the other hand, the level of economic efficiency of public control measures implemented by subjects of public control.

In this regard, there is a need to explore the key criteria for monitoring the effectiveness of the system of subjects of public control in the Russian Federation.

To do this, we will model the system of the specified monitoring, justifying, first of all, a system of formulas for calculating indicators, first of all, the effectiveness of the functioning of the system of subjects of public control as a whole, as well as the economic efficiency of specific forms of public control implemented within this system.

To assess this effectiveness, the following indicators can be used:

1) An indicator of the effectiveness of the functioning of the system of subjects of public control in the Russian Federation as a whole (in %), which should be calculated using the formula:

$$K_{EPPC(RF)} = \frac{S_{IV(RF)}}{S_{EC(RF)}} \cdot 100\%,$$

where $K_{EPPC(RF)}$ is an indicator of the effectiveness of the system of subjects of public control in the Russian Federation as a whole, $S_{IV(RF)}$ is the total cost of detected violations (in rubles) that were detected by all subjects of public control during public control events in the Russian Federation for a certain period of time (we will consider it equal to one calendar year), and $S_{EC(RF)}$ is the total cost of the formation and functioning of all subjects of public control in the Russian Federation and the public control measures they carry out in one year;

2) An indicator of the effectiveness of the functioning of the system of subjects of public control in a specific constituent entity of the Russian Federation (in%), which should be calculated using the formula:

$$K_{EPPC(SRF)} = \frac{S_{IV(SRF)}}{S_{EC(SRF)}} \cdot 100\%,$$

where $K_{EPPC(SRF)}$ is an indicator of the effectiveness of the system of subjects of public control in a specific subject of the Russian Federation, $S_{IV(SRF)}$ is the total cost of identified violations (in rubles) that were detected by all subjects of public control in a specific subject of the Russian Federation during public control activities in a given subject of the Russian Federation for a certain period of time (we will consider it equal to one calendar year), and $S_{EC(SRF)}$ is the total cost of the formation and functioning of all subjects of public control in a given subject of the Russian Federation and the public control activities carried out by them for one year;
3) An indicator of the effectiveness of the functioning of the system of subjects of public control in a specific constituent entity of the Russian Federation (in%), which should be calculated using the formula:

$$K_{EPPC(MSRF)} = \frac{S_{IV(MSRF)}}{S_{EC(MSRF)}} \cdot 100\%,$$

where $K_{EPPC(MSRF)}$ is an indicator of the effectiveness of the system of subjects of public control in a specific municipal formation of a specific subject of the Russian Federation, $S_{IV(MSRF)}$ is the total cost of identified violations (in rubles) that were detected by all subjects of public control in a specific municipal formation of a specific subject of the Russian Federation in the course of carrying out public control activities in a given subject of the Russian Federation for a certain period of time (we will consider it equal to one calendar year), and $S_{EC(MSRF)}$ is the total cost of costs for the formation and functioning of all subjects of public control in a specific municipal formation of a specific subject of the Russian Federation and public control activities carried out by them in one year.

At the same time, the ratio of the indicator of the effectiveness of the system of subjects of public control as a whole in the Russian Federation with the indicators of the effectiveness of the functioning of the system of subjects of public control in individual constituent entities of the Russian Federation is determined by the formula:

$$K_{EPPC(RF)} = K_{EPPC(S(1)RF)} + K_{EPPC(S(2)RF)} + \ldots + K_{EPPC(S(N)RF)},$$

where $K_{EPPC(RF)}$ is an indicator of the effectiveness of the system of subjects of public control in general in the Russian Federation, $K_{EPPC(SRF)}$ is an indicator of the effectiveness of the system of subjects of public control in a specific subject of the Russian Federation, the figure after "S" is the serial number of the subject of the Russian Federation according to part 1 of Article 65 of the Constitution of the Russian Federation, $N$ - the number of the last of the subjects of the Russian Federation specified in this article of the Constitution of the country (the number of indicators on the right side of the formula is equal to the number of subjects of the Russian Federation);

At the same time, the ratio of the indicator of the effectiveness of the system of subjects of public control as a whole in a specific subject of the Russian Federation with the indicators of the effectiveness of the functioning of the system of subjects of public control in individual municipalities of a given subject of the Russian Federation is determined by the formula:

$$K_{EPPC(S(N)RF)} = K_{EPPC(MS(1)RF)} + K_{EPPC(MS(2)RF)} + \ldots + K_{EPPC(MS(M)RF)},$$

where $K_{EPPC(S(N)RF)}$ is an indicator of the effectiveness of the system of subjects of public control as a whole in a given specific subject of the Russian Federation, $K_{EPPC(MSRF)}$ is an indicator of the effectiveness of the system of subjects of public control in a specific municipal formation of a given subject of the Russian Federation, the figure after "S" - the serial number of the municipal formation of the subject of the Russian Federation in accordance with the charter (constitution) of this subject of the Russian Federation, $N$ - the number of the last of the subjects of the Russian Federation specified in this article of the Constitution of the country (the number of indicators on the right side of the formula is equal to the number of subjects of the Russian Federation), $M$ - the number of the last municipal formation of a given subject of the Russian Federation specified in the charter (constitution) of a given subject of the Russian Federation (the number of indicators on the right side of the formula is equal to the number of municipalities in a given subject of the Russian Federation);

4) Efficiency indicators for individual forms of public control throughout the Russian Federation (in%), which should be calculated using the formula (let’s look at the example of one of the forms of public control - public monitoring):

$$K_{EPPM(RF)} = \frac{S_{IVPM(RF)}}{S_{TCPM(RF)} + S_{FS(RF)} / 5 \cdot K_{l(I)}} \cdot 100\%,$$

where $K_{EPPM(RF)}$ is an indicator of the effectiveness of public control measures carried out in the form of public monitoring throughout the country for one year, $S_{IVPM(RF)}$ is the total cost of identified violations (in rubles) that were detected by all subjects of public control in the Russian Federation in carried out public control measures in the form of public monitoring throughout the country for one year, $S_{TCPM(RF)}$ - the total cost of costs for
carried out public control measures in the form of public monitoring throughout the country for one year (in rubles), $S_{FS(RF)}$ - the total cost of fixed costs spent on the functioning of all subjects of public control in the Russian Federation for the year (in rubles), $K_{i,j}$ - increasing (decreasing) coefficient, $5$ - the number of forms of public control in the country according to Federal Law dated of 21.07.2014 № 212 - FL "On the Fundamentals of Public Control in the Russian Federation" (public monitoring, public inspection, public examination, public (public) hearings, public discussion).

However, the functioning of the processes for monitoring the effectiveness of the system of subjects of public control in Russia is associated with numerous problems, including:

Firstly, a major problem is the lack of enshrinement of the institution of public control in the Constitution of the Russian Federation, which creates difficulties in the organization and functioning of this institution of civil society in relation to the activities, acts and decisions of public authorities, whose legal status is primarily enshrined in the Basic Law of the country (for example, President of the Russian Federation). The solution to this problem is possible by incorporating public control into the text of the Russian Constitution (its key goals and objectives, principles, methods, forms and types of public control measures, the mechanism of interaction with public authorities and other institutions of civil society, etc.).

Secondly, a significant problem is the fact that the concept of a system of subjects of public control is not enshrined anywhere in the legislation on public control. However, de facto this system exists. For example, this can be seen in the mechanism of formation of subjects of public control, when lower-level subjects of public control participate in the formation of higher ones (in particular, public chambers of regions elect part of the members of the Public Chamber of the Russian Federation), and higher-level subjects of public control, in turn, are involved in the formation mechanism lower-level subjects of public control (for example, the country's Public Chamber participates in the procedure for forming public councils under federal executive authorities). Why is it necessary to consolidate the concept of a system of subjects of public control in relation to this topic of scientific research? This is necessary in order to ensure optimal functioning of the processes for monitoring the effectiveness of the system of subjects of public control in the country. To do this, this concept must be enshrined in federal laws regulating public control, detailing the main features of this system, clarifying the criteria by which the subject of public control can be distinguished from the mass of subjects of law.

Thirdly, a major problem is the fact that the legislation on public control did not establish the concept of monitoring the effectiveness of subjects of public control, did not detail the criteria by which this monitoring should be carried out at various levels of the territorial organization of power (federal, regional, municipal). The solution to this problem is seen in the consolidation of these concepts and criteria in federal laws that form the legal basis of public control (taking into account our proposals on these criteria, which were set out earlier in the text of this scientific research). As an option, it is possible to adopt a separate Federal Law "On Monitoring the Efficiency of the System of Subjects of Public Control in the Russian Federation", where the legal basis for the organization and implementation of these processes will be enshrined in a concentrated form.

Fourthly, a significant problem, closely related to the previous one, is the fact that the concept and criteria for monitoring the effectiveness of subjects of public control in the Russian Federation are poorly developed in Russian scientific and educational literature. The solution to this problem requires, in our opinion, the comprehensive participation of the Public Chamber of the country and the Government of the Russian Federation in initiating processes for conducting a system of scientific and practical research aimed at identifying and formalizing the optimal system of the above criteria (at the expense of the federal budget).

Fifthly, a significant problem is the fact that the optimal organization and implementation of processes for monitoring the effectiveness of subjects of public control in the Russian Federation is hampered by the weak use of modern digital technologies by subjects of public control. Without them, it is impossible to calculate the level in real time and identify the dynamics of changes in these indicators. The solution to this problem is seen, in our opinion, in the comprehensive participation of the Public Chamber of Russia and the Ministry of Digital Technologies, Communications and Mass Communications of the Russian Federation in the development of a draft corresponding Federal program dedicated to optimizing the processes of using modern digital
Sixthly, a major problem today is the fact that the subject of public control in the country poorly uses positive foreign experience in assessing and monitoring the effectiveness of control of civil society both over the activities, acts and decisions of public authorities, and other objects vested with the right implementation of certain public powers, or objects of public importance. The solution to this problem is seen, in our opinion, in the comprehensive participation of the Public Chamber of Russia and the Ministry of Justice, as well as the Ministry of Foreign Affairs of the Russian Federation in the collection of this experience, its analysis, adaptation and implementation into the practice of organizing and monitoring the effectiveness of the system of subjects of public control in the Russian Federation.

CONCLUSION

In the course of our scientific research, we have made a number of conclusions, in particular:

1. The Institution of Public Control in Russia acts as a key legal guarantee that allows for the implementation, protection and defense of both the entire system of constitutional principles and the rights, freedoms, and legitimate interests of individuals and legal entities in the country.

2. Subjects of public control in the Russian Federation can be classified on a number of grounds: a) by level of formation (federal, regional, local); b) according to the main purpose of the organization and activity (for subjects of public control for which this type of activity is the main, only, or one of several (but not the main)); c) by duration of activity (for those created for a certain period and those created for an indefinite period); d) by intensity of functioning (permanently operating and those created to carry out a specific public control event); e) according to the degree of participation of public authorities in their formation (those formed with the participation of public authorities, as well as individuals and legal entities created without the participation of public authorities).

3. An important factor in assessing the results of the processes of organization and activity of subjects of public control is the effectiveness of both their functioning as a whole and their individual public control measures.

4. At the same time, the dynamics of changes in the level of efficiency of functioning of subjects of public control should be constantly monitored both by public authorities, which are responsible for organizing budgetary financing of the activities of subjects of public control, and by higher-level subjects of public control in the country. In relation to the activities of the Public Chamber of the Russian Federation, monitoring of effectiveness should be carried out externally. For this purpose, it is proposed to create in the Russian Federation a Council of Representatives of Subjects of Public Control, which will be the governing body of the Union of Subjects of Public Control of the Russian Federation (since the creation of associations and unions of subjects of public control is already provided for by Russian legislation on public control, in particular, Article 17 of the Federal Law dated of 21.07.2014 № 212-FL "On the fundamentals of public control in the Russian Federation").

5. Monitoring the effectiveness of the system of subjects of public control should be understood as the activities of public authorities authorized to organize financing of subjects of public control and control over the use of these funds, as well as the activities of higher-level subjects of public control aimed at collecting information about the activities of subjects of public control and analysis the specified information, from the standpoint of assessing, on the one hand, the degree to which subjects of public control in the Russian Federation achieve the goals and implementation of the tasks of public control, and, on the other hand, the economic efficiency of public control measures implemented by subjects of public control.

6. The organization and implementation of monitoring the effectiveness of the system of subjects of public control in Russia is associated with numerous problems, including: a) the lack of formalization in the Constitution of the Russian Federation of the institution of public control; b) the concept and criteria for monitoring the effectiveness of the system of subjects of public control, both in the country as a whole and in its individual regions and municipalities, have not been developed in the current legislation on public control;
c) the absence in Russian scientific and educational literature of a wide range of developments devoted to the organization and implementation of monitoring the effectiveness of the system of subjects of public control; 
d) the lack of codification in the country’s legislation of the concept of a system of subjects of public control; 
e) the weak use of modern digital technologies by subjects of public control both in organizing and conducting public control activities and in assessing their effectiveness; 
f) the weak use by subjects of public control of positive foreign experience in assessing by civil society actors their activities to control public authorities and other objects of public importance, or organizations and bodies exercising certain public powers.

7. Resolving the above problems will require the organization and implementation of a whole system of measures, the most important of which will be: 
a) incorporation of the institution of public control into the Basic Law of the country; 
b) consolidation in the legislation on public control as one of the main goals of public control in the Russian Federation, increasing the efficiency of the processes of organizing and implementing public control activities in the country; 
c) development and consolidation in Russian legislation of the concepts of a system of subjects of public control, a system of criteria for assessing the effectiveness of a system of subjects of public control, the concept and criteria of processes for monitoring the effectiveness of a system of subjects of public control both throughout the country and in its individual regions and municipalities; 
d) organizing and conducting in Russia a system of scientific and practical research aimed at identifying and formalizing the optimal system of the above criteria (at the expense of the federal budget); 
e) organizing and conducting, under the leadership of the Public Chamber of the Russian Federation with the support of the Ministry of Digital Development, Communications and Mass Communications of the Russian Federation, the development of a draft Federal program dedicated to the development of modern digital technologies in the field of their use by subjects of public control (with the subsequent sending of the said project to the Government of the Russian Federation for adoption and implementation nationwide); 
f) organizing and conducting, under the leadership of the Public Chamber of the Russian Federation with the support of the Ministry of Foreign Affairs and the Ministry of Justice of the Russian Federation, at the expense of the federal budget, analysis, adaptation (for subsequent use) of positive foreign experience in assessing civil society actors’ activities to control public authorities and other objects of public importance, or organizations and bodies exercising certain public powers.

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