



Foreign and Uzbek experience of public control over the activity of state authority

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ABSTRACT

This article describes the experience of foreign countries and the Republic of Uzbekistan in the implementation of public control over the activities of state power and the activity of state power.

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Давлат ҳокимияти фаолияти устидан жамоатчилик назоратини амалга оширишнинг хорижий ва Ўзбекистон тажрибаси

АННОТАЦИЯ

Калит сўзлар:

сайлов тизими,
демократия,
ҳуқуқий норма,
қонун,
фуқаролик жамияти,
ҳуқуқий маданият,
жамоатчилик назорати.

Ушбу мақолада давлат ҳокимияти фаолияти ва унинг устидан жамоатчилик назоратини амалга оширишнинг хорижий давлатлар ва Ўзбекистон Республикаси тажрибаси ёритилган.

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Зарубежный и отечественный опыт осуществления общественного контроля за деятельностью государственной власти

АННОТАЦИЯ

Ключевые слова:

избирательная система,
демократия,
правовая норма,
право,
гражданское общество,
правовая культура,
общественный контроль.

В данной статье описан опыт зарубежных стран и Республики Узбекистан по осуществлению общественного контроля за деятельностью государственной власти и деятельностью государственной власти.

In the context of formation of a civil society, the issue of further improvement of the procedure for the implementation of public control over the activities of state power is of great importance. As a result of the research carried out in this regard, we can put forward a number of proposals and comments on the further improvement of the procedure for the implementation of public control over the activities of the state authorities.

First of all, the Law “On Public Control” should regulate in detail the issues related to public examination of draft laws. If we pay attention to foreign experience in this regard, we can witness that the procedure for carrying out this expertise is separately determined. In particular, the Law of the Russian Federation “On the Basics of Public Control in the Russian Federation” specifies the number of special rules in addition to the general rules for conducting this examination. In particular, it defines the rights and obligations of the expert, as well as the requirements for conducting this expertise. It is also established that the final document (summary) of the expertise should consist of objective, reliable and justified conclusions. It is important to note that in the cases established by federal laws, there is a norm of mandatory public examination.

In this regard, in the literature, the procedure for conducting this expertise is defined in a separate regulatory legal document, in particular, the Regulation “On the procedure for conducting public expertise of normative legal documents and their drafts” approved by the Cabinet of Ministers of the Republic of Uzbekistan [1.291].

In my opinion, this issue should be covered in detail in the Law “On Public Control”, including the scope of subjects conducting the examination, the principles, procedure, terms of the examination, its formalization, experts and the requirements imposed on them, strengthening the procedural requirements for conducting this examination.

In legal literature, as well as in public discussion of issues of social importance, as well as normative legal documents, drafts of other decisions of state bodies, and in order to ensure the effective implementation of public control, the model regulation “On public discussion” is related to the activities of state bodies, their officials, and model regulation “On Public Hearing” organized to discuss issues relevant to the rights and legal interests of citizens, legal entities, and the interests of society, as well as monitoring the activities of state bodies and their officials by collecting, summarizing and analyzing information related to the public interest in order to determine whether the drafts of normative legal

documents and other decisions of state bodies are consistent with the rights and legal interests of citizens, legal entities, and the interests of society. It is proposed to develop a model regulation “On the procedure for public monitoring and examination” consisting of studying and evaluating them [2.310-311].

Also, it is necessary to revise completely the norms of the Law on the procedure of public discussion, public hearing, public monitoring and expertise and to state them in a new version as directly applicable norms, in which it is necessary to determine fully the mechanism and procedure of their implementation.

In addition to the above, based on advanced foreign experience and national practice, it is appropriate to include “journalistic investigation” and “social audit” by mass media in the forms of public control.

It should be noted that social audit is aimed at improving the efficiency of public administration by monitoring the implementation of local state programs. Social audit is mainly carried out by civil society institutions with the involvement of experts and a wide range of people. Today, two types of social audit are widely used in foreign countries. The first is a social audit, which consists of collecting relevant data, analyzing this data, interpreting and preparing a report containing conclusions and recommendations, and presenting the audit results to the general public (Korea, Japan, and India's experience). The second is to create a research group consisting of experts in relevant fields and a special platform to conduct public expertise on issues of social importance, including health, ecology, economic development, introduction of innovations in communal services and other areas (Scandinavian countries, German experience).

Another important form of public control is the activity of a public inspector. It is known that the system of public inspector of environmental control was introduced in the Republic of Uzbekistan in accordance with the Law “On Environmental Control” from 2013. In September 2016, a list of 20,000 candidates for public inspectorate of environmental control was formed among neighborhood activists, scientists and NGO representatives. Since 2016, the State Committee for Ecology and Environmental Protection has been implementing a “roadmap” for the development of the Institute of Public Inspectors of Environmental Control in Uzbekistan.

At the same time, it shows that the institute of public inspectors is working effectively in foreign countries not only in ecology, but also in a number of areas such as labor, communal economy, health care. In this regard, in the future, a member of the public who will be active in various areas of social life that will affect the interests of the population (education (minors, students' visits to schools and educational institutions), health care, tourism, communal economy, pensions, employment, etc.) it is appropriate to introduce the institute of inspectors.

Another form of public control used widely in foreign countries, but not regulated legally in the Republic of Uzbekistan, is the activity of volunteers. In the USA, England, Germany, Spain, France, Finland, Switzerland, Japan and other countries, the activity of volunteers as subjects of public control is very developed. The activities of volunteers are widely used in ecological, archaeological, restoration, repair, agricultural, and social spheres. For example, in Germany, 34% of the population, that is, one in three citizens, is a volunteer and participates in voluntary associations, projects and groups for more than 15 hours per month. About 70,000 non-governmental non-commercial organizations operate in Germany, and about 2 million citizens are involved in them on a voluntary

basis. In Germany, the Law on “Social Year” was adopted, according to which a person has the right to engage in social work for 1 year after graduating from high school. This practice will be important in the future employment of this person. Volunteer centers have been established in almost every city in Germany. Interaction and cooperation between volunteers is ensured in these centers. Volunteer work has become an important form of employment for pensioners and the unemployed in Germany [3.267].

It is appropriate to define the main concepts used in the Law “On Public Control” (state activity, civil society, public councils, public commissions). On the example of the experience of the Russian Federation, Kazakhstan and other countries, the establishment of the Public Chamber, as its main task, is to establish relations between citizens, public associations, trade unions, creative associations or other types of non-governmental organizations and state authorities, local state authorities based on the interests of citizens and society. It is appropriate to establish public control over the activities of state authorities and management bodies.

In the United States, the practice of public councils being headed by government officials is widely used. For example, in Arlington County (Virginia, USA), the public council on the issues of the Northern tract is engaged in researching the opinion of the population on the areas polluted by industrial waste, and its chairman and deputy chairman are officials of state bodies [4.36].

It should be noted that in the international experience, public councils are formed in five different ways: election, appointment, mixed, competition and random formation. For example, the community council of the city of Dayton, USA, is formed by the election method. Each candidate must collect the votes of at least 25 voters [5.43].

The second method of appointment is widely used in foreign countries as a method of forming public councils. In this case, two different methods are used – the state body can appoint members of the public council on its own initiative or based on the recommendation or presentation of various non-governmental non-profit organizations. By appointment, in most cases, public councils are formed that perform expert, consultative, advisory functions. In particular, the Danish Public Council for Disability Affairs consists of a chairman appointed by the Minister of Social Affairs and 14 members, including 7 members from the Council of the Association of Disabled Persons, 1 member from the Council of Danish Counties, 1 member from the Danish National Association of Local Authorities, 1 member from the City of Copenhagen and Frederiksberg city administration, 1 member – the Minister of Health, 1 member – the Minister of Education, 1 member – the Minister of Labor and 1 member – the Minister of Social Affairs are appointed on the recommendation. Alternatively, in Canada, members of the National Council on Aging are appointed on the recommendation of the Governor General on the recommendation of the Minister of Health [6.25].

It is implemented on the basis of mutual coordination of appointed and elected councils. For example, the majority (48) of the community council of the city of Porto Alegre, Brazil, which includes a total of 16 districts of the city, is elected by the community. 2 members of the council are appointed by the local authority and have the right to speak in the council, but do not have the right to vote. The Council includes such structures as the coordinating group, the executive secretariat, advisers, the communications commission and the delegates’ forum [7.25].

The experience of the Russian Federation observes the formation of a public council by the competitive method. According to it, the Public Chamber, together with the Expert Council of the Russian Federation, organizes a competition for the formation of members of the public councils under the federal executive authorities. Public associations, non-governmental non-commercial organizations have the right to participate in the competition. It is typical for public councils that perform the arbitration function in the random formation of the composition of the public council. This method is used in countries such as the USA, Great Britain, Germany, and Australia in order to ensure the representation of different strata.

As we have seen, the number of members of the public council in foreign countries is clearly defined.

In the Republic, the number of members of the public council is not limited. The composition of the public council includes its chairman, deputy chairman, secretary and members. As a rule, veterans who have rendered exemplary service in a state body, reputable citizens with extensive practical experience in public activities, as well as representatives of non-governmental and non-profit organizations, mass media and other institutions of civil society are admitted to the membership of the public council.

The public council is authorized to make decisions of a recommendatory nature. The decision made at the meeting of the public council shall be formalized with the minutes. The minutes of the meeting of the public council shall be signed by the secretary, approved by the chairman of the meeting and sent to the state body, members of the public council and interested persons within three days. Also, when there is a need to make a decision of the public council quickly, it is also provided for the possibility of making the decision by poll, in agreement with the members of the public council, at the initiative of its chairman. In cases where the state body does not agree with the decision of the public council, it shall send a reasoned objection to it in written form no later than ten days after receiving the decision of the public council.

As we know, in accordance with the amendments and additions made to our Constitution in 2014, the constitutional basis for the implementation of public control over the execution of legal documents by state authorities and management bodies was formed. According to it, the participation of citizens in the management of society and state affairs is realized through the development and improvement of public control over the activities of state bodies. It is noteworthy that the granting of a constitutional-legal status to the institution of public control brought this control institution to a new level in terms of quality in our country. Although there are a number of norms about public control in a number of current laws and regulations, there were no special regulations or a single document providing for the nature, types, methods and forms of this institution, and in general, control mechanisms. This is the reason that these provisions in the laws, even the constitutional norm, do not work completely. In addition, there was a need to unify a number of regulatory legal documents regarding public control and to adopt a single systematized basic law, to eliminate “legal gaps” in the legal documents regulating public control issues. Therefore, on the basis of the State program on the implementation of the Action Strategy in The year of support for active entrepreneurship, innovative ideas and technologies, the Law “On Public Control” was developed by the deputies of the lower house of the parliament, adopted after extensive discussions, approved by the Senate and signed by the President. The law is extremely important in that it aims to

apply the norms stipulated in the Constitution in practice, to define fully the legal basis and mechanism of public control over the activities of state bodies in the country. As we know, in accordance with the amendments and additions made to our Constitution in 2014, the constitutional basis for the implementation of public control over the execution of legal documents by state authorities and management bodies was formed. According to it, the participation of citizens in the management of society and state affairs is realized through the development and improvement of public control over the activities of state bodies. It is noteworthy that the granting of a constitutional-legal status to the institution of public control brought this control institution to a new level in terms of quality in our country. Although there are a number of norms about public control in a number of current laws and regulations, there were no special regulations or a single document providing for the nature, types, methods and forms of this institution, and in general, control mechanisms. This is the reason that these provisions in the laws, even the constitutional norm, do not work completely. In addition, there was a need to unify a number of regulatory legal documents regarding public control and to adopt a single systematized basic law, to eliminate “legal gaps” in the legal documents regulating public control issues.

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