STATE AND MUNICIPAL UNITARY ENTERPRISES AS OBJECT OF PUBLIC CONTROL IN THE RUSSIAN FEDERATION

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INTRODUCTION

This article is devoted to the analysis of state and municipal unitary enterprises as an object of public control in the Russian Federation.

METHOD ALSO CALLED MATERIALS AND METHODS OR EXPERIMENTAL METHODS

This article in the process of cognition of state-legal and social and philosophical phenomena were used: a) general scientific methods (formal-logical, systemic, structural-functional, concrete-historical); b) general logical methods of theoretical analysis (analysis, synthesis, generalization, comparison, abstraction, analogy, modeling etc.); c) private scientific methods (technical and legal analysis, specification, interpretation etc.) (GONCHAROV, CHIMITOVA, 2020, p. 86-95; GONCHAROV et al, 2021e, p. 401-416; GONCHAROV et al, 2021f, p. 401-409).

MAIN PART

The Russian Federation is a democratic state governed by the rule of law, in which its multinational people are proclaimed by the Constitution the bearer of sovereignty and the only source of power. These constitutional principles of democracy and public participation in the management of state affairs need a system of legal guarantees, without which, as a number of authors rightly point out, on the one hand, seizure of power or misappropriation of power by any government or their officials is not excluded. On the other hand, it is possible for the public authorities to exercise their powers not in the interests of the majority of the country’s population. (ZALESNY et al, 2020, p. 3507-3512; PLASCOVA et al, 2020, p. 3507-3512; GONCHAROV et al, 2020a, p. 78-90; GONCHAROV et al, 2020b, p. 93-106; KROTOV et al, 2020, p. 3521-3526) At the same time, the majority of scientists agree that the most important element of the system of legal guarantees of the constitutional principles of democracy and public participation in the management of state affairs is the institution of public control. (KURDYUK et al, 2019, p. 25-29; ZHILIN, GONCHAROV, 2010, p. 148-157; BAYBARIN et al, 2020, p. 6805-6811; GONCHAROV et al, 2020a, p. 362-366; GONCHAROV et al, 2020b, p. 367-373).

This legal institution was incorporated into Russian legislation fifteen years ago, with the adoption of the Federal Law “On the Public Chamber of the Russian Federation” during the period of gradual centralization of the public administration system in our country, carried out by the President of Russia V.V. Putin in order to strengthen and develop Russian statehood. However, it was preceded in the Soviet stage of development of our country by the institution of people’s control of power, which, despite the ambiguous attitude towards it from different authors, (KHACHATRYAN, 2015, p. 115-125; GONCHAROV et al, 2021c, p. 374-382; GONCHAROV et al, 2021d, p. 383-389; MOROS, GONCHAROV, 2020, p. 114-128) nevertheless was a fairly effective tool of civil society to suppress or prevent violations of...
socialist legality in the USSR (and the RSFSR). Most of the researches on this issue are confirmed by statistical data, according to which, during the period of the functioning of the institution of people’s control of power, huge funds were received in the state budget, which were previously plundered by violators of socialist legislation (precisely due to the measures of popular control at the grassroots level). (CHECHENOV, 2009, p. 109-112; MITYAEV, PAVLOV, 2018, p. 51-55).

The current institution of public control, despite the fact that it has already shown its undoubted effectiveness and popularity in society, has significant problems in terms of organization and functioning, which are objective and subjective in nature.

One of these problems is the lack of a clear definition of the concept and list of objects of public control in the Russian Federation. Moreover, the current legislation, in particular, Federal Law № 212-FL of 21.07.2014 “On the Foundations of Public Control in the Russian Federation”, has removed a number of activities and public relations from its subject matter, [ON, 2014] complicating the already complicated situation with the institutionalization of an exhaustive list of features of objects of public control.

In this regard, according to a number of authors, the question arises quite rightly as to whether state and municipal enterprises are objects of public control. (ALESHENKO, 2020; GRIB, 2016, p. 3-5). Thus, some scientists believe that the interference of public control bodies in the activities of any economic entities of the economy, regardless of their organizational and legal form and form of ownership, is completely unacceptable. Other authors, on the contrary, agree that state and municipal enterprises, which are created at the expense of certain budgets and are in state or municipal ownership, should be constantly monitored by civil society, since the replenishment of state directly depends on the results of their activities. and municipal budgets (and if they are unprofitable, the amount of these losses will ultimately be covered from the budget - that is, mainly by taxpayers).

In our opinion, state and municipal enterprises are objects of public control, in favor of which the following arguments can be given.

Firstly, the aforementioned Federal Law "On the Foundations of Public Control in the Russian Federation" in Article 1 provided for the possibility of exercising public control not only in relation to state authorities and local self-government bodies, but also in relation to state and municipal organizations.

At the same time, neither this Federal Law, nor the Civil Code of the Russian Federation directly define the concepts of a state and municipal organization. However, based on the definition of the concept of a legal entity given in Article 48 of the Civil Code of the Russian Federation, it is clear that it means such organizations that have a number of characteristics (have separate property, are responsible for their obligations, can acquire and exercise civil rights on their own behalf and carry public duties, be a plaintiff and defendants in court). Consequently, state and municipal enterprises, which, according to Article 113 of the Civil Code of the Russian Federation, are varieties of unitary enterprises, in turn, which are a variety of commercial organizations (as one of the main types of legal entities) - state and municipal organizations.

In this regard, it seems interesting to experience the institutionalization of the concept of "state organizations" in the Republic of Belarus, in a number of the Law of which clear definitions of the concept of state organization are given and their types (including state enterprises) are listed. (ON, 2012; ON, 2003).

Secondly, according to the Federal Law "On the Foundations of Public Control in the Russian Federation", the key sign of classifying organizations as objects of public control is their exercise of certain public powers in accordance with federal laws.

The analysis of Part 4 of Article 8 of Federal Law № 161-FL of 14.11.2002 "On State and Municipal Unitary Enterprises" shows that state and municipal unitary enterprises in the Russian Federation are created for the implementation of certain goals and tasks of a public nature (for example, to ensure the activities of federal executive bodies responsible for the development and implementation of state policy, regulatory and legal regulation in the field of defense, in the field of intelligence activities, in the field of mobilization training and mobilization in the
Russian Federation, in the field of transport security, in the field of international relations of the country, etc.). (ON, 2002).

That is, state and local self-government bodies create state and municipal enterprises in order to ensure the implementation of their powers within the scope of jurisdiction, enshrined both in Articles 71-73, 130 of the Constitution of the Russian Federation, and in individual federal laws, for example, from 06.10.2003 № 131-FL of 06.10.2003 “On the general principles of organizing local self-government in the Russian Federation”, dated 06.10.1999 № 184-FL “On the general principles of organizing the legislative (representative) and executive bodies of state power of the constituent entities of the Russian Federation”.

At the same time, the reforms of the Russian legislation of the last decades differ in several trends in terms of determining the activities of state and municipal enterprises.

On the one hand, federal legislation progressively reduces those economic areas within which municipal unitary enterprises can be created. On the other hand, there has been a general tendency towards a reduction in the number of state unitary enterprises. The state is progressively carrying out the privatization of the largest federal unitary enterprises that have historically been profitable and were in the hands of the state. For example, the Federal State Unitary Enterprise “Russian Post” was recently incorporated.

Thirdly, the activities of many state and municipal enterprises are of great public importance due to the fact that they are historically monopolists in a particular area of the economy. And without constant control over their organization and activities, it is impossible to ensure the observance of the rights, freedoms and legitimate interests of both citizens of the Russian Federation and legal entities, to one degree or another, dependent on the activities of these state and municipal enterprises.

Fourthly, a significant number of state and municipal enterprises are the largest taxpayers in the respective municipalities and constituent entities of the Russian Federation. For example, the municipal unitary enterprise Krasnodar Tram and Trolleybus Enterprise has a gross revenue of over 3.5 billion rubles, while the planned amount of own revenues of the Krasnodar city budget is slightly more than 17.6 billion rubles. (VOLGINA, 2020, p. 111)

Fifthly, despite the decline in the number of state and municipal enterprises in the country in recent years, the total number of employees employed in them has increased, which is especially important in light of the economic crisis caused by the COVID-19 pandemic.

CONCLUSIONS AND FURTHER RESEARCH

However, the organization and implementation of effective public control over state and municipal enterprises in the Russian Federation requires the development and implementation of a number of measures.

Firstly, the Federal Law “On the Foundations of Public Control in the Russian Federation“ should institutionalize the concept of state and municipal organizations, as well as define the concept of “public authority”. This will prevent ambiguous interpretation of the norms of Article 1 of the above-mentioned Federal Law when classifying state and municipal unitary enterprises as objects of public control.

Secondly, due to the specifics of the organization and activities of state and municipal enterprises in the Russian Federation, it seems expedient to remove the mechanism for the formation and functioning of public control over them from the subject of the Federal Law “On the Fundamentals of Public Control in the Russian Federation“ by adopting a separate Federal Law “On the foundations of public control over the activities of state and municipal unitary enterprises“. When organizing and exercising public control in relation to state and municipal unitary enterprises, specific forms and types of public control measures should be envisaged, defining the limits of the powers of the subjects of public control during their implementation.

Alternatively, due to the fact that state and municipal unitary enterprises are quite a large variety of legal entities, it is necessary to fix in the Federal Law of 14.11.2002 № 161-FL “On State and Municipal unitary enterprises“ a separate chapter dedicated to the organization and implementation of public control in relation to this type of legal entities.
The implementation of these measures will allow not only to carry out constant effective public control in relation to state and municipal unitary enterprises, but in general to strengthen this institution of civil society in the Russian Federation.

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State and municipal unitary enterprises as an object of public control in the Russian Federation

Empresas unitárias estatais e municipais como objeto de controlo público na Federação da Rússia

Las empresas unitarias estatales y municipales como objeto de control público en la Federación de Rusia

Resumo
Este artigo é dedicado à análise das empresas unitárias estatais e municipais como objeto de controle público na Federação Russa. As empresas estatais e municipais exercem uma série de Poderes Públicos Delegados pelo estado e pelos municípios. As suas atividades afetam os interesses das pessoas singulares e coletivas. Os autores fundamentam a necessidade de organizar e implementar medidas de controle público em relação às empresas unitárias estaduais e municipais através do desenvolvimento de um sistema de propostas para melhorar a legislação no campo do controle público.

Palavras-chave: Federação Russa. Democracia. Controle popular. Soberania. Poderes.

Abstract
This article is devoted to the analysis of state and municipal unitary enterprises as an object of public control in the Russian Federation. State and municipal enterprises exercise a number of public powers delegated by the state and municipalities. Their activities affect the interests of individuals and legal entities. The authors substantiate the need to organize and implement public control measures in relation to state and municipal unitary enterprises by developing a system of proposals for improving legislation in the field of public control.

Keywords: Russian Federation. Democracy. Popular control. Sovereignty. Powers.

Resumen
Este artículo está dedicado al análisis de las empresas unitarias estatales y municipales como objeto de control público en la Federación de Rusia. Las empresas estatales y municipales ejercen una serie de facultades públicas delegadas por el Estado y los municipios. Sus actividades afectan a los intereses de las personas físicas y jurídicas. Los autores corroboran la necesidad de organizar y aplicar medidas de control público en relación con las empresas unitarias estatales y municipales mediante el desarrollo de un sistema de propuestas para mejorar la legislación en el ámbito del control público.

Palabras-clave: Federación de Rusia. Democracia. Control popular. Soberanía. Poderes.