

ISSN 2518-1467 (Online),
ISSN 1991-3494 (Print)

ҚАЗАҚСТАН РЕСПУБЛИКАСЫ
ҰЛТТЫҚ ҒЫЛЫМ АКАДЕМИЯСЫНЫҢ

Х А Б А Р Ш Ы С Ы

ВЕСТНИК

НАЦИОНАЛЬНОЙ АКАДЕМИИ НАУК
РЕСПУБЛИКИ КАЗАХСТАН

THE BULLETIN

THE NATIONAL ACADEMY OF SCIENCES
OF THE REPUBLIC OF KAZAKHSTAN

PUBLISHED SINCE 1944

1

JANUARY – FEBRUARY 2019

ALMATY, NAS RK

NAS RK is pleased to announce that Bulletin of NAS RK scientific journal has been accepted for indexing in the Emerging Sources Citation Index, a new edition of Web of Science. Content in this index is under consideration by Clarivate Analytics to be accepted in the Science Citation Index Expanded, the Social Sciences Citation Index, and the Arts & Humanities Citation Index. The quality and depth of content Web of Science offers to researchers, authors, publishers, and institutions sets it apart from other research databases. The inclusion of Bulletin of NAS RK in the Emerging Sources Citation Index demonstrates our dedication to providing the most relevant and influential multidiscipline content to our community.

Қазақстан Республикасы Ұлттық ғылым академиясы "ҚР ҰҒА Хабаршысы" ғылыми журналының Web of Science-тің жаңаланған нұсқасы Emerging Sources Citation Index-те индекстелуге қабылданғанын хабарлайды. Бұл индекстелу барысында Clarivate Analytics компаниясы журналды одан әрі the Science Citation Index Expanded, the Social Sciences Citation Index және the Arts & Humanities Citation Index-ке қабылдау мәселесін қарастыруда. Web of Science зерттеушілер, авторлар, баспашылар мен мекемелерге контент тереңдігі мен сапасын ұсынады. ҚР ҰҒА Хабаршысының Emerging Sources Citation Index-ке енуі біздің қоғамдастық үшін ең өзекті және беделді мультидисциплинарлы контентке адалдығымызды білдіреді.

НАН РК сообщает, что научный журнал «Вестник НАН РК» был принят для индексирования в Emerging Sources Citation Index, обновленной версии Web of Science. Содержание в этом индексировании находится в стадии рассмотрения компанией Clarivate Analytics для дальнейшего принятия журнала в the Science Citation Index Expanded, the Social Sciences Citation Index и the Arts & Humanities Citation Index. Web of Science предлагает качество и глубину контента для исследователей, авторов, издателей и учреждений. Включение Вестника НАН РК в Emerging Sources Citation Index демонстрирует нашу приверженность к наиболее актуальному и влиятельному мультидисциплинарному контенту для нашего сообщества.

Б а с р е д а к т о р ы

х. ғ. д., проф., ҚР ҰҒА академигі

М. Ж. Жұрынов

Р е д а к ц и я а л қ а с ы:

Абиев Р.Ш. проф. (Ресей)
Абишев М.Е. проф., корр.-мүшесі (Қазақстан)
Аврамов К.В. проф. (Украина)
Аппель Юрген проф. (Германия)
Баймуқанов Д.А. проф., корр.-мүшесі (Қазақстан)
Байтулин И.О. проф., академик (Қазақстан)
Банас Иозеф проф. (Польша)
Берсимбаев Р.И. проф., академик (Қазақстан)
Велесько С. проф. (Германия)
Велихов Е.П. проф., РҒА академигі (Ресей)
Гашимзаде Ф. проф., академик (Әзірбайжан)
Гончарук В.В. проф., академик (Украина)
Давлетов А.Е. проф., корр.-мүшесі (Қазақстан)
Джрбашян Р.Т. проф., академик (Армения)
Қалимолдаев М.Н. проф., академик (Қазақстан), бас ред. орынбасары
Лаверов Н.П. проф., академик РАН (Россия)
Лупашку Ф. проф., корр.-мүшесі (Молдова)
Мохд Хасан Селамат проф. (Малайзия)
Мырхалықов Ж.У. проф., академик (Қазақстан)
Новак Изабелла проф. (Польша)
Огарь Н.П. проф., корр.-мүшесі (Қазақстан)
Полещук О.Х. проф. (Ресей)
Поняев А.И. проф. (Ресей)
Сагиян А.С. проф., академик (Армения)
Сатубалдин С.С. проф., академик (Қазақстан)
Таткеева Г.Г. проф., корр.-мүшесі (Қазақстан)
Умбетаев И. проф., академик (Қазақстан)
Хрипунов Г.С. проф. (Украина)
Юлдашбаев Ю.А. проф., РҒА корр.-мүшесі (Ресей)
Якубова М.М. проф., академик (Тәжікстан)

«Қазақстан Республикасы Ұлттық ғылым академиясының Хабаршысы».

ISSN 2518-1467 (Online),

ISSN 1991-3494 (Print)

Меншіктенуші: «Қазақстан Республикасының Ұлттық ғылым академиясы»РҚБ (Алматы қ.)

Қазақстан республикасының Мәдениет пен ақпарат министрлігінің Ақпарат және мұрағат комитетінде
01.06.2006 ж. берілген №5551-Ж мерзімдік басылым тіркеуіне қойылу туралы куәлік

Мерзімділігі: жылына 6 рет.

Тиражы: 2000 дана.

Редакцияның мекенжайы: 050010, Алматы қ., Шевченко көш., 28, 219 бөл., 220, тел.: 272-13-19, 272-13-18,
<http://www.bulletin-science.kz/index.php/en/>

© Қазақстан Республикасының Ұлттық ғылым академиясы, 2019

Типографияның мекенжайы: «Аруна» ЖК, Алматы қ., Муратбаева көш., 75.

Главный редактор
д. х. н., проф. академик НАН РК
М. Ж. Журинов

Редакционная коллегия:

Абиев Р.Ш. проф. (Россия)
Абишев М.Е. проф., член-корр. (Казахстан)
Аврамов К.В. проф. (Украина)
Апель Юрген проф. (Германия)
Баймуканов Д.А. проф., чл.-корр. (Казахстан)
Байтулин И.О. проф., академик (Казахстан)
Банас Иозеф проф. (Польша)
Берсимбаев Р.И. проф., академик (Казахстан)
Велесько С. проф. (Германия)
Велихов Е.П. проф., академик РАН (Россия)
Гашимзаде Ф. проф., академик (Азербайджан)
Гончарук В.В. проф., академик (Украина)
Давлетов А.Е. проф., чл.-корр. (Казахстан)
Джрбашян Р.Т. проф., академик (Армения)
Калимолдаев М.Н. академик (Казахстан), зам. гл. ред.
Лаверов Н.П. проф., академик РАН (Россия)
Лунашку Ф. проф., чл.-корр. (Молдова)
Моход Хасан Селамат проф. (Малайзия)
Мырхалыков Ж.У. проф., академик (Казахстан)
Новак Изабелла проф. (Польша)
Огарь Н.П. проф., чл.-корр. (Казахстан)
Полещук О.Х. проф. (Россия)
Поняев А.И. проф. (Россия)
Сагиян А.С. проф., академик (Армения)
Сатубалдин С.С. проф., академик (Казахстан)
Таткеева Г.Г. проф., чл.-корр. (Казахстан)
Умбетаев И. проф., академик (Казахстан)
Хрипунов Г.С. проф. (Украина)
Юлдашбаев Ю.А. проф., член-корр. РАН (Россия)
Якубова М.М. проф., академик (Таджикистан)

«Вестник Национальной академии наук Республики Казахстан».

ISSN 2518-1467 (Online),

ISSN 1991-3494 (Print)

Собственник: РОО «Национальная академия наук Республики Казахстан» (г. Алматы)

Свидетельство о постановке на учет периодического печатного издания в Комитете информации и архивов Министерства культуры и информации Республики Казахстан №5551-Ж, выданное 01.06.2006 г.

Периодичность: 6 раз в год

Тираж: 2000 экземпляров

Адрес редакции: 050010, г. Алматы, ул. Шевченко, 28, ком. 219, 220, тел. 272-13-19, 272-13-18.

www: nauka-nanrk.kz, bulletin-science.kz

© Национальная академия наук Республики Казахстан, 2019

Адрес типографии: ИП «Аруна», г. Алматы, ул. Муратбаева, 75

E d i t o r i n c h i e f

doctor of chemistry, professor, academician of NAS RK

M. Zh. Zhurinov

E d i t o r i a l b o a r d:

Abiyev R.Sh. prof. (Russia)
Abishev M.Ye. prof., corr. member. (Kazakhstan)
Avramov K.V. prof. (Ukraine)
Appel Jurgen, prof. (Germany)
Baimukanov D.A. prof., corr. member. (Kazakhstan)
Baitullin I.O. prof., academician (Kazakhstan)
Joseph Banas, prof. (Poland)
Bersimbayev R.I. prof., academician (Kazakhstan)
Velesco S., prof. (Germany)
Velikhov Ye.P. prof., academician of RAS (Russia)
Gashimzade F. prof., academician (Azerbaijan)
Goncharuk V.V. prof., academician (Ukraine)
Davletov A.Ye. prof., corr. member. (Kazakhstan)
Dzhrbashian R.T. prof., academician (Armenia)
Kalimoldayev M.N. prof., academician (Kazakhstan), deputy editor in chief
Laverov N.P. prof., academician of RAS (Russia)
Lupashku F. prof., corr. member. (Moldova)
Mohd Hassan Selamat, prof. (Malaysia)
Myrkhalykov Zh.U. prof., academician (Kazakhstan)
Nowak Isabella, prof. (Poland)
Ogar N.P. prof., corr. member. (Kazakhstan)
Poleshchuk O.Kh. prof. (Russia)
Ponyaev A.I. prof. (Russia)
Sagiyani A.S. prof., academician (Armenia)
Satubaldin S.S. prof., academician (Kazakhstan)
Tatkeyeva G.G. prof., corr. member. (Kazakhstan)
Umbetayev I. prof., academician (Kazakhstan)
Khripunov G.S. prof. (Ukraine)
Yuldashbayev Y.A., prof. corresponding member of RAS (Russia)
Yakubova M.M. prof., academician (Tadjikistan)

Bulletin of the National Academy of Sciences of the Republic of Kazakhstan.

ISSN 2518-1467 (Online),

ISSN 1991-3494 (Print)

Owner: RPA "National Academy of Sciences of the Republic of Kazakhstan" (Almaty)

The certificate of registration of a periodic printed publication in the Committee of Information and Archives of the Ministry of Culture and Information of the Republic of Kazakhstan N 5551-Ж, issued 01.06.2006

Periodicity: 6 times a year

Circulation: 2000 copies

Editorial address: 28, Shevchenko str., of. 219, 220, Almaty, 050010, tel. 272-13-19, 272-13-18,
<http://nauka-nanrk.kz/>, <http://bulletin-science.kz>

© National Academy of Sciences of the Republic of Kazakhstan, 2019

Address of printing house: ST "Aruna", 75, Muratbayev str, Almaty

D. B. Sergeev

Katanov Khakass State University, Abakan, Russia

APPLICATION OF THE TERM "SELF-GOVERNMENT": RUSSIAN, SOVIET AND YUGOSLAVIAN EXPERIENCE

Abstract. Research objective is the historical and legal research application of the term "local self-government" in the legislation of the Russian Empire, the Russian Soviet Federative Socialist Republic, the Union of Soviet Socialist Republics, the Russian Federation and the Socialist Federal Republic of Yugoslavia.

The content of legal history of local self-government in the Russian Empire, RSFSR, USSR, the Russian Federation and Yugoslavia (the provisions on the peasants who left serfdom of the Russian Emperor Alexander II 1861, The Decree of Soviet of People's Commissars of RSFSR about Establishment of the Commissariat on Self-government of 1917, Letter of the People's Commissariat for Internal Affairs of RSFSR "About the Organization of Self-government" 1917, Constitution of the USSR 1977, Law of the USSR of "About the General Principles of Self-government and Local Economy in the USSR" 1990, Constitution of RSFSR 1978, Constitution of the Russian Federation 1993, Constitution of the Socialist Federal Republic of Yugoslavia 1974 and Federal Laws of the Russian Federation "About the General Principles of Self-government in the Russian Federation" 1995 and 2003) and the works of legal scientists are studied using the historical legal method and synthesis.

It is noted that as the self-government is activity, not absolutely to call this institute the fundamental principle of the organization of society, state. More logical as a basis of the constitutional system to consider obligation of functioning and security of local government in this connection it is necessary updating of the Russian legislation.

Keywords: self-government; local government; zemstvo self-government; peasant self-government; local Soviets; noble self-government; Yugoslavian self-government; small city unit; small territorial unit.

Introduction. The local self-government is the level of the public power, closest to the population, and ensures harmonious functioning of local authorities and maximum vitality of local communities.

Methods. The content of legal history of self-government in the Russian Empire, the Russian Soviet Federative Socialist Republic, the Union of Soviet Socialist Republics, the Russian Federation and the Socialist Federal Republic of Yugoslavia (the Provisions on the Peasants Who Left Serfdom, the Decree of Soviet of People's Commissars of the RSFSR about Establishment of the Commissariat on Self-government, Constitution of the USSR 1977, Constitution of the Russian Federation 1993, Constitution of Yugoslavia 1974 and modern Russian federal laws) and the works of legal scientists using the historical legal method and synthesis are studied.

Results. The term "self-government" was used in Russia before the October revolution in various contexts. For example, regarding the organization of power in the annexed Finland, speaking about the "traditional order of self-government" [1], "peasant self-government" [2] was underlined, which was not part of the Zemstvo self-government. At the turn of XIX – XX centuries it acted since acts adopted in 1861 after the abolition of serfdom [3]. The program on peasants, emerged from serfdom, from December 19, 1861, assigned the status of public bodies of rural and township governance (village and parish gatherings, the mayor, the municipal officers "parish rule" and the peasant volost court, as well as other "necessary": a special tax collectors, custodians, grain stores, etc.) (Chapter 2, 3) [4], which is traditionally called «peasant self-government».

In addition to peasant self-government, noble self-government functioned autonomously from the Zemstvo self-government in the Russian Empire. Due to land reforms of the XIX century, noble self-

government was separated from local government. But representatives of this class played an important role in local government, holding positions in Zemstvo.

In this regard, comparing modern local self-government with the Zemstvo self-government, we must not forget that the latter was significantly different from the modern organization of local government. Also, the system of Zemstvo self-government extended to the level of provincial, equivalent to modern subjects of the Russian Federation, which is not observed in the current system of local self-government. The problem of fragmentation of the system of local authorities in the late XIX century - early XX century in the Russian Empire was very relevant and you can find many scientific papers published in this period on the creation of "small urban unit", that is, the urban district in which the population owns the affairs of local government [5]. A similar problem existed in rural areas, the question of the formation of a small Zemstvo unit was discussed, the argument against this was the judgment about the impossibility to eliminate class contradictions within the parish [6].

During the Soviet period of development of Russia was built a unified system of public authorities, including local. In December 1917, the Commissariat for local self-government was established "to unite the activities of all urban and Zemstvo institutions" [7], and in fact to eliminate these institutions. A few days later, a letter was issued by the People's Commissariat for Internal Affairs, according to which "all the former local authorities... volost government and others should be replaced by respectively the regional, provincial and district, district and parish councils of w.[orker], s[oldier], p[asant] and agricultural labourers' deputies" [8].

The Institute of local self-government was not recognized by Soviet ideologists and legislators, therefore, it was on the periphery of Soviet scientific research in relation to the territorial organization of local government in USSR until the 1990s. As noted by O. E. Kutafin, in the years of Soviet power, the concept of "local self-government" for a long time was strongly rejected as a product of the theory and practice of bourgeois municipalism. It was believed that the functions of each local Soviet, which is part of the system of state authorities of the country, are not limited to solving local issues and affairs. While each local Soviet combines the management of local affairs with participation in solving national problems, in the formation of the state will of the people [9]. A well-established point of view is the opposition of the modern period of the organization of local power in the Soviet period of development of the state [10].

Traditionally, in modern scientific and educational works in relation to the history of local self-government, Soviet works of the 1920s are mentioned, where "local self-government" was still mentioned in relation to Soviet reality, but with an emphasis on the class approach. For Example, L. A. Velikhov, noting that Marxist literature has little to do with the theory of state law and it does not meet the definitional formula of self-government, defined it from the point of view of Marxism as public administration of any range of local affairs, formed through the election of authorized persons from the ruling class of the local population [11]. Indeed, this scientist was one of the last to use such concepts as commune, community, municipality and municipalization [12].

Since the 1930s, the official Soviet doctrine prevailed, according to which, in the Soviet system, local government is not opposed to public authorities [13]. The state power as a whole became self-government, and local self-government became the state power [14]. As terms in the field of organization of local power began to be used such as "local bodies of government", "local Soviet", "executive committees", "workers" and "voters" [13].

In the 1960s, the issue of transition to Communist self-government was considered primarily from the point of view of the death of the state, development, change and transformation of its functions and bodies [15]. The problem of universal involvement of all people in management of public affairs was considered as a task of creation of Communist self-government. Communist public self-government had to be formed on the basis of Soviets, trade unions and collective farms, which will change accordingly and merge into a single organization of self-government [16]. As examples of reducing the "paid" state apparatus and its replacement by the public, the creation of public departments of trade, culture and other district executive committees, the introduction of the post of public police officer [17] were cited. Local self-government was also considered as an expression of the real sovereignty of the people, exercising control over the state and the affairs of society directly or as its representatives, provided that the people are the only source of power and the subject of state property (national heritage) [18].

In the late 1960s – early 1970-ies in the Socialist Federal Republic of Yugoslavia began to take shape "a holistic local government system of the united labour", which has attracted the attention of Soviet scientists in the 1980-ies [19]. In this period of time, such attention could only be on the social order of the Central Committee of the Communist Party of the Socialist Yugoslavia, from which it can be concluded that the study of the Yugoslav experience of self-government was considered by the leaders of USSR, at least as a way to assess the Soviet reality, and as a maximum - a model for the possible modernization of the Soviet social system. Therefore, the Yugoslav model of "socialist self-government" can be considered as one of the alternatives to the social development of Soviet society in the early 1980s, which was not in demand for the leaders of the USSR. In Yugoslavia, at that time, the concept of socialist "self-government" was based on "socialist self-governing industrial (or socio-economic) relations" [20]. In the "Basic principles" of the introductory section of the Constitution of the Socialist Federal Republic of Yugoslavia, it was stated that «the peoples of Yugoslavia ... have established ... the Socialist Federal Republic of Yugoslavia, in which ... they exercise and maintain ... socialist social relations based on the self-government of workers, and the protection of the socialist system of self-government» [21]. Since the Yugoslav model of socialist self-government was enshrined in the Constitution, and in the Soviet Union, a similar system in the case of its adoption would be enshrined in the Constitution, i.e. it is the subject of constitutional and legal research.

Yugoslav self-government in state-owned enterprises, was at that time much more developed than in the USSR. The self-government structure of the Yugoslav enterprise consisted of a working Council, an elected governing body with decisive powers; a Board elected by the working Council from among its members, which was its operational executive and subsidiary body. The Director, other executors and the administrative staff were executors of the will of the self-government bodies [19].

However, the term "self-government" appeared in Soviet legislation much later. The first Soviet law where the term "local self-government" appeared, was the Law of USSR "General Principles of Local Self-government and Local Economy in USSR" 1990, which established that this type of self-government is carried out within the boundaries of administrative-territorial units, and as the primary territorial level of local self-government - the village Soviet, the village (district), the city (district in the city) (PP. 2 and 3 art. 2). The Constitution of USSR 1977 (art. 145) the term "local self-government" was introduced later by the law of the USSR "On Amendments and Additions to the Constitution (Basic Law) of the USSR in Connection with the improvement of the System of Public Administration" 1990.

The Law of RSFSR "On Amendments and Additions to the Constitution (Basic Law) of RSFSR in Connection with the Reform of Local Self-Government" 1991 for the first time in the history of RSFSR in its Basic Law was introduced the term "local self-government": the name of the section VII of the Constitution of RSFSR 1978, "Local Bodies of State Power and Administration in the Russian Federation" was replaced by "Local Self-government in the RSFSR". In art. 138 of the Basic Law of RSFSR local self-government was positioned as carried out by the population in areas, cities, towns, rural settlements through local Soviets of people's deputies, governing bodies – local administration, local referendums, meetings (gatherings) of citizens, other territorial forms of direct democracy, as well as bodies of territorial public self-government of the population and ensuring independent solution of all issues of local importance by citizens through bodies elected by them or directly, implementation of decisions of higher bodies of state power adopted within their competence, based on the interests of the population, on the basis of material and financial resources assigned to self-government bodies. The same act was repealed art. 151 of the Constitution of the RSFSR of 1978 according to which departments and managements of executive committees submitted both to Soviets and their executive committees, and higher bodies of public administration.

Chapter 8 (section 1) of the Constitution of the Russian Federation 1993 is called "Local self-government", the content of this term was disclosed not by the Basic law, but by Federal Law of the Russian Federation "About the General Principles of Self-government in the Russian Federation" 1995 and law of 2003 of the same name.

Article 2 of the Law "About the General Principles of Self-government in the Russian Federation" 1995 established that local self-government in Russia is an independent activity of the population, recognized and guaranteed by the Constitution of the Russian Federation, and under its own responsibility, to resolve issues of local importance directly or through local self-government bodies based on the

interests of the population, its historical and other local traditions, and that local self-government as an expression of the power of the people is one of the foundations of the constitutional system of the Russian Federation. In art. 1 of the Law "About the General Principles of Self-government in the Russian Federation" 2003 local self-government is understood as one of the foundations of the constitutional system of Russia, which is recognized, guaranteed and implemented throughout the territory of the Russian Federation, as well as the form of exercise of power by the people, ensuring within the limits established by the Constitution of Russia, federal laws, and in cases established by this laws, – laws of subjects of the Russian Federation, independent and under the responsibility the decision by the population directly and (or) through local governments of questions of local value proceeding from interests of the population taking into account historical and other local traditions.

It should be noted that local self-government, if it is an activity, is not exactly called a fundamental principle. It is more logical as a basis of the constitutional system to consider the mandatory functioning and guarantee of local self-government in the Russian Federation. In this regard, it is necessary to adjust the text of part 1 of article 1 of the Law "About the General Principles of Self-government in the Russian Federation" 2003, in which local self-government is declared one of the foundations of the constitutional system of Russia.

Д. Б. Сергеев

Н. Ф. Катанов атындағы Хакас мемлекеттік университет, Абакан, Ресей

«ӨЗІН-ӨЗІ БАСҚАРУ» ТЕРМИНІН ҚОЛДАНУ: РЕСЕЙЛІК, КЕҢЕСТІК ЖӘНЕ ЮГОСЛАВИЯЛЫҚ ТӘЖІРИБЕ

Аннотация. Зерттеудің мақсаты – Ресей империясы, Ресей Кеңес Федеративті Социалистік Республикасы, Кеңестік Социалистік Республикалар Одағы, Ресей Федерациясы және Югославия Социалистік Федеративті Республикасының заңнамасында «жергілікті өзін-өзі басқару» терминін пайдаланудың тарихи-құқықтық зерттеуі.

РКФСР, КСРО, Ресей Федерациясы және Югославиядағы жергілікті өзін-өзі басқару тарихының құқықтық аспектілері тарихи-құқықтық әдіс пен синтездеу әдісімен зерттелді (1861 ж. Ресей императоры II Александрдың басыбайлы құқықтан шыққан шаруалар туралы ережесі; 1917 жылғы РКФСР Халық Комиссариаты Кеңесінің Жергілікті өзін-өзі басқару Комиссариатының қаулысы; РКФСР-дың Ішкі Істер Халық Комиссарының «Жергілікті өзін-өзі басқару ұйымы туралы» 1917 жылғы хаты, КСРО-ның 1977 жылғы Конституциясы, «Жергілікті өзін-өзі басқарудың жалпы принциптері туралы» Заңы, 1978 ж. РКФСР Конституциясы, 1993 ж. Ресей Федерациясының Конституциясы, Югославия Социалистік Федерациясының 1974 жылғы Конституциясы және Ресей Федерациясындағы «Жергілікті өзін-өзі басқарудың жалпы принциптері туралы» Федералдық заңдары (1995 және 2003 жж.) және заңгер-ғалымдардың еңбектері.

Мақалада жергілікті өзін-өзі басқару жеке қызмет болғандықтан, бұл мекемені қоғамды немесе мемлекетті ұйымдастырудың іргелі қағидаты деп атауға болмайтындығы айтылады. Конституциялық тәртіптің негізі ретінде жергілікті өзін-өзі басқарудың жұмыс істеуі мен кепілдігі туралы міндеттемені қарау дұрысырақ, сондықтан Ресей заңнамасын түзету қажет.

Түйін сөздер: өзін-өзі басқару; жергілікті үкімет; Земство өзін-өзі басқару; шаруа өзін-өзі басқару; жергілікті кеңестер; ақсүйектер; Югославияның өзін-өзі басқару; шағын қалалық бөлімше; шағын земство бөлімшесі.

Д. Б. Сергеев

Хакасский государственный университет им. Н. Ф. Катанова, Абакан, Россия

ПРИМЕНЕНИЕ ТЕРМИНА «САМОУПРАВЛЕНИЕ»: РОССИЙСКИЙ, СОВЕТСКИЙ И ЮГОСЛАВСКИЙ ОПЫТ

Аннотация. Целью исследования является историко-правовое исследование применение термина «местное самоуправление» в законодательстве Российской империи, Российской Советской Федеративной Социалистической Республики, Союза Советских Социалистических Республик, Российской Федерации и Социалистической Федеративной Республики Югославия.

С применением историко-правового метода и синтеза исследованы правовые аспекты истории местного самоуправления в Российской империи, РСФСР, СССР, Российской Федерации и Югославии (Положение

Российского Императора Александра II о крестьянах, вышедших из крепостной зависимости, 1861 г.; Декрет Совета Народных Комиссаров РСФСР об учреждении Комиссариата по местному самоуправлению 1917 г.; Письмо Народного комиссариата внутренних дел РСФСР «Об организации местного самоуправления» 1917 г.; Конституция СССР 1977 г.; Закон СССР «Об общих началах местного самоуправления и местного хозяйства в СССР»; Конституция РСФСР 1978 г.; Конституция РФ 1993 г.; Конституция Социалистической Федеративной Республики Югославия 1974 г. и Федеральные законы «Об общих принципах местного самоуправления в Российской Федерации» 1995 и 2003 гг.) и труды ученых-юристов.

В статье отмечается, что поскольку местное самоуправление является деятельностью, то не совсем называть данный институт основополагающим принципом организации общества, государства. Логичнее в качестве основы конституционного строя рассматривать обязательность функционирования и гарантированность местного самоуправления, в связи с чем необходим корректировка российского законодательства.

Ключевые слова: самоуправление; местное самоуправление; земское самоуправление; крестьянское самоуправление; местные советы; дворянское самоуправление; югославское самоуправление; мелкая городская единица; мелкая земская единица.

Information about author:

Sergeev D.B., Cand. Jurid. Sci., Associate Professor, Department of State Law, Institute of History and Law, N. F. Katanov Khakass State University, Russia; <https://orcid.org/0000-0002-6120-3093>

REFERENCES

- [1] Zinovyev A.V., Utkin N.I. (2000). Relationship of the Russian Empire with the Grand duchy Finnish: historical and legal analysis and present // Magazine «Jurisprudence», 2: 73-82. (In Rus.).
- [2] Zaytsev K.I. (1912). Sketches of history of self-government of the state peasants. Polytechnical institute of the emperor Peter the Great, St. Petersburg. (In Rus.).
- [3] Vinogradov M.A. (2009). Country self-government in Russia 1889-1914: Cand. Hist. Sci. diss, Moscow state pedagogical university. (In Rus.).
- [4] The provision on the peasants who left serfdom of February 19, 1861. In: Complete collection of the legislation of the Russian Empire. Meeting 2. Vol. 36. P. 1. Printing house of the Second office of Office of Its Imperial Majesty. St. Petersburg.
- [5] Durdenevsky V.N. (1917). Small city unit. Publisher D. Ya. Makovsky, Moscow. (In Rus.).
- [6] Scherbakova N.V., Egorova E.S. (1996). Local government in Russia: theory and practice. Publishing house of the Yaroslavl university, Yaroslavl. (In Rus.).
- [7] The Decree of Soviet of People's Commissars of the Russian Soviet Federative Socialist Republic from 18 (31) on December, 1917 about establishment of the Commissariat on Local Government (Article No. 153) // Newspaper of Temporary Worker and Country Government. 12/19/1917.
- [8] The Letter of People's Commissariat for Internal Affairs of the Russian Soviet Federative Socialist Republic of December 24, 1917 (on January 6, 1918) "About the Organization of Local Government" http://www.libussr.ru/doc_ussr/ussr_131.htm.
- [9] Kutafin O.E. (2008). Russian constitutionalism. Norma, Moscow. ISBN: 978-5-468-00222-3. (In Rus.).
- [10] Yemelyanov N.A. (1997). Local government in Russia: genesis and trends of development. Publishing house «TIGIMUS», Tula. ISBN 5-89607-002-0. (In Rus.).
- [11] Velikhov L.A. (1996). Bases of municipal economy. Publishing house «Science», Moscow. ISBN 5-02-012303-X. (In Rus.).
- [12] Velikhov L.A. (1926). Experience of the municipal program. Materials for the academic course and long-term plans of municipal economy. State publishing house, Moscow, Leningrad. (In Rus.).
- [13] Vyshinsky A.Ya. (1938). Soviet state law: studies for law institutes. Institute of Law of Academy of Sciences of the USSR, Legal publishing house of National Commissariat of Justice of the USSR, Moscow. (In Rus.).
- [14] Kaganovich L.M. (1923). Local Soviet government: construction of the Soviet local authorities. Publishing house «Krasnaya nov», Moscow. (In Rus.).
- [15] Karapetyan L., Razin V. (1964). Soviets of the public state. Publishing house of political literature, Moscow. (In Rus.).
- [16] Lesnoy V.M. (1964). State, law and communism. Publishing house of the Moscow university, Moscow. (In Rus.).
- [17] Kerimov D.A. (1963). People and state. Without publishing house, Leningrad. (In Rus.).
- [18] Pertsik V.A. (1963). Problems of local government in the USSR. In: Review of the Zhdanov Irkutsk state university. Legal series. Vol. 32. Rel. 6. P. 2. (In Rus.).
- [19] Kendel P.E. (1980). The Yugoslavian self-government in practice: scientific analytical review. Institute of scientific information on social sciences of Academy of Sciences of the USSR, Moscow. (In Rus.).
- [20] Knyazev Yu.K. [etc.] (1980). The Yugoslavian self-government at the present stage (the analysis of the theory and practice): scientific report. P. 1. Institute of economy of a world socialist system of Academy of Sciences of the USSR, Moscow. (In Rus.).
- [21] Constitution of the Socialist Federal Republic of Yugoslavia 1974 <http://worldconstitutions.ru/?p=781> (In Rus.).

**Publication Ethics and Publication Malpractice
in the journals of the National Academy of Sciences of the Republic of Kazakhstan**

For information on Ethics in publishing and Ethical guidelines for journal publication see <http://www.elsevier.com/publishingethics> and <http://www.elsevier.com/journal-authors/ethics>.

Submission of an article to the National Academy of Sciences of the Republic of Kazakhstan implies that the described work has not been published previously (except in the form of an abstract or as part of a published lecture or academic thesis or as an electronic preprint, see <http://www.elsevier.com/postingpolicy>), that it is not under consideration for publication elsewhere, that its publication is approved by all authors and tacitly or explicitly by the responsible authorities where the work was carried out, and that, if accepted, it will not be published elsewhere in the same form, in English or in any other language, including electronically without the written consent of the copyright-holder. In particular, translations into English of papers already published in another language are not accepted.

No other forms of scientific misconduct are allowed, such as plagiarism, falsification, fraudulent data, incorrect interpretation of other works, incorrect citations, etc. The National Academy of Sciences of the Republic of Kazakhstan follows the Code of Conduct of the Committee on Publication Ethics (COPE), and follows the COPE Flowcharts for Resolving Cases of Suspected Misconduct (http://publicationethics.org/files/u2/New_Code.pdf). To verify originality, your article may be checked by the Cross Check originality detection service <http://www.elsevier.com/editors/plagdetect>.

The authors are obliged to participate in peer review process and be ready to provide corrections, clarifications, retractions and apologies when needed. All authors of a paper should have significantly contributed to the research.

The reviewers should provide objective judgments and should point out relevant published works which are not yet cited. Reviewed articles should be treated confidentially. The reviewers will be chosen in such a way that there is no conflict of interests with respect to the research, the authors and/or the research funders.

The editors have complete responsibility and authority to reject or accept a paper, and they will only accept a paper when reasonably certain. They will preserve anonymity of reviewers and promote publication of corrections, clarifications, retractions and apologies when needed. The acceptance of a paper automatically implies the copyright transfer to the National Academy of Sciences of the Republic of Kazakhstan.

The Editorial Board of the National Academy of Sciences of the Republic of Kazakhstan will monitor and safeguard publishing ethics.

Правила оформления статьи для публикации в журнале смотреть на сайте:

www.nauka-nanrk.kz

ISSN 2518-1467 (Online), ISSN 1991-3494 (Print)

<http://www.bulletin-science.kz/index.php/en/>

Редакторы *М. С. Ахметова, Т. М. Апендиев, Д. С. Аленов*
Верстка на компьютере *Д. Н. Калкабековой*

Подписано в печать 11.02.2019.
Формат 60x881/8. Бумага офсетная. Печать – ризограф.
19,2 п.л. Тираж 500. Заказ 1.