THE CONCEPT AND SIGNS OF PUBLIC CONTROL OF POWER IN THE RUSSIAN FEDERATION, AS WELL AS ITS RELATIONSHIP WITH OTHER FORMS OF CONTROL OF POWER: CONSTITUTIONAL ANALYSIS
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ABSTRACT
This article is devoted to the constitutional and legal analysis of the concept and signs of public control of power, as well as its relationship with other forms of control of power. We affirm that the analysis of the concept of “public control of power” in constitutional law, the study of its features and its place in the system of other forms of control of power, will allow us to identify specific priorities for ensuring the exercise of the right of citizens of the Russian Federation to exercise public control.

Keywords: Public control. Constitutional and legal aspects. Russian Federation. Public Chamber.

O CONCEITO E OS SÍMBOLOS DO CONTROLE PÚBLICO DO PODER NA FEDERAÇÃO RUSA, BEM COMO SUA RELAÇÃO COM OUTRAS FORMAS DE CONTROLE DO PODER: ANÁLISE CONSTITUCIONAL

EL CONCEPTO Y LOS SIGNOS DEL CONTROL PÚBLICO DEL PODER EN LA FEDERACIÓN DE RUSIA, ASÍ COMO SU RELACIÓN CON OTRAS FORMAS DE CONTROL DEL PODER: ANÁLISIS CONSTITUCIONAL

RESUMO
Este artigo se dedica à análise constitucional e jurídica do conceito e dos sinais de controle público do poder, bem como sua relação com outras formas de controle do poder. Afirmamos que a análise do conceito de “controle público do poder” no direito constitucional, o estudo de suas características e seu lugar no sistema de outras formas de controle do poder, nos permitirá identificar prioridades específicas para garantir o exercício do poder do direito dos cidadãos da Federação Russa de exercer o controle público.


RESUMEN
Este artículo está dedicado al análisis constitucional y legal del concepto y signos del control público del poder, así como su relación con otras formas de control del poder. Afirmamos que el análisis del concepto de “control público del poder” en el derecho constitucional, el estudio de sus características y su lugar en el sistema de otras formas de control del poder, permitirá identificar prioridades específicas para asegurar el ejercicio del poder del derecho de los ciudadanos de la Federación de Rusia a ejercer el control público.


INTRODUCTION
Public control as one of the most important civil society institutions in the Russian Federation is widely analyzed in the scientific works of O.V. Pishchulin, V.V. Grib, L.Yu. Grudtsyna, D.S. Mikheev, G.N. Chebotaryov, V.E. Chirkin, S.A. Avakyan, A.A. Uvarov, A.I. Lapshina and several other authors. These works provide the basis for the analysis of the theoretical content of the institution of public control in relation to its social essence. However, the share of research devoted to the study of the place of public control of power in the system of other forms of control of power in the Russian Federation is extremely small. In this regard, the main purpose of this research is a comprehensive constitutional and legal study of the concept and signs of public control of power, as well as its place in the system of other forms of control of power in the Russian Federation, in order to expand and clarify the conceptual and categorical apparatus of the science of constitutional law in the field of public control, having formed a holistic concept of public control, and the subject of research is the regulatory framework of public control, as well as scientific poisons the notion of “public oversight authority” as a constitutional and legal category, as well as its relation to other forms of government control.
METHODOLOGY
This article in the process of cognition of state-legal 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.) [ZALESNY, GONCHAROV, 2019: 129-142; ZALESNY, GONCHAROV, 2020: 1-6].

RESULTS
Consider the concept of public control of power, comparing it with the concepts of social control of power, civil control of power, public control of power, state control of power (both in terms of which can be considered public control of power, and in terms of self-control of the state mechanism - internal control of power), determining the ratio of these concepts in terms of volume and time. A number of authors believe that, among the aforementioned forms of control of power, the most common and broad concept is public control. So, in particular, A.I. Lapshina draws the following conclusion: “People’s control is a broader concept than public control, and the latter is a variation of it” (2014: 147).

It seems that this point of view is not unfounded and is supported by more than seventy years of experience in the existence of the Institute of Public Control in the USSR (RSFSR), by which, in particular, the USSR Law “On Public Control in the USSR” dated 30.11.1979 № 1159-x understood the combination of “state control with public control of workers at enterprises, on collective farms, institutions and organizations” (About, 1979). Moreover, the Last Constitution of the USSR dated 07.10.1977 directly established in Article 2 the fact that all power in the USSR belongs to the people (CONSTITUTION, 1977). And, therefore, the people have the right to exercise their control both through the activities of specially authorized state bodies (state control) and the public control of workers at enterprises, collective farms, institutions and organizations. Moreover, the attribution of state and public control of power to separate forms of public control also removes the debate about the possibility of the participation of the state (its individual officials) in the formation and functioning of modern public control bodies in the Russian Federation [in particular, the Public Chamber of the Russian Federation, public chambers of the subjects of Russian Federation, public chambers of municipalities]. In this regard, E.A. Ogneva rightly notes:

Thus, public control, in its main characteristics, acts as a kind of connecting link between the people and the authorities in its institutional embodiment - government bodies and their officials and, ultimately, represents the most important tool for citizens to influence the authorities on decisions, promoting the free exercise by the people of their power in full accordance with their sovereign will and fundamental interests (2015: 39).

It seems that under people's control of the government should be understood the aggregate activities of state authorities and local self-government, authorized by the current legislation to exercise state (municipal) control, as well as the activities of representatives of the people and their associations to control public authorities and local self-government, as well as authorized legal entities and individuals who are endowed with the current legislation with a specific set of powerful full power, carried out by them independently, or together with state authorities and local self-government, or on their behalf and (or) on their behalf. At the same time, this activity should be carried out in the forms, methods and limits established by applicable law. Civil control of power, in turn, is identified by a number of authors with public control. So, according to A.I. Lapshina:

The characteristics of the forms of society's control over the activities of public authorities allow us to judge public control and civil control as equivalent concepts, which mean the activities of public associations, non-governmental organizations, consultative and advisory public bodies, other civil society institutions and directly citizens improvement of public administration, elimination of identified violations, including by establishing appropriate that the activities of state bodies, their results with regulatory requirements, as well as the goals and objectives of the activities of state bodies (2014: 147-148).

However, this view is controversial for several reasons:

- Firstly, the concept of society is much broader than the concept of citizenship, as the country's population is not only its citizens, but also foreign citizens temporarily or permanently residing in the territory of the state, as well as stateless persons. Moreover, the Constitution of the Russian Federation
in Article 17 recognizes and guarantees the rights and freedoms of man and citizen in accordance with generally recognized principles and norms of international law.

- Secondly, the emphasis of a number of supporters of this approach on civil society institutions (GRIB, 2011; GRUDTSyna, 2009) is more likely due to the desire to form in the Russian Federation full-fledged forms of association of citizens to protect their rights, freedoms and legitimate interests and the creation of additional mechanisms that would avoid arbitrary arbitrariness and corruption of officials, to ensure the uninterrupted operation of the state apparatus and the activities of local authorities, rather than reducing the volume of public control of power to the activities of civil society institutions to control the state mechanism. Thirdly, a full civilian control of power in the state is possible, according to some authors, only if there is an established legal tradition of citizen participation in the control of public power mechanisms (Reznikov, 2015: 81-85; Davtyan, 2014: 23-27), as well as a high level of legal culture of citizens.

At the same time, some scientists distinguish personal civilian control as one of the varieties of public control when such activities are carried out by a separate representative of society (Lapshina, 2014: 148). It seems that under civilian control of the government we should understand the activities of civil society institutions to control the power of government bodies and local self-government in order to ensure their formation and functioning in accordance with the norms and principles of current legislation, as well as protect the rights, freedoms and legitimate interests of citizens. Regarding the relationship between the concepts of social and social control of power in modern scientific and educational literature, there are several points of view. A number of authors attribute social control of power to a form of social control of power (Ryabko, 1995: 8). For example, A.I. Lapshina believes: “The functions of public control indicate that it is a kind of social control that affects human behavior in order to eliminate its deviations from generally accepted norms” (2014: 148). Other scientists, on the contrary, identify the concepts of social and social control, believing that in a post-modern society, social control of power is a necessary function of society to ensure its preservation and development (ChestnOv, 2016: 31-38). Some authors reduce the social control of power to state control (self-control) of power, which allows, on the one hand, to smooth out the contradictions between society and public power, and on the other hand, to adapt its activities to constantly changing moods in society. So, S.I. Nosov notes:

Control in social management systems is a type of activity in the process of which the subjects of power receive information on the actual state of affairs and on the implementation of decisions. Control reveals the ratio of actual and due. It is necessary to improve executive discipline, job evaluation, and prevent unwanted consequences (2007: 20).

However, despite the fact that the concepts of “community of people” and “social community” are generic in relation to the concept of “society,” the latter does not come down to the concept of social community, since it is more significant in scope and involves the use of the entire system of social mechanisms of own reproduction and development, and not just literal biological reproduction of the population in the future. In this regard, it seems that the concept of public control of power is much broader in scope than the concept of social control of power, the main purpose of which is to ensure the preservation and development of the country's population in a narrow biological sense. The concept of state control of power, in turn, is also ambiguously interpreted by learned lawyers and practitioners. A number of authors consider state control of power as an internal control of power in the state mechanism (in fact, self-control of power) (TsibulevskyA, Milusheva, 2008: 28-33). Indeed, within each of the branches and levels of government, higher bodies of state power and local self-government have the authority to control the organization and activities of lower bodies of public power. In addition, the authorities of each of the branches of government have the authority to control the formation and functioning of other branches of government.

This whole system of mutual control powers forms a system of checks and balances that impede the concentration of power (or its usurpation) in the hands of a separate public authority or its official. Some scientists believe that state control of power is a combination of two forms of control of the power of public authorities: internal self-control and public control of the government, clothed in constitutional and legislative forms (PoleshchuK, 2011: 182-186). However, it seems that the second form of the mentioned state control of power, in fact, is not public control, but represents one of the mechanisms of internal state self-control of power with the participation of representatives of civil society. According to other authors, any form of control of public authority in a country is a state control of power, so its real mechanism of implementation is possible only in legislatively provided forms and methods mediated by actions of state authorities (President of the Russian Federation, Constitutional Court of Russia, etc.) (Bondar, 2009: 217).
However, this point of view is unfounded, since the restriction of the mechanism of control over the power of public authorities by the forms of their internal (state) control (self-control) essentially means, on the one hand, recognition of the lack of independent control of power as such, and, on the other hand, elimination of people as the only sovereign source of power in the country from its real implementation. It seems that under state control of power it should be understood the form of its internal self-control, in which mutual control of power by all levels and branches of the state and municipal mechanisms is carried out with the aim of creating a mechanism of checks and balances and preventing the misappropriation of power or usurpation of power in the country by individual public authorities and (or) their officials.

In modern educational and scientific literature, there are several approaches to the definition of the concept of public control of power: 1) as a form of control over state power, the implementation of which is possible only indirectly through the activity of the state mechanism itself (BONDAR, 2009: 217; GRIB, 2010: 32-40); 2) as the main form of control of power in the country (ANDREEVA, TRUKHINA, 2017: 214-222; ARUTYUNYAN, 2011); 3) as the only real form of control of power in the state (OGNEVA, 2015: 36-39; GONCHAROV, KOVALEVA, 2009: 72-75); 4) as a form of realization by citizens and their public associations of their rights, freedoms and legitimate interests (GASANOVA, LINEV, 2014: 23-26; ARBUZLOVA, 2014: 126-131); 5) as a function of managing society and the state (ADAMSKI, AVERKINA, 2017: 111-115); 6) as a mechanism for the interaction of public authority and society (OLEFIROV, 2014: 47-50). According to supporters of the first approach, public control of power, although it is an independent form, but its implementation is possible only indirectly through the activities of the state mechanism. So, according to N.Yu. Cooper:

"Public control, implemented in an organized and purposeful manner within the framework of the political and legal system, through the state mechanism, allows us to resolve problems between citizens and the state in a completely civilized way by using channels of interaction and mutual responsibility defined by law. Such control is the most important condition for the implementation of the principle of democracy proclaimed by the Constitution of the Russian Federation. If there is no public control over the mechanism of state power, then there will never be real democracy. Therefore, in modern conditions, along with state control, a significant place should be given to the social form of control (BONDAR, 2009: 217)."

However, it is difficult to agree with this position for a number of reasons:

- Firstly, by virtue of Article 3 of the Constitution of the Russian Federation, the people are the only sovereign source of power in the country, delegating their powers to state authorities and local self-government. And the fulfillment by public authorities of their duties in the interests of the majority of the population is impossible without an independent, effective, independent mechanism of public control over delegated powers. Moreover, this mechanism should not be mediated by the activities of the controlled authorities themselves. Otherwise, such control turns into a fiction, and uncontrolled power tends to concentrate in the hands of individual government bodies and their officials by appropriating power or usurping them in the interests of narrow groups of the population. In this regard, N.M. Dobrynin rightly believes:

"Only institutions accepted by society can guarantee stability. The president of the country cannot be the guarantor of stability, he, according to the Constitution, is the guarantor of public institutions. In other cases, the realities of current public life will be in constant conflict, in particular, with Part 4 of Article 3 of the Constitution, according to which no one can usurp power in the Russian Federation (2006: 87)."

- Secondly, without the absence of an independent and uncontrolled state apparatus of the system of public control of power, government bodies and local self-government in any country are subject to corruption and are not effective in their activities. As A. Filimonov notes:

"The main task of any democratic state is to ensure constitutional rights and freedoms of man and citizen. At the same time, the authorities cannot conscientiously and effectively fulfill their duties in the absence of feedback and control form their "employer"- the society. The authorities, like any employee, need to clearly set the task, follow the process and the results of its activities. Uncontrolled power is susceptible to corruption, works irrationally and abuses instruments of coercion. "Public control is just that mechanism that allows society to control power, both at the stage of adoption and at the stage of implementing decisions and evaluating the result" (FILIMONOV, 2020)."
Thus, the people through the mechanism of independent public control of power not only controls the prevention of the appropriation and usurpation of power belonging to them, but also evaluates the quality of their implementation in the framework of the activities of public authorities. According to supporters of the second approach, public control of power is only one form of control of power, along with state, social and civil control of power. At the same time, a number of authors believe that only with the creation of the Public Chamber of the Russian Federation in Russia and the formation of a public control system of power did a vector emerge to recognize public control as the main form of control over public authorities (Shleneva, 2015: 85-99). However, it seems that it is public control of power that is the most comprehensive external form of control over power delegated by the people. Of great interest is the point of view of the authors relating public control of power to the form of exercise by citizens and their public associations of their rights, freedoms and legitimate interests (Gasanova, Linev, 2014: 23-26; Arbuzeva, 2014: 126-131).

However, it seems that the public control of power acts as a mechanism that guarantees the exercise by citizens and their public associations of their rights, freedoms and legitimate interests through the activities of public authorities, and not a form of such implementation. Consideration by a number of authors of public control of power as a function of managing society and the state (Adamski, Averkina, 2017: 111-115) means that the people (society) through the mechanism of public control governs both itself and the apparatus of public authority to which it delegates authority. There is a tautology and a logical mistake, since it is not the people who govern the state, but the state mechanism that regulates the totality of social relations within the framework of the powers stipulated by the current legislation. At the same time, the people exercise their power indirectly through the activities of state authorities and local self-government, and the mechanism of public control of power acts as a guarantee, on the one hand of the legality of the exercise of power by public authorities, and on the other, of the exercise of rights, freedoms and legitimate interests of citizens. The point of view of a number of authors on the public control of power as a mechanism of interaction between public authority and society (Olefirov, 2014: 47-50) is not unfounded. However, it should be borne in mind that the relationship between public authorities (local self-government) and the people is a “principal-agent” relationship in which public authorities are deprived of sovereignty and are completely controlled by the people. In this regard, N.M. Dobrynin rightly notes:

In accordance with Article 3 of the Constitution, the principal people are in agent relations with the authorities and their representatives. He transfers to them as resources part of his authority and funds accumulated in the form of tax revenues. The fact that the people and the authorities are in agent relations leads to an important conclusion: no control bodies formed by the authorities and existing on budget money are part of these agent relations! Only public control over power is such and can contribute to the effective achievement of public goals, the implementation of which is entrusted by the people to the authorities” (Dobrynin, 2006: 86).

Thus, it is not a question of equal interaction between public authorities and the people, but about the latter’s control over the proper exercise of the authority delegated to him by both public authorities and other entities that exercise authority. In connection with the foregoing, it seems that public control acts as the only real positive form of control of power in the state, and is characterized by a number of signs:

- Firstly, public control of power is a set of public institutions, principles and norms, clothed in legal form by enshrining in the Basic Law of the country and current legislation.
- Secondly, this is an activity aimed at monitoring the formation and functioning of state authorities and local self-government, as well as the activities of authorized legal entities and individuals who are endowed by the current legislation with a specific set of authority exercised by them independently or jointly with state bodies of government and local government, either on their behalf and (or) on their behalf.
- Thirdly, the goal of public control of power is to ensure the realization of the rights, freedoms and legitimate interests of man and citizen, as well as to ensure the formation and functioning of public authorities in accordance with applicable law and to prevent the appropriation or usurpation of power by individual authorities and their official persons.
- Fourthly, public control of power is carried out through the unification of citizens and their coordination of their efforts.
- Fifthly, participation in the implementation of public control is voluntary.
Sixthly, participation in the implementation of public control implies its massive character, in which a significant part of citizens living in the territory of the state as a whole and in its individual territories takes part in public control of the government.

A number of authors emphasize, as signs of public control of power, ensuring a balance of interests of various public groups and guaranteeing the fulfillment of social norms by the state (OGNEVA, 2015: 90-93). However, it seems that determining priorities in realizing the interests of various political classes in society depends on which of the political classes dominates in society and controls the state apparatus, the interests of which it serves. The interests of the remaining classes are satisfied to the extent that this does not contradict the interests of the ruling political class and to the extent that it allows it. O.A. Okolesnova, in turn, notes that public control of the authorities also has signs of obligation (for objects of control) and information openness (of the control process itself) (2014: 9-10). However, the current legislation on public control in the Russian Federation often gives decisions of public control bodies an advisory and informational character, and transparency in the activities of government bodies is generally a generally recognized principle of their organization and activities (GONCHAROV, 2005: 4-11).

CONCLUSIONS

Thus, it seems that the public control of power is a set of principles, norms and public institutions vested in a legal form, which are associations of citizens whose mass and voluntary activities are aimed at monitoring the formation and functioning of state authorities and local self-government, as well as for the activities of authorized legal entities and individuals who are endowed by applicable law with a specific set of authority, implemented by them independently, or in conjunction with state and local authorities, or on their behalf and (or) on their behalf, in order to ensure the realization of the rights, freedoms and legitimate interests of a person and citizen, the formation and functioning of public authorities in accordance with the current legislation and preventing the appropriation of power or its usurpation by individual authorities and their officials. Public control of power is the main form of control of power exercised by the people in the Russian Federation, acting as a legal guarantee for the implementation, protection and protection of the constitutional principles of democracy and the participation of society in the management of state affairs.

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