

## **Municipal entities as subjects of municipal communication**

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### ***Abstract***

Local self-government in the Russian Federation is a constitutional law institution aimed at realization of a range of important functions, i.e. decentralization of power, democratization of control at the grassroots level of the government, protection of the civil rights. The functions of local self-government are implemented by means of regulatory, organizational, economical and other tools. Intermunicipal cooperation which among other things includes the sphere of international communication of municipal entities is one of the directions of implementation of the mentioned functions. The possibility to establish such cooperation is governed by the current Russian legislation and the international treaties between Russia and other countries as well as by statements of the international organizations which include the Russian Federation as a member. The practices exercised by the foreign countries in regard of near-border and other kinds of cooperation between municipal entities as well can serve as a source for other municipal entities in the course of organizing their own optimal interrelations. International communication should become a constituent of activity of municipal governments in different countries. The following research methods were used: legal historical, historical-comparative, system approach and formal-legal. There were demonstrated directions and forms of intermunicipal

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communication which would facilitate solution of the problems in various spheres of activity of municipal entities. There were also detected the peculiarities of Russian municipal entities as subjects of international communication experience of which may be used across the world.

Key words: municipal entities, international relations, treaties, intermunicipal cooperation, near-border cooperation.

### ***Introduction***

Municipal entities are not subjects of international law, they are not authorized to enter into international treaties and agreements nevertheless cooperation between local self-governments is possible at the level of communication anticipating potential contacts between for example business units functioning at the territory of any given municipal entity. The term “communication” (Latin communication from communico – communize, connect, communicate) is understood as a specific form of cooperation between people in the process of their cognitive and labor activity [1]. It is more incidental to relations in the sphere of language interaction but can also mean other interrelations characterized as free search by authorized persons of acceptable solutions aimed at achievement of socially and economically relevant results. Meetings, communication between representatives of municipal entities at various forums, congresses and conference venues anticipate the following more specific interaction within the framework of agreements concluded by the persons authorized to act in accordance with the national legislation.

The purpose of the work is determined by the necessity to identify possible forms and directions of cooperation between the municipal entities in the Russian Federation, the local self-governments and the municipal governments of foreign countries.

Implementation of the set tasks is achieved through analysis of the current legislation and other regulatory acts determining the fundamentals of activity of municipal entities in the sphere of international communication. The peculiarities of legal regulation of international communication performed by municipal

entities, local self-governments in the Russian Federation were studied as a part of the carried out investigation. The following forms of communication were considered as principal and were analyzed in the work: cooperation of the municipal entities of the Russian Federation with the international organizations through the intermediary of the United All-Russia Association of Municipal Entities, near-border cooperation between the municipal governments of neighboring countries within the framework of the Eurasian Economic Union. Their positive influence on socioeconomic and cultural development of municipal entities preconditions the necessity to promote organization of international cooperation on the part of the local authorities.

### ***Methods***

The legal historical research method was used in the course of analysis of development of the national legislation of the Russian Federation in the sphere of international communication between municipal entities.

The historical-comparative research method based on correlation of legal provisions regulating the right of municipal entities to cooperate with local self-governments of foreign countries as contained in the international legal acts, national and foreign legislation allowed to detect common and specific features in regulation of intermunicipal communication in the Russian Federation.

Use of the system approach allowed identifying the principal forms of intermunicipal communication.

The formal-legal method was used for determination of such notions as “near-border cooperation”, “international communication» etc.

### ***Discussion***

The Russian Federation is a part of international community and incurred a variety of obligations as determined by the international treaties. At the same time the said obligations can not be assumed in contravention of the Russian Constitution in force.

The RF Constitution does not determine the scope of members of international relations but has the following statement in Article 72, i.e. “exterior

policy and international relations of the Russian Federation, international treaties of the Russian Federation; ... foreign economical relations of the Russian Federation” fall within the jurisdiction of the Russian Federation. The constituents of the Russian Federation are authorized to establish international and foreign economical relations. This sphere of their activity is coordinated by the Russian Federation (Article 72, part 1, paragraph «o»).

The RF Constitution does not include local communities and local self-governments to the list of subjects having independent right to international and foreign economical relations. Some federal laws specify the possibility of participation of the local self-governments in the relations involving an international element. Federal Law No. 131-FZ of October 6, 2003 “On general principles of organization of local self-governments in the Russian Federation” mentions in the range of questions having local significance “realization of international and foreign economical relations” which is possible only in accordance with the federal laws [2]. Absence of the special regulatory act having reference to the foreign economic activity stimulates the RF constituents to regulate such relations independently. Notably that the courts often recognize such acts of the RF constituents as conflicting with the federal legislation [3, p.72 - 73].

Participation of the local self-governments in the process of intermunicipal cooperation is one of the possible ways of realization of international communication by the municipal entities. The Federal Law “On general principles of organization of local self-governments in the Russian Federation” formalizes the possibility of intermunicipal cooperation of the local self-governments exercised through interaction of the municipal entities. The forms of such interaction are established as follows: councils of municipal entities of the Russian Federation constituent, united all-Russia association of municipal entities.

For example one of the objectives of the United All-Russia Association of Municipal Entities (“OKMO” Association) is to organize cooperation between the Russian municipal entities and the interested international organizations and foreign legal entities. According to its Statute the Association is a non-commercial

organization founded by the councils (associations) of the municipal entities of the Russian Federation constituents [4]. It's worth noting that the legislation does not provide for the possibility to found several similar associations [5, p. 6]. OKMO has its representatives in the Congress of Local and Regional Authorities of the Council of Europe.

In 1996 Russia became a member of the Council of Europe (CE) and assumed the obligations conditioned by the necessity to ratify and execute a range of conventions. The European Charter of Local Self-Government adopted in 1985 is one of them [6].

Article 10 of the Charter confers the member states with the obligation to provide legislative regulations for the right of the local self-governments to join any international association of the local self-governments. The national law should establish the conditions of cooperation of the local self-governments of the given state with the local self-governments of other states.

It's obvious that such regulation should not prejudice the rights of municipal entities to cooperate with the local self-governments of other countries, should not contrapose interregional and international cooperation. In some countries regional regulation of intermunicipal communication has so many limitations that the investigators (F. De Rink, E. Weinberg) come to the following conclusion: the municipal entities in Belgium would rather cooperate with the municipal entities of neighboring countries than of other regions of the country [7, p. 16].

In the Russian Federation ratification of the European Charter of Local Self-Government was not accompanied by inclusion to the Federal Law of the limitations concerning exclusion of the municipal entities of any level from the sphere of effect of the Charter regulations. Nevertheless the Charter itself (Article 13) provides the possibility for a member state to exclude some categories of the local self-governments from the sphere of application of the Charter.

It should be pointed out that as of the moment of the Charter ratification there were no any strict classification of the local self-government levels in Russia. At the same time experience has shown that reformation of a local self-government

system may result in various transformations including establishment of the municipal entities belonging to different levels due to their de-merger. The variety of types of the municipal entities gives an opportunity both of their categorization and coverage (or non-coverage) by the rules of international laws. A state may exclude individual types of the municipal entities from the scope of regulation of the Charter. Such necessity may potentially arise when a system of municipal entities undergoes changes.

*Humanitarian communication.* Importance of near-border cooperation lies in the fact that such cooperation involves humanitarian sphere within the framework of which cultural and other types of communication are realized. This kind of cooperation facilitates better understanding of the problems being solved by the municipal entities of other countries, it also enables finding out efficient methods of solution of social tasks.

The aspects of near-border cooperation have rather high priority in Russia. Such cooperation relies on a considerable legal base which includes both the foreign framework legislative acts and the Russian legislation.

The European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities of May 21, 1980 [8] is aimed at creation of conditions for development of interaction between the local self-governments functioning at the territories adjoining a state boundary. The near-border cooperation is interpreted as (Article 2 of the Convention) any concerted actions intended to strengthening and promoting of good neighbourly relations between territorial communities or authorities which are under jurisdiction of different states as well as of agreements necessary for this purpose. Protocol No. 2 to the Outline Convention specifies the possibility to organize interterritorial cooperation [9].

A range of official documents are indicative of growing interest in near-border cooperation in Russia, for example the Concept of development of culture-related cooperation between the near-border territories of the Russian Federation

and the adjoining states for the period up to 2020 (as adopted by Order No. 807 of the Ministry of Culture of the Russian Federation on July 20, 2011) [10].

The Bayonne Agreement signed on March 10, 1995 and establishing cooperation between the Spanish near-border regions (the Basque Country, Navarre, Aragon and Catalonia) and the French ones (Aquitaine, the South Pyrenees and Languedoc- Roussillon) may be considered as an example of near-border cooperation. These communities may conclude agreements referring to various spheres, i.e. transport, communication lines, environment, education, municipal development etc. [11].

*Economic cooperation.* Interregional unions and associations of municipal entities, intermunicipal economic societies and non-commercial municipal organizations are the forms of intermunicipal communication in this case. Cooperation is implemented through conclusion of intermunicipal agreements and contracts which gained wide acceptance in Russia [12, p. 40].

After creation of the Eurasian Economic Union relations within the framework of economic cooperation became considerably simplified. The Agreement on the Eurasian Economic Union of 2014 declared the following purpose: pursuance of creation of a single market of commodities, services, funds and labor resources within the bounds of the Union [13].

The mentioned Agreement acknowledges that the local self-governments in the Russian Federation and the member states of the EAEU as well as in the third states may act as participants of foreign economical relations. For example the Protocol on use of special protective anti-dumping and countervailing measures towards the third states (Annex No. 8 to the Agreement on the Eurasian Economic Union) allows the local self-governments of the third states to participate in economic relations since such authorities may act as a “sponsoring body”. Paragraph 216 of the protocol states that the local self-governments on an equal basis with other entities (such as consumers, state authorities, representatives of public associations of consumers, other persons) may be members of the process

related to investigation of dumped or subsidized imports inflow from the third states and to application of countervailing measures.

### **Findings**

Cooperation of the municipal entities in the Russian Federation with the international organizations is realized through the United All-Russia Association of Municipal Entities.

In some municipal entities in the Russian Federation the number of inhabitants does not exceed 100 people. It is therefore difficult to assume that such municipal entities would practice international cooperation. The municipal entities founded at the near-border territories at the boundary of the Eurasian Economic Union member states as well as of other states may be an exemption.

Two following aspects should be taken into consideration in the course of implementation near-border cooperation programs: who can be a subject of such interaction and what is included into such communication.

After analyzing the scope of potential subjects of cooperation it is possible to draw a conclusion that such cooperation can be practicable between the authorities of public bodies of any level. However sometimes the task of expressing some public interest may be allotted to the bodies which are not public authority bodies in a strict sense. For example the bodies of territorial public self-government in Russia, “neighbor councils” in European countries. For example in some European countries neighbor councils are on rise but they are not local self-government bodies in the full sense of the word while they may be delegated with individual functions and powers from the municipal level to the “neighbor” level [14, p.131]. There occur submunicipal units which are aimed at rendering certain services to local inhabitants [15, p. 21].

The scope of the near-border cooperation covers mainly humanitarian sphere but can involve economic activity as well. The humanitarian sphere includes a wide range of issues solution of which does not require any complicated normative regulation although should be performed according to the national legal norms. Cultural communication should be considered as a part of humanitarian



cooperation realized under agreements concluded between the municipal entities of neighboring states.

The economic sphere goes beyond the scope of ordinary communication and involves a range of questions of financial and fiscal legislation. Joint activity in this sphere should be performed only within the framework of the national legislation. Moreover economic entities having the right to participate in economic relationships (having rights of a legal entity) as well as individuals may be subjects of such cooperation.

With the economic union of the states the procedure of communication between the municipal entities and the local self-governments in the economic sphere becomes much more simplified which is supported by unified customs regulation and common business practices. In such situation many problems connected with establishment of economic relationships in the course of intermunicipal cooperation are erased.

### **Conclusion**

Intermunicipal communication at the international level has high potential realization of which allows settlement of the problems of municipal entities development, economic reapproachment of peoples, cultural interaction at the level of inhabitants of urban and rural settlements. It facilitates growth of human capital importance, assimilation of cultural values, creation of favorable conditions for living, occurrence of prerequisites for enhanced economic development of the territories.

Mature national and regional legislation is a factor which motivates international cooperation between the local self-governments. On the one hand comprehensiveness of legal regulation sets the limits for possible behavior but on the other hand serves as a guarantee for the parties in their relationships that the public and judicial authorities will properly interpret general norms.

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