
CONSTITUTIONAL LAW, MUNICIPAL LAW

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CURRENT ISSUES OF IMPROVEMENT OF THE ACTIVITY OF REPRESENTATIVE BODIES OF POWER WHEN GIVING FREE LEGAL AID TO CITIZENS

SUMMARY. This article deals with the relevance of the work of deputies of representative bodies of state authorities with appeals by citizens, and emphasizes that although they are not members of the state system of free legal assistance established by Federal Law No. 324-FZ of November 21 2011 "On free legal aid in the Russian Federation", the deputies annually consider treatment of poor citizens, orphans or children left without parental care, and fire victims; that is, those to whom such assistance should be provided by participants of the state system of free legal aid.

The authors analyze in detail the legal institution of citizens' appeals to the bodies of state power and local self-government, and disclose its legal nature and significance to the science of constitutional law.

It is concluded that, in the implementation of legal aid, the work of deputies of the representative bodies of the authorities, counseling people on legal issues, is an integral part of the constitutional right of citizens to receive qualified legal assistance free of charge in accordance with the federal and regional laws.

This work is an important element of representative functions of a collegial body of public authority, also for the purpose of receiving information from citizens about the quality and disadvantages of legal aid by the state bodies and bodies of local self-government.

It contributes to strengthening the control of the citizens over the activities of state bodies and bodies of local self-government, and is an effective anti-corruption measure, as it is a means of information interaction between the population and public authorities.

KEY WORDS. Free legal aid, public institutions (government authorities), qualified aid, state functions, citizens.

The list of the state system of free legal aid providers, defined by Federal law No. 324-FZ of November 21 2011 "On free legal aid in the Russian Federation" [1] induces us to comprehend such activity on the part of representative bodies of state

authorities of Russian Federation Subjects and local authorities, as deputies work with the electorate by means of citizen consulting and dealing with their appeals.

Deputies annually consider the situation of poor citizens, orphans and children without parental care, fire victims, i.e. those who have a right to free legal aid*.

The current situation, according to the members of the Tyumen Regional Duma Council on the promotion of legal awareness and competence in the population, is caused by the fact that the population is insufficiently informed about the possibility to obtain free legal aid and the necessity to provide legislation enlarging the list of sorts of free legal aid [2].

The legal institution of citizens' requests being dealt with by state and local authorities is characterized by the versatile nature of law and constitutes an urgent research object in constitutional law [3;10], [4;54;8].

Firstly, since the right to seek legal aid is constitutional, reflecting the relations between the citizen and the state authorities, it possesses an utter, unlimited and inalienable character, constituting a basic part of the legal and constitutional status of a citizen of the Russian Federation.

Secondly, when citizens' applications are treated successfully, it means that not only their violated rights were protected, but also that drawbacks in the activity of state and local authorities' work were eliminated. Hence, citizens' opinions are really taken into account in administrative decisions. That is why a citizen's right to seek legal aid is of a political character. It constitutes one of the forms of freedom of speech and opinion, a concrete definition of the right to participation in state affairs, and is also part of the system of political rights and freedoms of a citizen.

Thirdly, seeking legal aid in the bodies of state and local authority is a necessary element of feedback from the citizens to these bodies, thus this right is an integral part of representative democracy.

Fourthly, citizens' applications to the state and local authority bodies constitute a part of the people's sovereignty, exercised as initiatives from citizens which are bound to be considered and assigned in socially significant matters. So, citizens' applications represent one of the institutions of direct democracy.

Thus, citizens' right to seek legal aid has important political and legal status. The practical implementation of this right influences the development of democracy, the consolidation of legal state fundamentals, the creation of a social atmosphere intended to involve every person in a creative process of economic and social reform and state administration. The citizen is granted a wide range of rights and freedoms. Sometimes he has to protect public authority, sometimes to oppose it, and, quite often, he needs patronage and protection.

* According to art.15 of Federal Law 324-F3 the participants of the state system of free legal aid are:
– federal executive bodies and their subordinate branches;
– executive bodies of the subjects of the Russian Federation and their subordinate branches;
– state extra-budgetary funds control bodies;
–state legal offices.

As professor Ju.A. Tikhomirov mentions, “citizens’ activity in the public-legal sphere is characterized by the execution of their rights and freedoms by means of self-actualization through the public institutions. As opposed to the norms of private law, granting a citizen the opportunity to fulfill his right on his own in the admitted legal forms, in this case, there are always bilateral relations. One of the parties is always a subject of the authorities, bound by law to assist in the implementation of rights and freedoms and to be a guarantor” [4; 133].

Article 13 of the Convention for the Protection of Human Rights and Fundamental Freedoms (signed in Rome 04.11.1950) [5], states that each person whose rights and freedoms under the Convention are violated has the right for an efficient means of legal protection in a state body, even if the violation was committed by officials. In practice, the right to seek legal aid can be considered in two senses.

In the first place, the right to seek legal aid is one of the efficient mechanisms of protection of citizens’ rights, freedoms and legal interests.

In the second place, this right is one of the forms of sovereignty of the people. A citizen, through motions, initiatives, etc., can participate in the process of decision-making on the state and local levels. Moreover, such activities can be considered as a form of a feedback of the public to the authorities.

All the applications, whether they are motions, petitions or complaints, are unified by one essential criterion: they contain socially significant information, even if they deal with personal matters such as property registration, gas supply or granting welfare.

Applications focusing on the socially important matters are of special legal interest. They touch upon the fundamental principles of our existence. Democratization of public life, the multi-party system, pluralism of opinion contribute to various interpretations of the same problem, that is why comparison of citizens’ viewpoints, their thorough analysis, reveals tendencies and biases among the public, their priorities and preferences, conclusions which can be used in the practical work of a representative body of a state or local authority.

The rights of a citizen to apply in person or collectively to the state and local authorities are stipulated in the Declaration of rights and freedoms of man and citizen dated 22 November 1991 [6], the Constitution of the Russian Federation (art. 33) [7], Federal law No.59-FZ of 02 May 2006 “On the order of consideration of applications by citizens of the Russian Federation”, and in the normative legal acts of the bodies of the state and local authorities.

Thus, for example, Tyumen Regional Duma deputies work with the electorate under the law of the Tyumen Region “On Deputy Status in the Tyumen Regional Duma” [9], the Resolution of the Tyumen Regional Duma (cl. 35, art. 217) [10], and other normative legal acts of the Tyumen Region.

The deputies of the Tyumen Regional Duma must liaise with the electorate through conducting meetings, preparing reports, informing citizens about the Tyumen regional Duma’s work and putting into practice the electoral mandate, as well as through dealing with citizens’ applications, consulting citizens and scrutinizing public opinion [11].

The research conducted reveals that the most typical motives for citizens to apply to the authorities are as follows:

- improper conduct of duty of service by officials of the state and local authorities;
- drawbacks in the work of state and municipal institutions;
- law violations in the work of state institutions, public associations and private enterprises;
- state and local authorities' neglect of the legal interests of citizens;
- lack of information about the work of the institutions providing state and municipal services;
- insufficient legal competence of the population;
- other.

The range of matters set forth in citizens' applications in the context of specific territories for the period from 15 December 2011 to 30 June 2012 is as follows (table [12]):

Matters issues according to the territory

Matters	Number of matters				
	The south of the Tyumen Region	KhMAO – Jugra	YaNAO	Other RF Subjects	No mail address
1	2	3	4	5	6
1. Matters of state, society, politics	238	110	25	3	-
2. Housing matters, including	752	551	161	4	1
- construction	315*	148*	89*	2*	1*
- demolition	97*	102*	21*	-	-
3. Municipal economy matters, including	799	203	44	1	1
- territory improvement	109*	42*	7*	1	1
- maintenance and repair of housing resources	173*	34*	8*	-	-
- granting welfare for housing repairs	306*	39*	1*	-	-
4. Matters of social welfare, including	1327	365	58	1	2
- measures of social support (compensation, benefits)	74	51	25	-	-
- granting welfare within social protection	1075*	189*	11*	1	1
5. Matters of labour and employment, including	386	184	66	1	-
- rewarding and awarding honorary titles	300*	69*	17*	-	-

1	2	3	4	5	6
6. Education matters, including	541	369	111	1	-
- material and technical resources of educational institutions	289*	251*	72*	-	-
7. Healthcare matters	215	219	23	-	-
8. Matters of youth policy, physical training and sport	122	130	19	-	-
9. Matters of science, culture and information, including	173	158	19	1	-
- material and technical provision of science, culture and information institutions	99*	108*	14*	-	-
10. Matters of financial, economic and entrepreneurial activity	257	69	12	2	-
11. Matters of law and order ensuring	156	61	13	3	1
12. Matters of AIC	51	2	2	1	-
13. Lawn-and-garden and country cooperative societies	32	7	1	-	-
14. Natural resources, ecology	9	6	1	-	-
15. Military service	15	2	2	-	-
16. Other	194	56	5	2	-
Total	5269	2492	562	20	5

*Percentage ratio is given based on the number of matters within the framework of the classifier block.

As is evident from the statistics of the analytical survey, social, economic, legal and other reforms conducted in the country affected the character of applications. The considerable number of applications to the deputies of Tyumen Regional Duma is connected with legal matters of social support caused by hard personal circumstances. Citizens are also concerned with such matters as: prolongation of the federal “Housing” program, purchasing, building housing for newly married couples and families with many children, subsidy and loan granting.

Currently, among the issues raised by the applicants to the state and local authorities, one can mention social welfare, social protection, and employment.

Needless to say, such a situation induces us to search for new ways of treating oral and written applications by citizens, taking into account that a citizen’s activity in the public-legal sphere is characterized by the implementation of rights and freedoms through self-actualization via the public institutions.

When dealing with applications, a deputy:

- 1) ensures an impartial, comprehensive and timely consideration of the application, if necessary with the participation of the citizen who applied;
- 2) asks the relevant bodies about the documents and materials necessary for the treatment of the application;
- 3) takes appropriate measures, aimed at the protection of violated rights and freedoms of a citizen;
- 4) submits a written response to the essence of the application;
- 5) informs the citizen whether his application was sent to another body or official in accordance with their competence.

If any other questions arise, citizens are informed in written form via post, e-mail or fax.

At present, the deputies of legislative (representative) bodies of the state in the Subjects of the Russian Federation widely use technological innovations in their work, such as computer programs and data banks.

IT is used to draw up various reports on citizens' applications, to collect data on individual citizens (what matters he applied with, when, what responses he received) and to prepare analytical surveys of applications, for example, in a definite constituency. The information treated in this way is widely used when getting ready for meetings with citizens, the electorate, etc.

Thus, deputies' work with citizens' applications and their consulting on legal issues includes a number of essential components:

- 1) it is an important element of the representative function of collective bodies of state authority, aiming, *inter alia*, at obtaining information from citizens on the quality and drawbacks of its work;
- 2) it contributes to strengthen citizens' control with regard to state and local authority bodies, eliminating various drawbacks in their work, combatting corruption. It is the means of interaction between the population and power.
- 3) it is an integral element of citizens' right to free legal aid implementation.

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