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**POPULATION OF A MUNICIPALITY IN THE SYSTEM OF MUNICIPAL
PUBLIC AUTHORITY:
ORGANIZATIONAL AND LEGAL ASPECTS**

Dissertation summary
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5.1.2 - Public law (state law) sciences

Dissertation research rationale. Independence of the local governance proclaimed by the Constitution of the Russian Federation of 1993, along with structural isolation of the bodies of the local governance from other state authorities, made it possible for the Constitutional Court of the Russian Federation to single out state and municipal authorities within the common system of public authority in the Russian Federation. Despite being isolated in that way, the subjects of municipal and state authority remain within the framework of the common public authority system. This classification is reflected in Federal Law No. 394-FZ of 08.12.2020 On the State Council of the Russian Federation (hereinafter referred to as Federal Law No. 394-FZ)¹. This federal law, as well as amendments to the Constitution of the Russian Federation adopted in 2020, regulate only the functions and interaction between the authorities united by the common public authority system. Collective actors that make binding decisions (the people of the Russian Federation, the population of municipal structures) are not included in the common public authority system, which makes the nature of the power they exercise clear. Furthermore, the rapidly changing legal regulation in the local governance field makes it difficult to determine the status and properties of all subjects of the municipal authority, which makes their competence scope dependent on the state authorities' will. The role of the municipal governance institution (despite recognizing its importance for the country development) is underestimated neither theoretically nor practically.

In Russian legal science, the issues of implementation of the municipal public authority have repeatedly become the subject of dissertation research². At the same time, the research related to these issues touched upon various aspects of functioning of the local governance authorities and made no focus on studying organizational and legal aspects of the municipal power exercised by the population. The growing number of scientific

¹ Federal Law No. 394-FZ of 08.12.2020 On the State Council of the Russian Federation // Legislation Bulletin of the Russian Federation. 2020. No 50. P. 8039.

² Nedokusheva L.N. Municipal authority: Legal problems of theory and practice: dissertation ... Cand.Sci.Jus. Yekaterinburg, 1999. P. 174; Chernova O.V. Legal and organizational basis of direct democracy in forming state and municipal authorities in Moscow: dissertation ... Cand.Sci.Jus. Moscow. 2004. P. 212; Khisamutdinov H.I. Models of the municipal authority implementation in the Russian Federation: dissertation ... Cand.Sci.Jus. Ufa, 2007. P. 200; Bulatov R. B. Municipal authority and problems of its implementation in the Russian Federation: constitutional and legal analysis: dissertation ... D.Sci.Jus. St. Petersburg, 2006. P. 363; and others.

publications on the issues of the current research indicates a significant interest of legal scientists in the issues of implementation of the direct democracy institutions at localities.

The current situation requires higher scientific validity of the amendments to the legislation, their preliminary assessment from the point of view of the legal provisions of the Constitutional Court of the Russian Federation. Consequently, a task of the legal science is, among other things, to determine a place of the population in the public authority system, principles of their direct exercise of municipal power, to set the boundaries of state intervention in the municipal power exercised by its subjects (by the population, in particular), as well as to draw up proposals on improving the legal regulation of their status and mechanisms for implementation of this power. With this purpose, it is required to develop a clear conceptual framework based on the history of legal regulation of the local governance institute in the Russian Federation that considers the law enforcement practice specified in the current legislation.

The research object is public relations in the field of municipal public power implementation by the population of municipalities.

The research subject includes national legislation, generally recognized international legal principles and norms, provisions of the Constitution of the Russian Federation, federal laws of the Russian Federation, decrees of the President of the Russian Federation, acts of federal executive authorities and decisions of the Constitutional Court of the Russian Federation, legislation of territorial entities of the Russian Federation, statutory instruments of local governance and acts of international organizations, as well as scientific, analytical, and statistical studies in the field of local governance, democracy, and informatization.

The degree of scientific development of the issue. In the context of the general theoretical aspects of the current research, special attention should be paid to works by S. A. Avakian, N. S. Bondar, I. I. Ovchinnikov, V. E. Chirkin that contain a detailed theoretical and practical analysis of the population status, as well as organizational and legal aspects of its activities when exercising the municipal power, conducted from the

point of view of a variety of approaches to interpreting the role of the population in the municipal governance system and the essence of the latter.

Comprehension of the nature of municipal governance and its place in the public authority system of the Russian Federation is an important aspect of studying the legal relations system related to the institutions of local direct democracy. This aspect is considered in the works by A. V. Bezrukov, L. I. Gazizova, A. A. Dzhagaryan, N. V. Dzhagaryan, A. N. Kostyukov, T. A. Lakhtina, and others.

In their studies, a number of scientists, including I. V. Babichev, O. I. Bazhenova, E. S. Buturlina, V.A. Vinogradov, V. P. Ivansky, V. V. Komarova, A.A. Larichev, D. A. Lisovitsky, I. I. Melekhina, A. N. Rykov, N. L. Skovron, L. T. Chikhladze, and E. S. Shugrina analyze the system of municipal authority subjects and suggest uncommon approaches to defining the main subject of municipal authority, its name and structure.

The works by D. A. Kulagin, O. E. Kutafin, V. L. Lutzer, V. V. Polyansky, V. V. Rachinsky, N. S. Timofeev, A. A. Uvarov, V. I. Fadeev, K. F. Sheremet, B. S. Ebzeev and others contributed to detecting and systematizing the principles of the population's exercise of municipal power.

V. I. Vasiliev, N. V. Vinnik, V. A. Vinogradov, A. T. Doktorova, D. A. Ermakov, E. P. Zabelina, A. N. Kostyukov, A. A. Larichev, V. L. Lutzer, S. V. Obraztsova, N. L. Peshin, V. A. Cherepanov, and others addressed issues of the municipal power implementation by the population and identification of its will.

Scientific novelty of the dissertation research. The municipal's authority's dual nature has been revealed – as an integral part of the public authority system and as an important institution within the local governance framework. To ensure a systematic approach to studying the municipal governance, the author suggests a definition of the public authority concept, which is a complex constitutional, legal and social phenomenon, as well as proves imperfection of the legal definition of local governance. The suggested definition of public authority made it possible to analyze its current forms and define the dominant features of municipal authority. Several concepts and scientific ideas related to

the essence of local governance have been analyzed. Based on the performed analysis, the author suggests a definition of municipal governance.

The author of the research has suggested a definition of the municipality population, studied the legal literature's approaches to determining the population composition, as well as demonstrated its place in the municipal public authority system. This made it possible to separate this category from local communities that do not have certain characteristics peculiar to the municipality population.

Based on a comprehensive analysis of the prescribed legal regulation, scientific literature, analytics and statistics, the author classifies the principles of exercising municipal power by the population.

With the identified features of municipal authority, municipality population, as well as the principles of exercising municipal power by it in mind, the author has analyzed the current legislation regulating the issue, as well as its improvement trends; based on the results, the author has developed a number of conceptual approaches to changing the legal regulation. The author has proven the necessity of securing a common list of issues for the municipality population, which are decided directly by the population.

The structure of the municipal authority subject system has been determined, with the resulting conclusion about the population's inherent will, which makes it impossible to express it by other subjects of municipal authority.

The research demonstrates development trends of existing forms of the municipal power implementation by the population using the electronic democracy tools. Within the study, the author analyzes the legal regulation and enforcement of traditional forms of municipal democracy, as well as considers and systematizes the forms of the citizens' participation in solving local issues. To study the issue of possibility of using remote electronic voting in case of the municipal governance, the author conducted comprehensive analysis of the results of experiments on implementing it in the Russian Federation, as well as the latest changes in the legislation related to this issue.

The purpose of this dissertation research is to develop a comprehensive understanding of the population's place and role in the municipal public power system from the point of view of the constitutional and municipal legal sciences, in particular within the organizational and legal basis of its implementation, as well as to determine the main directions for improving the legislation regulating the population's direct exercise of municipal power, including through specific suggestions on improving the functions of municipal democracy forms.

Research tasks:

- 1) to investigate the content of public power exercised at the local level;
- 2) to identify features of the population's legal status in the municipal authority subject system;
- 3) to determine the basic principles of exercising municipal power directly by the population;
- 4) to analyze a variety of mechanisms of municipal power implementation by the population;
- 5) to research problems of the existing municipal authority model;
- 6) to research possibility of expressing the population's will by other municipal authority subjects;
- 7) to develop recommendations on improving the legal regulation of the population's exercise of municipal power.

Methodological framework of the research. For the dissertation research, a comprehensive, systematic approach has been applied to analyzing procedures of implementation of municipal power by the population that implies simultaneous application of a number of methods and allows to combine accumulated knowledge on the research subject with recently defined conclusions.

In the course of the research, both general scientific methods (dialectical, analysis, synthesis, abstraction, classification, analogy, induction, deduction, comparison, etc.) and

specific scientific methods (technical, historical and legal, statistical, comparative legal, systemic-functional, etc.) were used.

In particular, the technical method was used to study various approaches to define the collective subject of local governance in international law, federal and regional legislation of the Russian Federation.

The historical and legal method was used to study the genesis of municipal property rights of various subjects of municipal authority.

The use of the statistical method made it possible to determine the relevance and applicability of various forms of municipal democracy, as well as laid a basis for analyzing their procedures from the standpoint of compliance with the municipal authority principles.

The comparative legal method was used to develop the author's approach to improving the procedures for the population's exercise of municipal power and allowed to show similarities and differences between democratic institutions in Russia and foreign countries, as exemplified by the institution of municipal elections.

The comparative functional method made it possible to identify features and place of the norms regulating the municipality population's status as a subject of municipal power in the legal system of the Russian Federation.

The complex application of various research methods made it possible to identify features and patterns of legal regulation of legal relations when the population exercises municipal power, as well as to develop certain legislative suggestions related to regulating their functions.

Key research findings and points submitted for defense:

1. Undoubtedly, municipal authority has a complex constitutional, legal and social nature. On the one hand, it is one of the types (levels) of the common system of public authority in the Russian Federation along with state authority. When studying the issue, the author suggests the following definition of public authority – it is a power that describes an influence of the will on managed objects through a system of binding decisions (on issues of the public interest) performed by the people of the Russian

Federation, other territorial public communities, as well as state authorities and local governance bodies in a certain territory with the purpose to ensure vital activity of the population and integrated social and economic development of the corresponding territory. On the other hand, municipal authority is inherent in the local governance system. But local governance is not limited to imperious decisions only; therefore, it is wrong to equate it with municipal power, which can be found in scientific literature. The meaning of local governance is broader and is revealed not only through governmental, but also through public forms of the population's participation in its implementation.

2. The author supports the definition of municipal authority as an independent legal type of public power authority based on the people's power and representing adoption by the local population or directly or indirectly formed local governance bodies of binding decisions within the municipality boundaries on a legally defined range of issues to realize the general public interest and direct provision of the population's vital activity. At the same time, when it comes to the interaction between municipal authorities and state authorities within the public power system, these types of public power can be addressed as its levels to emphasize the territorial organization of public authority.

3. The author proved that the municipality population is a territorial public community consisting of people who have the right to exercise local governance and have a common public interest in resolving issues of local importance and exercising municipal power on the territory of the municipality. Unlike other social groups, it is the population that is the main subject of local governance and municipal authority, since it has the right to make binding decisions.

4. The attempts made through decisions of the Constitutional Court of the Russian Federation and certain works of Russian scientists to single out the "local communities" category, not used by the federal legislation, as the main subject of municipal power deprive the constitutional and legal "population" category of essential features, reducing it to a simple aggregate of municipality residents. Constitutional and legislative provisions indicate that it is the population, but not local communities, that are

inherently has the properties and powers of the municipal power subject. In view of this, the category of local community does not require legitimation, and it is quite acceptable to use it when characterizing relatively independent parts of the population acting as communities united by eagerness to participate actively and in person in the municipal affairs or by an interest reduced to the general public interest of the population. Thus, local communities are local associations of residents of a municipality that are based on common interests related to a specific territory of their residence.

5. The author suggested and supported classification of two groups of principles of exercising municipal power by the population.

The first group of principles includes general constitutional and legal guarantees of exercising municipal power, regardless of the subject of its implementation: the principle of democracy; respect for human and civil rights and freedoms; the principle of exercising municipal power in the people's interests; state guarantee of exercising municipal power by the population (including the guarantee of judicial protection).

The principles of exercising municipal power by the population included into the second group of principles are special, since they have certain specifics that can be seen when this power is exercised by the population. Depending on the influence on the population's will, these principles are divided into two subgroups.

The subgroup of the principles of forming the population's will includes: consideration of historical and other local traditions exercising municipal power; variety of organizational forms of exercising municipal power; a combination of direct and representative forms of exercising municipal power by the population; electability and turnover of deputies and officials of local governance; mandatory representative bodies of local governance; the principle of accountability, controllability and responsibility of bodies and officials of local governance bodies to the population; combination of electability and appointment when forming municipal authorities; openness, transparency and accessibility of exercising municipal power by the population; importance of public opinion.

The subgroup of the principles of ensuring implementation of the municipality population's will includes: independence of exercising municipal power by the population; legality; the principle of interaction between the population and other public authority subjects; stability, universality and mandatory exercise of municipal power by the population; efficient and independent exercising municipal power by the population; reflection of the limits of exercising municipal power by the population within its range of competence.

6. The author supported conclusion that the legislative requirement on the need to find out the population's opinion (obtaining its consent or dissent) in solving the most important issues of local importance should be implemented by using forms of direct municipal democracy (referendum, voting). Such issues include initial adoption of a charter changing the municipality boundaries and status and determining a procedure of forming local governance bodies. At the same time, it is particularly advisable to provide that specific provisions of the charter (if adopted by the population of the municipality) may be amended by a decision of the municipal representative body when making changes to the municipal charter in the form of exact repetition of the provisions of the Constitution of the Russian Federation, federal laws, the constitution (charter) or the laws of the territory of the Russian Federation.

7. It is proved that local governance bodies are independent subjects of municipal public authority within their competence, having their own will and interests and independently implementing them. It is discovered that permissibility of replacing the expression of the local population's consent to resolve a specific issue of local significance by an act of the municipal representative body provided by law is not an adequate form of expression of the population's will. The population's will can be expressed by the population itself only through direct implementation of local governance by the population.

8. Improvement of the forms of exercising municipal power by the population using the electronic democracy means determines a reform of the electoral law institutions, and therefore their implementation not only at the municipal level, but at the state one as

well. This conclusion is confirmed by a test introduction of electronic voting within the electoral processes of 2019-2021. It is discovered that electronic voting tools used for exercising of municipal power by the population significantly reduces costs and chances of distortion of the citizens' will. However, the use of e-democracy elements at the municipal level involves consideration of a number of social and political, personal and other factors, since even closed systems that do not have access to the Internet are administered by authorized persons who have access to the used tools' architecture. In this regard, the continued use of electronic voting tools is supported, which can be used at the federal level, including in electoral processes in 2021, when the population exercises municipal power. This process will have a positive impact not only on the level of citizens' involvement in implementation of local governance, but also through centralized funding from the federal budget and application of unified technological solutions will allow to provide access to the Internet in the most remote and hard-to-reach municipalities.

Theoretical relevance of the dissertation research is related to the fact that the conclusions shaped in the course of the work make it possible to comprehend and improve such concepts as “municipal authority” and “population of a municipality”; to clearly define the local municipal government within the public authority structure and in the local governance system based on suggested characteristics; to form a comprehensive view of the population as a key subject of municipal authority, of the basic principles of exercising municipal power by the population. The formed suggestions are aimed at systematizing various forms of municipal democracy, including definition of a range of issues that should be addressed directly by the population. The results obtained in the dissertation can be used for further scientific research of municipal democracy.

Practical relevance of the dissertation research. The conclusions presented in the paper can be used for further improvement of the current legislation related to local governance, municipal democracy forms, as well as regulatory legal acts of the territories of the Russian Federation and municipalities. The models of public participation in the implementation of e-democracy mechanisms at the local level contained in the research

can be used as a basis for developing legislation related to local governance, other normative legal acts, as well as may be useful for the practical professional management activities of local governance bodies and officials. The conclusions and provisions obtained in the paper are aimed at further enhancement of the citizens' role of their influence on institutions and decisions of local governance.

The dissertation research provisions can also be used for compiling textbooks and courses on constitutional and municipal law.

Evaluation of research results.

The research has been prepared and performed based on the Department of Public Law of the National Research University Higher School of Economics. The author has published 3 scientific articles on the dissertation topic (using its provisions and conclusions) in journals from the list of journals whose publications are counted by the Higher School of Economics when evaluating publication activity:

1. Panov D.S. Naselenie municipal'nogo obrazovaniya i mestnye soobshchestva v sisteme municipal'noj publichnoj vlasti [Население муниципального образования и местные сообщества в системе муниципальной публичной власти] / D.S. Panov // The Russian Law Journal. 2019. No. 5. pp. 60-70.

2. Panov D.S. Formirovanie predstavitel'nogo organa municipal'nogo obrazovaniya v mekhanizme osushchestvleniya municipal'noj publichnoj vlasti [Формирование представительного органа муниципального образования в механизме осуществления муниципальной публичной власти] / D.S. Panov // The Bulletin of the Voronezh State Technical University. Series: Law. 2019. No. 2. pp. 85-93.

3. Panov D.S. The population of the municipality and the local community: a ratio and use of concepts (legal aspects) / D.S. Panov // The State and Law Journal. 2019. No. 8. pp. 116-121.

The research results have been presented in reports, speeches and publications at scientific conferences, including: the interuniversity scientific conference of students and young scientists "Law in national and multinational states: issues of theory, history and

practice” (Russia, St. Petersburg, 2016); the international scientific and practical conference “Conceptual approaches to improving the Russian legal system” (Russia, Volgograd, 2016); the international scientific conference of students, postgraduates and young scientists “Lomonosov – 2017” (Russia, Moscow, 2017). The key provisions of the dissertation research are reflected in the abstracts of speeches at these conferences, on whose basis source books have been published.

Main points of the research

The **introduction** contains proves the relevance of the chosen topic, analyzes its scientific development level; determines the object and subject of the research; sets the purpose and tasks of the study, describes its methodology and source base; identifies the scientific novelty and practical significance of the research, describes the forms of evaluation, as well as theoretical and practical significance of the obtained results. Formulates the key provisions submitted for defense.

The first chapter “The concept and legal regulation of advisory democracy at the municipal level” consists of three paragraphs and is devoted to the constitutional and legal basis of exercising municipal public power by the population.

The first paragraph “Municipal power: the nature and place in the public authority structure” deals with development of ideas on the public authority structure in the works by scientists from various epochs through the lens of citizens’ participation in the state affairs, as well as at the local governance level. The nature of municipal power is shown not only as one of the public authority levels, but also as an institution of local governance. This relates to the understanding of municipal authority not just as a simple form of the state authority decentralization, but as an independent level of public authority, whose fundamental foundations originate from self-governing principles. The implementation of municipal power is mainly performed either directly by citizens or with their mandatory participation. The author suggests the following definition of public authority – it is a power that describes an influence of the will on managed objects through a system of binding decisions (on issues of the public interest) performed by the people of the Russian

Federation, other territorial public communities, as well as state authorities and local governance bodies in a certain territory with the purpose to ensure vital activity of the population and integrated social and economic development of the corresponding territory.

Based on the developed attitudes to understanding the essence of public authority, the author suggests a definition of municipal authority, which is understood as an independent legal type of public power authority based on the people's power and representing adoption by the local population or directly or indirectly formed local governance bodies of binding decisions within the municipality boundaries on a legally defined range of issues to realize the general public interest and direct provision of the population's vital activity. In case of interaction between municipal authority and state authority within the public authority system, it is suggested to consider these types of public authority as its levels to emphasize the territorial decentralization of public authority.

In the second paragraph "Population of a municipality as the main subject of municipal authority", the population of a municipality is characterized as a power subject in the public authority system and within the local governance system. Public interest is defined this collective legal subject's required property, which is understood as a consensus between the public interests and the private interests of local residents, and their associations based on legal acts, which, despite pursuing a common goal, may differ in the intended means of achieving it. Based on the above-said, it is concluded that the broadest understanding of the population composition is required, since it is an object of public interest as well. Reducing the population to people who permanently or predominantly reside on a municipal territory would unreasonably exclude those whose interests are affected by decisions of municipal government in a particular municipality, which would lead to ignoring their interests when forming the public interest.

The research shows that both decisions of the Constitutional Court of the Russian Federation and the legal literature unite local communities and municipal authorities. This connection is often interpreted as justification for the possibility of such communities to

exercise municipal power. The study revealed the shortcomings of this approach, which originate from the understanding of the population as a simple group of local residents who have no additional properties. The author suggests understanding the population of a municipality as a municipal authority subject that has its will, public interest and ability to make managerial decisions that are mandatory for execution on the municipal territory. In this regard, the following definition of population of a municipality is proposed – it is a territorial public community consisting of people who have the right to exercise local governance and have a common public interest in resolving issues of local importance and exercising municipal power on the territory of the municipality.

In the third paragraph “Principles of exercising municipal public power by the population of a municipality”, the author classifies the principles of exercising municipal power directly by the population. Considering the dual nature of municipal authority and in order to determine the principles of its implementation, the author analyzes approaches used in the legal literature to determine the principles of exercising public power and the principles of local governance organization.

Based on these principles, the author suggests a classification of the principles of exercising municipal power by the population into general and special principles. The General Principles are a system of universal guarantees for exercising municipal power by all its subjects. It is suggested including the following general principles: (1) the principle of democracy; (2) respect for human and civil rights and freedoms; (3) the principle of exercising municipal power in the population’s interests; (4) state guarantee of exercising municipal power by the population (including the guarantee of judicial protection).

The principles of exercising municipal power by the population included into the second group of principles are special, since they have certain specifics that can be seen when this power is exercised by the population. Depending on the influence on the population’s will, these principles are divided into two subgroups: the principles of forming the population’s will and the principles of ensuring implementation of the municipality population’s will.

The principles of forming the population's will include: (1) consideration of historical and other local traditions exercising municipal power; (2) variety of organizational forms of exercising municipal power; (3) a combination of direct and representative forms of exercising municipal power by the population; (4) electability and turnover of deputies and officials of local governance; (5) mandatory representative bodies of local governance; (6) the principle of accountability, controllability and responsibility of bodies and officials of local governance bodies to the population; (7) combination of electability and appointment when forming municipal authorities; (8) openness, transparency, and accessibility of exercising municipal power by the population; (9) importance of public opinion.

The principles of ensuring implementation of the municipality population's will, which originate from the place of municipal authority in the public authority system, it is suggested including the following principles: (1) independence of exercising municipal power by the population; (2) legality of exercising municipal power by the population; (3) the principle of interaction between the population and other public authority subjects; (4) stability, universality and mandatory exercise of municipal power by the population; (5) efficient and independent exercising municipal power by the population; (6) reflection of the limits of exercising municipal power by the population within its range of competence.

The suggested classification of the principles of exercising municipal power by the population makes it possible to support the essential isolation of municipal authority both within the common system of public authority and within the implementation of local governance.

The second chapter **“Organizational and legal forms of implementation of municipal public authority by the population of a municipality”** is devoted to existing practice of forming the population's will and its implementation within existing institutions of municipal democracy, as well as suggestions on improving these mechanisms, with conceptual approaches to determining the nature of municipal authority and the population of a municipality in mind.

The first paragraph “Forms of direct democracy in the mechanism of implementation of municipal public authority” defines a range of issues of local importance that require direct expression the population’s will.

Based on the results of analyzing the practice of applying direct forms of local democracy, the author discovers imperfections of the existing legal regulation in terms of unjustified differentiation of its application depending on a particular territory of the Russian Federation and a trend to decreasing the number of cases of implementation of such forms in municipalities, primarily in municipal districts and urban districts. Such a differentiation of municipalities contributes to heterogeneity of the powers related to exercising municipal power by the population even at its grassroots level. Rural population has the right to independently form local governance bodies on a permanent basis and may also be entitled to independently determine the order of their establishment. At the same time, the population of an urban district (which is also a primary municipality, to which other municipalities are not included according to the geographical principle) may be deprived of either of these properties or both by the law of the territory of the Russian Federation.

The author concludes that in order to exclude excessive centralization of public authority in municipal districts, urban districts, large urban settlements, and inner-city districts, it is necessary to establish both an alternative and non-alternative procedure for establishing local governance bodies at the federal level. This procedure should provide for conditions for determination of a specific method of electing or appointing appropriate officials. The population of urban and rural settlements should be independent in determining the procedure for electing the municipality head or unambiguously choose this official, as well as local deputies, directly.

By providing the population with an opportunity to independently solve specific issues of local importance, including determining the method of forming local governance bodies, it should become possible to solve the problem of insufficient application of local referendums.

The author demonstrates the correlation between insignificant number of applications of the institute of recalling elected officials and shortcomings of the existing legal regulation of this issue, which prevents from considering the lack of demand from the population. The main limiting factor for the direct democracy institution development is determined by the features of the procedure of forming local governance bodies, which either does not involve participation of the population in appointing elected officials (with a system of delegation within municipal districts) or allows the use of the proportional electoral system.

The author proves the conclusion that the scope of the most important issues of local importance directly solved by the population should be common to each type of municipalities and differentiated within one type of municipalities based on objective criteria only (for example, the population number, the number of municipalities included, the status of the administrative center of the territory of the Russian Federation) at the federal level only. In this regard, issues requiring the direct participation of the population in exercising municipal power should concern the issues most stable and fundamental for this municipality. Such issues include the initial adoption of the charter, changing the boundaries and status of the municipality, determining the procedure for establishing local governance bodies (when the municipality does not fall under the criteria according to which an alternative method for forming local governance bodies is applicable).

The second paragraph, “The legal basis for identifying the local population’s will and opinion when exercising municipal public power by a representative body of local governance” analyzes the existing legal regulation and practice of its application in terms of forming the local population’s will, including within voting process on changing the municipal boundaries or form, as well as ability of the population to participate in formation the will of other subjects of municipal government.

The author looks into features of the forms of direct municipal democracy in solving territorial issues of a municipality, as well as in changing its status. The need to consider the population’s opinion is justified by attitudes to determining the model of local

governance used in the Russian Federation primarily based on constitutional provisions. Implementation of these provisions in the federal law has led to a mechanism for expressing the will of a municipality population by a representative body of local governance. In this regard, the author analyzed this mechanism by defining essential and integral properties of municipal public authority subjects. It has been discovered that a representative body (as well as its members) as a subject of municipal authority does not reproduce the population's will in its decisions when expressing its will but makes these decisions on behalf of the population. In this regard, decisions made by the municipal representative body on behalf of the population do not mean that the population's will is expressed in this decision. The decision of the representative body result from the will of this body but not of the population, whose interests such decision must consider.

Analysis of the legal regulation of counting the population's opinion when solving territorial and organizational issues of local governance has shown the inconsistency of the legislator in determining the forms of such consideration – they include both mandatory expression of will and forms of the population's participation in local governance. In this regard, it is suggested legalizing the division of counting the population's opinion into the most important, that is, affecting the interests of the population majority on the corresponding territory and therefore requiring the direct expression of the population's will, and others, whose interests can be considered indirectly through the corresponding representative body. At the same time, in the latter case, the result of considering the population's opinion by the representative body will performed by its consent or disagreement, but not by the corresponding decision of the population. Among the issues requiring direct expression of the population's will, it is suggested including consent to include settlements or municipalities in other municipalities, or transformation of a municipality.

Separately, the author examines an issue of efficiency of the mechanism for counting the population's opinion using the forms of its participation in local governance in case of implementation of municipal power by other subjects. The author revealed that

consideration of the population's opinion for decision-making by the municipal representative body should have at least two stages: (1) determining the existing population's opinion on a particular issue; (2) establishing a causal relationship between the revealed opinion of the population and the resulting decision (consent or disagreement) of the representative body on this issue. A certain extent of freedom of the municipal representative body from the population's will, since it can make decisions binding to the population, guided by the dictates of subjects of a higher level of public authority, among other things, confirms the independence of this subject of municipal authority. Thus, the results of advisory forms of municipal democracy do not prevent local governance bodies from making alternative decisions, which nevertheless, should correspond to the public interest of the local population.

To consolidate the goals of the municipal power implementation by all its subjects within the framework of expressing the population's independent will and considering its opinion when expressing the will of local governance bodies, it is suggested using the concept of a municipal entity, within whose function a single public interest in solving local issues is implemented. A municipal entity cannot be an active legal subject but is a legal category that is needed for identifying municipal authority subjects in the legal field that functions within the boundaries of various territories, among other things. The adoption of binding decisions on behalf of the municipality will allow to avoid replacing the population's will with the will of other subjects of municipal authority.

The third paragraph "The exercise of municipal power by the population using the electronic democracy tools" considers the theoretical and practical prerequisites for using the information technologies for implementing municipal power both directly by the population and its participation in making mandatory decisions by local governance bodies.

Resulting from the analysis, three models of electronic democracy have been separated: (1) informational (managerial); (2) advisory; (3) participation (cooperation) model. Implementation of the first two models is aimed at ensuring that the population's

opinion is considered when exercising municipal power by local governance bodies, but the third model is aimed at implementing municipal power directly by the population. Since the study has not reveal fundamental differences in procedures of conducting an electronic referendum and a regular referendum at the local level, for example, the author supports a conclusion that it is inappropriate to single out the electronic democracy tools as independent forms of exercising municipal power by the population.

The author analyzed development of the electronic voting institute, resulting in recognition of the remote electronic voting regulation as historically justified, having real technological prerequisites. According to the author, the introduction of these mechanisms at the local governance level provides new opportunities for implementation of the principles of municipal authority by the population (nearness to the population, focus on realization of the population's interests, considering historically established social norms, traditions and needs, and others).

Based on the existing practice of remote electronic voting, two main technical problems of this institute have been identified: (1) impossibility of verifying a particular citizen's vote while maintaining anonymity of voting; (2) transparency of such algorithms to the public required to inform the citizens about the means used for exercising their electoral rights creates a threat from intruders who can use this open data to distort the results of the direct expression of the citizens' will. To solve these problems, the author analyzes foreign experience of implementation of electronic democracy, as well as available tools of state and municipal management, resulting from which it is suggested using distributed ledger technology (blockchain), with the key idea is lack of a single decision-making center (server), when the sites directly communicate with each other by forming a single network.

The author identifies the main advantages of using the electronic democracy tools in exercising municipal power by the population using this technology: (1) simplification of the procedure, reduction of labor costs for a voter, and consequent increase in the number of election participants; better quality of informing residents; (2) higher

transparency of the voting process; (3) gradual reduction of budget expenditures for organizing and conducting elections; (4) enabling citizens to exercise their choice regardless of their current place of residence (even on another continent or outer space); (5) enhanced reliability of vote counting. Besides, to reduce the costs of the population's exercise of the municipal government, it is suggested abandoning physical voting means in the future – instead, at polling stations, there is an option to use desktop electronic voting systems, which offer a voting procedure similar to the voting procedure performed by personal communication devices.

In **conclusion**, the author summarizes the main conclusions of the research and its key results.