

FORMS OF INSTITUTIONALIZATION CONTROL FOR LEGAL ACTION**ELENA YARMATS****Polotsk State University, Belarus**

The author considers forms of institutionalization control for legal action. Stand out features intersystem control. Classification of public control of the judicial activities are made.

Under modern conditions of Belarusian statehood development a special model of interaction between the state and civil society is formed, which is based on the principles of effectiveness and accountability to the society. Today the most important principle and governance style is the so-called "transparency" or transparency of phenomena and processes occurring in society and the state. According to V.N. Bibilo's just remark, civil society is a society that has access to the public authorities [1, p. 33]. Despite the fact that the judiciary is historically strongly attached by traditionalism, transparency is very important to it because public confidence in the court depends on it, and therefore the legitimacy of the judiciary as a whole.

The transparency of the judicial authority can be ensured in various ways, including monitoring the usage of intra methods (by the judicial community), and control from the outside (public control).

Intra-control is expressed in the system of control measures or activities carried out by the court represented by the court chairman, judges and other court personnel, to promote the strengthening of the court authority, the formation of public confidence in the judiciary and to maintain a positive image of the court.

Intra-control judicial activities in the Republic of Belarus can be expressed in the following events:

- the formulation of organizational recommendations by the higher courts to lower courts. For example, March 30, 2016 the Presidium of the Supreme Court of the Republic of Belarus adopted a resolution number 1 "On measures to improve the organization of the courts of general jurisdiction" in Sec. 6. It says that courts must take exhaustive measures to correct judicial errors before judicial decision effectiveness;
- the organization of the inspections of the lower courts by the higher courts in order to provide practical assistance to the courts and spreading good experience;
- the establishment of ethical conduct rules in relation to judges and other court staff.

Social control can be described as a complex activity of civil society institutions and individuals to ensure legality and respect for the public interest in the activity of state bodies in the various spheres of public life (economic, social, cultural, legal, law enforcement) by implementing society resources.

Some distinctive features of public control in the Republic of Belarus, in contrast to the state (intersystem) control, are its:

- social and legal nature;
- independence from the institutions of state power and administration;
- control access for all comers;
- publicity, that is monitoring for and on behalf of the society;
- irregular basis (as necessary);
- low degree of legislative regulation on the forms, terms, conditions and procedures for its implementation;
- mainly recommendatory decisions taken by entities of public control.

Classification of public control of the judicial activities can be available on various grounds: on the grounds and a source of initiation, on the subject composition, on time of occurrence, on the duration of exercise, on the nature of the powers of public control entities, etc. However, the greatest interest is attracted by the classification of social control, depending on the shape of its institutionalization, which implies the review and analysis of its systemic signs: the form of expression and the status of the control subjects. So, on this basis it is possible to single out external, internal and mixed (hybrid) public control.

External control over the court and other law machinery activities is the most extensive in content and is characterized by the greatest variety of implementation forms. External control is carried out on an occasional basis (as necessary) by independent entities (citizens, associations, organizations and other entities), whose activities are not directly related to the implementation of the judiciary in the state and functioning of the judicial system.

One form of the external public control over judicial activities is the organization that is maintained by the court of so-called "feedback" with the population that is carried out through the use of information and communication technologies in the form of, for example, the system of electronic applications to the court, involving the definition of a uniform procedure for electronic applications with notifications of receiving target circulation or publication of its decisions by the courts, the collecting of a databank of judgments thanks to

which the judgment acquires the status of a kind of regulator of social relations. In many foreign countries on the websites of the courts, there are so-called "collection of jurisprudence", which houses all the decisions made by the relevant court.

Internal control over the judicial activities is carried out, as a rule, on a permanent basis at regular intervals and is associated with people's controlling activity, directly or indirectly involved in the judicial activities and the administration of justice.

Objectively the internal control over the judicial activities is carried out by the bodies of the judicial community, as in addition to professional judges other persons maybe included as a part of these bodies. It is very important that the relevant section appeared in the Code of the Republic of Belarus on judicial system and status of judges. V.N. Bibilo points out that "the fact of the functioning of the judicial community itself testifies to the democratic changes in the society, judges themselves are involved in the consolidation of the organizational and legal guarantees of the judiciary" [3]. Thus, according to the legislation of the Republic of Belarus the qualification board of judges can include scientists - lawyers, and other experts in the field of law, the powers of which include: conducting regular or special judge certification; examining applications for a candidate for a judge, the decisions to open disciplinary proceedings; decisions on demission of judges; the implementation of assizes to lower courts for the study of cases that are carried out by the judges, who will have qualifying evaluation, to monitor compliance with culture of justice, to analyze complaints of non-procedural nature, to carry out work checkups of recommendations given by qualification board of judges according to the results of certification, judge abidance of professional ethics, and others. [4].

It seems that one of the forms of internal control over judicial activities should be monitoring of judges themselves public opinion and court employees' opinion in the planning and organization of the judicial activity, as well as to enhance democracy and improve the process of judicial control [6, p. 99].

Mixed (hybrid) control over the judicial activity combines the features of both external and internal control.

Hybrid forms of social control may include conducting assizes, because there are signs of both external (presence of citizens - employees of any company, institution, students of schools, universities, etc.), and internal (control of judges themselves during the hearing in the educational and preventive purposes) control.

The hybrid controls of judicial activity are the international, supranational bodies and agencies, as well as non-governmental organizations set up and functioning, as a rule, within the framework of intergovernmental structures. Thus, the Council of Europe has created various organizations promoting the development of common democratic principles vested in the European Convention on Human Rights. In the sphere of judicial activities such organizations include the Consultative Council of European Judges, the Commission on the Efficiency of Justice, the Consultative Council of European Prosecutors, that are more or less involved in the processes of control mechanisms that occur in the administration of justice. Thus, the Consultative Council of European Judges consists of judges and promotes the ideas of independence, supremacy and legitimacy of the judiciary through meetings and adoption of appropriate conclusions.

Thus, in order to optimize the implementation of public control over the judicial activities in the Republic of Belarus, it is reasonable:

- to continue the practice of public control over the judicial activities;
- to expand the forms of citizen participation in the administration of justice on the legislative level;
- to create a database of judgments and judicial practices;
- to expand the practice of the "feedback" of the court with the public;
- to monitor public opinion of judges themselves and court employees in the planning and organization of the judicial activity.

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