

DOI: 10.18721/JE.11203  
UDC 332.12; 338.262

**LEGAL AND INSTITUTIONAL PROBLEMS  
OF SETTING THE PRACTICE  
OF MUNICIPAL STRATEGIC PLANNING IN RUSSIA**

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Sub-regional level of the organization of economy and public administration takes an important place within the development strategy of the Russian economy. This is reflected in the strategic planning implementation as a vertical of management actions and planning documents, mutually coordinated and based on a common methodological basis. In addition, a significant contribution of the sub-regional management link to the achievement of economic and social priorities of the Russian economy is possible only in case of effective functioning of local self-government institutions. Such effective operation of local self-government institutions needs a system of preconditions of economic, legal and institutional nature. At present these preconditions are not formed to the extent necessary for successful development and implementation of development strategies in the municipal management. This makes the transition to strategic planning one of the most important goal-setting guidelines for identification and implementation of further steps in the course of municipal reform in the Russian Federation. We should note that it is not the vector of changes itself that is important but the procedure by which these changes are introduced. Recently, the situation has obviously evolved towards separating the population from solving the key questions of functioning and reorganization of local government. Everything, including transformations in local government institutes, is decided by representative bodies of municipalities, and sometimes at the level of the government of sub-federal entities. At the same time, the idea of developing local government as a result of an initiative and responsibility of the population is only growing weaker instead of stronger. The study we have conducted allows to allocate two main conditions allowing to eliminate the formalism in implementation of municipal strategizing. The first one is legislative adoption of a practice in which this strategizing means the highest and most significant form of direct implementation of functions of local government by the population. The second one is legislative confirmation and developed methodological support of flexible forms of municipal strategizing coordinated both with the operating types of municipalities, and with a variety of social and economic conditions of development of territories in various territorial subjects of the Federation.

**Keywords:** local self-government; strategic planning; spatial regulation; municipal reform

**Citation:** E.M. Bukhvald, O.N. Valentik, Legal and institutional problems of setting the practice of municipal strategic planning in Russia. St. Petersburg State Polytechnical University Journal. Economics, 11 (2) (2018) 28–37. DOI: 10.18721/JE.11203

# ПРАВОВЫЕ И ИНСТИТУЦИОНАЛЬНЫЕ ПРОБЛЕМЫ УТВЕРЖДЕНИЯ ПРАКТИКИ МУНИЦИПАЛЬНОГО СТРАТЕГИЧЕСКОГО ПЛАНИРОВАНИЯ В РОССИИ

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Субрегиональный уровень организации экономики и публичного управления занимает важное место в стратегировании развития российской экономики. Это находит свое отражение в реализации стратегического планирования как вертикали управленческих действий и плановых документов, согласованных между собой и построенных на единой методологической основе. Весомый вклад субрегионального звена в достижение хозяйственных и социальных приоритетов российской экономики возможен лишь при условии эффективного функционирования институтов местного самоуправления. Это обеспечивается системой предпосылок правового и институционального характера. К настоящему времени эти предпосылки не сформировались в той мере, в какой это необходимо для качественной разработки и реализации стратегий развития в муниципальном звене управления. Это делает переход к стратегическому планированию одним из наиболее важных целеустанавливающих ориентиров для определения и реализации дальнейших шагов в ходе муниципальной реформы в Российской Федерации. Отмечается, что важен не столько вектор отмеченных изменений, сколько процедура их проведения в жизнь. Последние годы ситуация явно эволюционирует в сторону оттеснения населения от решения ключевых вопросов функционирования и реорганизации местного самоуправления. Все, включая преобразование в институтах местного самоуправления, передается на откуп представительным органам муниципалитетов, а иногда решается и на уровне государственной власти субъектов РФ. При этом идея развития местного самоуправления, инициативы и ответственности населения не только не укрепляется, но все больше «уходит в тень». Проведенное исследование позволяет выделить два главных условия, позволяющих уйти от формализма в реализации муниципального стратегирования. Во-первых, законодательное утверждение практики, при которой такое стратегирование будет означать высшую и наиболее значимую форму непосредственного осуществления населением функций местного самоуправления. Во-вторых, законодательное закрепление и развернутое методологическое обеспечение гибких форм муниципального стратегирования, согласуемых как с действующими типами муниципалитетов, так и с многообразием социально-экономических условий развития территорий в различных субъектах РФ.

**Ключевые слова:** местное самоуправление; стратегическое планирование; пространственное регулирование; муниципальная реформа

**Ссылка при цитировании:** Бухвальд Е.М., Валентик О.Н. Правовые и институциональные проблемы утверждения практики муниципального стратегического планирования в России // Научно-технические ведомости СПбГПУ. Экономические науки. 2018. Т. 11, № 2. С. 28–37. DOI: 10.18721/JE.11203

*Introduction.* Current transition to the strategic planning system is characterized by a number of innovations in the principles and instruments of the federal policy of regional development, which solves in practice the main tasks of spatial regulation of the country's production forces. These innovations primarily include subregional management, which is in general aimed at forming one of the bases of an

effective practice of strategic planning. It is sometimes suggested that Russian local self-government should be supported economically only slightly to prepare it for performing strategic planning functions. But this opinion is less than fully reasonable. The solution of this problem requires a wide range of initial conditions. Several ways of forming these conditions are considered in this article.

*Problem statement.* Scientific studies have mainly focused on economic (budgetary) and personnel problems of elaboration and implementation of strategies for social and economic development in the municipal management so far. These problems remain highly important nowadays. However, the range of issues listed above is far from covering all the obstacles that arise in achieving local self-government as a fully-fledged subject of the strategic planning system making a significant contribution to the achievement of the country's economic and social priorities.

In the context of transition to the strategic planning system, targeted legal and institutional provision of municipal strategy practice becomes essential, along with the economic aspects of the federal center interacting with the regions. Accordingly, the informative framework or the range of tasks of the federal regional development policy is now expanding substantially.

The importance of legal and institutional components is naturally increased in this policy. These components create the prerequisites for the subfederal element not to remain an insignificant «add-on» for strategic planning at the federal level, but to actively solve its economic, social and other tasks.

However, an exhaustive justification of the ways of solving this problem has not been found yet. In particular, the initiative to make strategizing mandatory for the municipal management element was not legally supported. No progress was made in creating flexible methodological bases and documentary forms for it. Above all, a strong economic fiscal base of municipal strategies was not formed.

These foundations of the municipal organization are still very far from the requirements of strategizing of socio-economic development of territories [1, 20].

Finally, the ongoing institutional changes in the system of Russian local self-government are not just problematic, but they also do not exhibit a real focus on making municipal strategies take an important place in the unified system of strategic planning in the country. In fact, there is a situation now when the transition to strategic planning should not simply invigorate the slow municipal reform, but also determine its future shape and targets more clearly [2].

Municipal reform in Russia:

a mixture of obvious successes and outright failures

The municipal reform in the Russian Federation began with the adoption of Federal Law No. 131-FZ of October 6, 2003, «About the general principles of organization of local self-government in the Russian Federation» (referred to as 131st Federal Law from now on). The reform had passed through its main phases even before the transition to practical implementation of strategic planning ideas began. At the same time, the entire course of the reform showed a paradoxical mixture of certain achievements and simultaneously obvious failures. The positive sides of the reform include making local self-government more available for the population, more precise limitation of the municipal economy, nominations of a large group of talented municipal leaders and so on.

Obvious failures are the excessive universalism of the organization of local self-government, despite the huge variety of conditions in the subjects of the Federation, minimization of regulatory functions of the subjects of the Federation in relation to the organizations of local self-government, excessive obsession with administrative fragmentation of municipalities, inability to fundamentally improve their fiscal space, lack of clarity in legal handling of the issues of local importance, etc. Many issues related to the transfer of certain state powers to the municipal level of management, as well as to their financing remain unresolved [3, 4]. The consequence of this situation was a huge number of amendments to the law that not only consistently filled the initial gaps and corrected blatant errors of this legislative act but also allowed to somehow approximate its main provisions to the economic, socio-demographic and other realities of modern Russia and its regions [5].

However, economic, legal and institutional principles of Russian local self-government were not fully improved due to changes and additions to the 131st Federal Law. Moreover, many problems have even deepened.

First of all, the number of local issues, recorded for all types of municipalities, increased by 1.5 times compared to the original list without significant redistribution of tax and non-tax revenues in favor of local budgets. Secondly,

the number of state powers transferred to the municipal level (part 2 of article 132 of the Constitution of the Russian Federation) increased dramatically. Thirdly, there are no clear legislative restrictions, i.e., such a transfer for municipalities is unconditional and blinding, despite the constitutional record (Article 12) stating that local government bodies should not be included in the system of public authorities. Finally, it should be mentioned that the powers of local self-government bodies in the sectoral legislation are not described clearly enough and that the powers of local self-government fixed in the sectoral legislation and in the 131st Federal Law are inconsistent. Various forms of inter-municipal cooperation, the conditions for the establishment of inter-municipal enterprises and organizations and the practice of municipal-private partnership also need additional legal regulation.

As the range of issues of local importance fixed in the 131st Federal Law is gradually increasing, the discrepancy between the number of these issues and the natural functions of local government as a special institution combining the beginnings of public authority and civil society is clearly indicated. Moreover, the balance of these principles in Russian self-government eventually turned out to be sharply shifted in favor of a representative and administrative mechanism for exercising power. At the same time, forms of direct implementation of the functions of local self-government (local referendum, assembly or assembly of citizens, etc.) by the population, formally prescribed in the law, have not gained any substantial use at the local level.

It largely turned out to be a logical continuation of the fact that any real participation of the population in the institutionalization of local communities during the municipal reform was ruled out initially. Everything was done by legalization «from above», although in accordance with Part 1 of Art. 132 of the Constitution of the Russian Federation, «The structure of local self-government bodies is determined by the population independently.» Meanwhile, it is the variety of forms of institutionalization of local communities and the active dissemination of direct forms of democracy that historically determines the border separating real local government from representative power structures

that can function on a uniform basis at the national, regional and even local level. As Khudokormov rightly points out: «In modern society local self-government is perceived not so much as a democratic and autonomous institution, designed to activate the initiative of the population, but rather as a lower level of the state apparatus that is authorized to manage local taxes and fees and to regulate deductions through the system of local budgets from state taxes.» [6].

The country's population was initially «removed» from resolving key issues of reforming Russian local self-government. Maybe it is not worth mentioning this fact, but, according to many experts, this was exactly what led ultimately to notable manifestations of passivity and even complete indifference of the population in relation to the activities of municipal government at the local level [7, 21]. The tendency of substituting direct electivity of municipal heads from the population with a system of so-called «city-managers» has considerably deepened the negative impact of this situation.

Not coincidentally, the dominance of universalist and centralization tendencies in the transformations of Russian local self-government after 2003 enabled experts to compare these innovations with Zemstvo counter-reforms of Alexander III during the period of 1889–1894 [8]. In this regard, the idea that municipal strategy will not achieve its expected effects becomes all the more relevant, since it will remain the prerogative of the administrative apparatus and will not be implemented on the basis of the population's initiative or its willingness to take responsibility for the socio-economic development of the territory in the long term [9]. Moshkin noted in the study on the strategic plan of the municipality: «the principle not fixed legislatively but important in the process of strategic planning must have priority. This is the publicity principle, i.e., dialogue and co-ordination of interests of all subjects who are interested in the results of strategic planning such as authority, business and public» [10]. It is reasonable to assume that local self-management legislation should not only designate formally admissible forms of direct democracy, but also make using these forms of democracy mandatory in solving certain significant issues of municipal development. In

particular, these forms should be used in development and adoption of strategic plans of municipalities. This applies also to the need to reflect the role of municipal private partnership in the law as one of important mechanisms of development and realization of strategic plans of municipalities.

At this stage, clear positioning of Russia's main institutes in the system of strategic planning has a paramount importance for the development of legal and institutional bases of local self-management. This assumes that there is coordinated development and elaboration of the 131st FL and Federal law № 172 of June 28, 2014 «Of strategic planning in Russian Federation» (172nd FL). In this case the norms of the 172nd FL are obviously basic. They should make provisions for key elements of frameworks and the procedures of strategic planning in municipal management. However, nowadays the solution of this problem is substantially complicated by the initial gaps in the 172nd FL. In particular, its regulatory statutes on 'the vertical' are unbalanced. It is well-known that the first versions of this law were aimed mainly at regulating strategic planning practices at the federal level of control. A more or less full picture of documentary and operational components of strategic planning in the subjects of the Federation was given only in the final version of the law. The foundations of municipal strategic planning were only described briefly, and this type of planning had an optional nature and was addressed only to municipal districts and city areas [11, 12].

It would seem that the main efforts on developing the legislation bases of Russian local self-management should be concentrated on implementation of ideas of strategic planning in the 131st FL after acceptance of the 172nd FL.

However, in reality this has not been occurred yet. Additional clarifications on tasks, documents and procedures for strategic planning in the local self-government system were not made to the 172nd FL. Experts expressed divergent views while discussing such specific structurization of legislation on strategic planning. Some believed that the socio-economic situation in Russian municipalities is so diverse and peculiar that it is simply impossible to dictate the necessity of strategic planning to all of them, moreover, at the federal level along with a detailed list of all

procedures and documents of such planning. Opponents of this view said that if there is independent legislative regulation on local self-management in the country, the main conditions concerning strategic planning in this control link, including the issues of its necessity for some types of municipal formations, order of co-ordination of municipal strategies with the units of public authority of Federation subjects and so forth, should be established eventually. In this regard, proposals were expressed and legislative initiatives were developed, directed at making strategic planning compulsory for all types of municipal formations «in developing» the conditions of the 172nd FL. Therefore, the range of powers of institutions of local government described in paragraph 17 of the 131st FL should be revised entirely.

However, it seemed that the most realistic proposal was to avoid extreme decisions. The most realistic proposal was for local governments to retain the right to make their own choice (in consultation with the units of public authority of Federation subjects) to develop either strategies or the plans of complex socio-economic development of municipal formations (KOSAR) initially contained in the legislation.<sup>1</sup> Furthermore, practical limitation of management, information and personnel resources of most local government institutions (particularly settlement-type) leads to problems in making a clear distinction between the «strategies» currently developed in some municipalities and the former KOSAR plans. It would be expedient to reflect the right to regulate these issues at the regional level in paragraph 6 of the 131st FL «Powers of public authorities of subjects of Russian Federation in the area of local self-government».

As a result, these changes turned out to be ambivalent and even contradictory. Only at the end of 2017 (i.e., 3 years after the adoption of the 172nd FL), a special item 4.4 appeared in the 131st FL, giving institutions of local government (without specifying which institutions) powers in the area of strategic planning, provided for in Federal law no. 172 of June 28, 2014 «About strategic planning in the Russian Federation». Such a reference in one law to another, not giving

<sup>1</sup> Nakhodiashchiesia na rassmotrenii zakonoproekty s popravkami v federal'nyi zakon «Ob obshchikh printsipakh organizatsii mestnogo samoupravleniia v Rossiiskoi Federatsii», Munitsipal'noe pravo, 4 (76) (2016) 105–109.

enough detailed regulation on the appropriate range of issues, can only be regarded as an outright «legal dummy».

At the same time, the earlier power of local government authority to organize and execute plans and programs of complex socio-economic development of municipal formations was dropped from the 131st FL. Municipalities only retained the right to design and establish programs of complex development of communal infrastructure systems, programs of complex development of transport and social infrastructure. The position to move the legal regulation of municipal strategizing procedures to the level of Federation subjects was not supported. The proposal to legislatively establish the gradual transition of Russian municipalities to the system of strategic planning was not supported as well. The first stage of such a transition started with city areas, or «capitals» of Federation subjects, then moved on to most economically important city areas and municipal areas, municipal formations where federal and regional development institutes (special economic areas, areas of territorial development, territories of advanced development, and so forth) are located and, finally, Russian towns and monocities receiving or eligible for purpose-oriented assistance from federal or regional level. The practice of strategic planning could be then be extended to other municipal formations, including settlements that could use such strategizing with a simplified procedure.

In general, it can be observed that granting «a right» to implement functions of strategic planning to municipalities eventually turned out to be in line with that common indefinite treatment of the statements of the 131st FL regarding the powers for local issues [13–15]. The essence of this ambiguity is that the law interprets these powers more like rights to appropriate actions than obligations to implement them unconditionally. Formally, the powers related to local issues for municipalities of all types are divided into «compulsory» (paragraphs 14, 15, 16 of the 131st FL) and «voluntary» (paragraphs 14.1, 15.1, 16.1 of the 131st FL). However, «compulsory» powers are not in fact unconditionally mandatory. It is a well-known fact that actual implementation (budgeting) of such powers, particularly, in settlement municipalities, is not carried out to

the full extent: up to half of all powers or even less are implemented. It is highly inappropriate to leave this issue of legal regulation of municipal strategizing practices in such a suspended condition.

**Municipal reform: institutional bends.** The main institutional result of the reform of the mid-2000s was a sharp increase in the number of municipalities in the country (initially almost up to 25,000). Afterwards the process of their gradual reduction began.

In total, almost 2,000 municipalities, primarily settlement ones, have disappeared since the full-scale reform implementation in the country.

The situation of «institutional instability» in the system of Russian local self-government still exists.

Meanwhile, practice shows that the adequacy of municipal organization to the requirements of strategic planning is determined primarily by two parameters (conditions): institutional stability and economic security. Of course, there are also such factors as sufficient supply of personnel at the municipal level of management [16], information security, or, rather lack of it at the municipal management level due to the disappointing state of municipal statistics [17] inconsistent with the requirements of socio-economic strategy, etc. Nevertheless, it seems to us that the first two conditions are of decisive importance. They are the ones that form the regime of trust in the local authorities, which allows to implement the practice of municipal strategizing as a special product of the population's will, initiative and responsibility. However, in fact, the course of the municipal reform has already made it extremely difficult to sustain all these conditions. The institutional structure of local self-government failed almost from the start of the reforms. The promise to transfer a solid economic (financial and budgetary) base, commensurate with the whole range of issues of local significance, to municipalities, was mostly left on paper.

It is well-known that at the initial stage of the municipal reform the grid (boundaries) of municipalities was generated formally by laws of the constituent entities of the Federation. It was based on the notorious principle of transport and/or pedestrian accessibility of the municipal

center (i.e., mainly based on the territories that corresponded to the former rural and city councils), but not with the goal to form in the new conditions a system of municipal entities that are self-sufficient in economic terms and, accordingly, capable of carrying out all the necessary tasks. The principle of «accessibility» was originally inadequate and rejected by all subsequent reform practices. Therefore, it turned out to be even more incompatible with the inclusion of the municipal management into the system of strategic planning as a basis for structuring the institutions of local self-government.

However, here we must make a reservation. Of course, economic self-sufficiency makes it possible to raise municipal strategy to a qualitatively higher level, making it independent of the factors are associated, for example, with possible changes (especially in the long term) in the instruments and volumes of financial assistance received from municipalities of a higher level of governance. Nevertheless, when choosing a model of institutionalization or, as it is often termed in the regions, «grid» of municipal entities, the principle of economic self-sufficiency should not be seen as an end-all. Financial and economic self-sufficiency of municipalities is not 'solid' even in the most developed countries of the world [18].

There is obviously a contradiction, which is still being processed by our theory and practice of municipal management. It consists in the fact that the population's interest in creating (and maintaining) its 'own' municipality is 'confronted' by its economic insecurity. At the same time, the above contradiction is not solved but simply «covered up» through progressive consolidation of municipal entities.

The actual resolution of this contradiction can only be real empowerment and responsibility of local communities, including in the choice of institutionalization of these communities with full transparency of information about the benefits that the community gains within its 'own' municipality and what risks, including economic, can arise in this case. Then, the issue of whether to retain the municipality or merge it with another more economically secure one should be decided by means of direct democracy (in a local referendum).

However, the idea of municipal reform in line with the support to intensify initiatives and responsibilities of local communities did not advance significantly. Moreover, many recent legislative innovations concerning the Russian local government are, frankly, quite bewildering. These changes are not only aimed at improving the institutional framework for strategy development in the management positions, but, in fact, mean giving up many of the most fundamental principles of municipal reform. For example, on April 3, 2017, the President of the Russian Federation signed Federal Law No. 62-FL (referred to as the 62nd FL from now on), introducing new significant changes in the 131<sup>st</sup> FL. These changes establish the ability to convert municipal areas to urban districts by combining all settlements included in the area. The law also removed the restriction that the urban district should necessarily be based on a city settlement (that is, it is possible to create urban districts consisting exclusively of rural settlements).

So, the municipal reform is reversing in a way in a number of key positions. Indeed, there are two key innovations in the organization of local government in the Russian Federation originally described by the 131<sup>st</sup> FL. Firstly, this is the mandatory restructuring of municipal institutions in all regions of Russia as a system of urban districts (single, i.e., one-level municipalities) and municipal districts (two-level municipalities including the system of settlement municipalities with independent budgets). Second, intra-municipal entities are eliminated in all Russian cities except cities of federal significance.

The latter institutional innovation was the first one to be gradually abolished. Federal Law of May 27, 2014 № 136 FL regranted the possibility to create intracity municipalities in «other» Russian cities. Respectively, local government institutions eliminated in the course of municipal reform were reestablished by law, namely, the city district with intracity division and the intracity district, an urban municipality within the territory of the city district. However, only the «capitals» of only three constituent entities of the Federation (Dagestan, Samara and Chelyabinsk regions, see Table) gained an intracity municipal division by early 2017.

### Number of municipal entities by subjects of the Russian Federation (units)

Total	Including, by type:							
	municipalities	city districts		Intracity areas	Intracity municipal formation of a city of federal significance	settlements		
		total	including with intracity division			Total	including city	rural
On January 1, 2007								
24207	1793	520	–	–	236	21658	1732	19919
On January 1, 2017								
22327	1784	567	3	19	267	19609	1589	18101

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In April 2017 it was the turn of another institutional innovation, the 2003 reform mentioned above. Recent amendments allow, as mentioned above, to convert municipal districts to city districts. This process, which previously affected only specific districts, is now almost as a general trend in the reorganization of local government institutions in the country. Essentially, the idea of a two-level system as supposedly the most effective form of organization of local self-government was gradually abandoned. [19]

The formal reason for these changes was the desire to create a more effective system of territorial management; to concentrate managerial and financial resources; to reduce the number of municipal employees, etc. Consolidation of institutions of local government, ostensibly, greatly simplifies the practice of strategic planning in municipal management positions, as well as planning and territorial development in the subjects of the Federation. In many ways, these arguments seem valid. However, there are two points about them that must be addressed.

First of all, all of the arguments made above are true as much as they are not new. All these fears (complicated vertical of municipal government, the «smearing» of local finances, the swelling of the municipal government apparatus, etc.) were repeatedly voiced by experts before the start of the reform, and in the course of its implementation. It would seem that the current trend of reforms is still the same, which is to say that realization of the truth only comes after a series of mistakes has been made.

But even more important is not the vector of the changes but how these changes are implemented. In recent years, the situation has clearly evolved in the direction of pushing the population away from resolving key issues of functioning and reorganizing local self-

government. Everything, including the above-mentioned transformations in institutions of local self-government, is transferred to the representative bodies of municipalities, and sometimes it is decided at the level of state power of the subjects of the Federation. In this case, the idea of local self-government as a result of public initiative and responsibility only grows weaker instead of stronger.

*Conclusion.* This study allows to distinguish two main conditions that allow to eliminate the formalism in the implementation of municipal strategizing. Firstly, the legislative approval of the practice, in which such a strategy development will mean the highest and most important form of direct realization of local government functions by the population. Secondly, legislative consolidation and detailed methodological support of flexible forms of municipal strategy, consistent with both 6-7 existing types of municipalities, and with the diversity of socio-economic conditions for the development of territories in various subjects of the Federation. To ensure effective functioning of the institution of local self-government within the vertical of strategic planning in the country, it is necessary to implement the following institutional and legal measures.

1. Adoption of the Strategy for the Development of Russian Local Government, in which strategic guidelines for this institution should be presented. This Strategy should be included in the mandatory strategic planning documents identified in the 172nd Federal Law. Subsequently, the main provisions of such a Strategy should be enshrined in the adoption of a completely new version of the 131st Federal Law.

2. The powers of local self-government enshrined in the current legislation should be



reassessed; existing inconsistencies should be eliminated; duplication of authority between different levels of government should be eliminated; consistency between the powers of municipalities on local issues and the volume of profitable sources of local budgets should be ensured.

3. The possibility of a differentiated approach to organization of local self-government and the implementation of strategic planning procedures for a number of special types of municipalities (for example, industrial innovative municipalities

and science cities, municipalities where federal and regional development institutions are located).

4. Federal entities should adopt special state (regional) programs for the development of local government, aimed at organizational and methodological support and co-financing strategies for the development of separate territories; at supporting various initiatives of local communities; at creating local development institutions (business incubators, business support centers, industrial parks, municipal banks), as well as wider practice of municipal private partnership.

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*Статья поступила в редакцию 04.02.18*