

Chapter 4

Options for Applying Functional Overlapping Competing Jurisdictions (FOCJs) for Municipal Cooperation in Russia

Peter Friedrich

University of Tartu, Estonia

Mariia Chebotareva

University of Tartu, Estonia

ABSTRACT

Municipal cooperation is important for transformation countries, like Russia, which have to develop legal, institutional and political environments for public service activities. The authors recommend FOCJs as an instrument for coordinated municipal public service provision. To determine the suitability of FOCJs the analyst has to investigate the relation between FOCJ theory, their financing possibilities, the fiscal effects, and the legal forms in which FOCJs can operate in Russia. The authors define several forms of FOCJs and sort out appropriate public enterprises of private and public law for Russian FOCJ. To analyse the establishment, the operations, and the competition between FOCJs the authors present three types of models. One relates to the establishment of an FOCJ, the second concentrates on financing service activities, and the third model deals with competition among FOCJs and demonstrates the effects of different ways of finance. The article concludes with elaborating recommendations for financing FOCJ under conditions in Russia.

INTRODUCTION¹

Modern realities and the intensifying crisis in the Russian economy demonstrate a serious need for the juridical, as well as economic and political, transformation of existing Russian public institutions. Following the example of many European countries, Russian governments should modernize the provision of public services and promote public entrepreneurship². Some authors argue for further decentralization

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(Петров, 2000; Гельман, 2006; Ляпин, 2015) and more cooperation of municipalities in local government service provision (Ирискина, 2010; Ладыгин, 2011).

Special means of cooperation in providing public services – Functional Overlapping Competing Jurisdictions (FOCJs³) – are discussed in the Western public finance literature (Frey, 1999, 2000; Frey & Eichenberger, 1995, 1996, 2002, 2006; Friedrich, Ukrainski & Timpmann, 2014). The main fields of discussion concern:

1. The character of an FOCJ as a jurisdiction (Detig, 2004; Friedrich, 2006; Gabbe, 2008; Friedrich & Eckardt, 2014).
2. The character of an FOCJ as an economic subject and political unit (Friedrich, Kaltschütz & Nam, 2004; Friedrich & Fladung, 2008; Friedrich & Eckardt, 2014).
3. The FOCJ as a means of municipal cooperation in relation to other forms of cooperation (Bartholomae & Popescu, 2008, Friedrich, Ukrainski & Timpmann, 2014).
4. The FOCJ as a means to intensify competition in public service provision (Friedrich & Eckardt, 2014).
5. The FOCJ as a reform concept for the European Union (Eckardt & Gritsch, 2016).
6. Cross-border problems with respect to FOCJ (Detig, Feng & Friedrich, 2002; Friedrich & Ukrainski, 2014; Metis, 2014; Eckardt & Gritsch, 2016).
7. Lessons from historical cases of FOCJs (Frey, 2005; Smith, 2011; Fink, 2012; Eckardt & Gritsch, 2016).
8. FOCJs related to several sector activities and problems (Spindler, 1998, 2008a, 2008b; Detig, 2004; Friedrich & Popescu, 2006; Friedrich & Reiljan, 2011).
9. Opportunities for and limits of application of FOCJs (Friedrich & Reiljan, 2011; Friedrich & Eckardt, 2014).

Issues, which are not tackled intensively in literature, are the management of FOCJs (Friedrich & Eckardt, 2014), the problems of entrepreneurship in FOCJs (Friedrich & Ukrainski, 2013), cooperative production in FOCJs, decision-making in FOCJs, application of FOCJs under different law regimes (Leitenstorfer & Török, 2008), particularly that of Russia, and the financing of FOCJs (Fladung & Friedrich, 2008). Therefore, the chapter deals with the principles to finance FOCJs. In addition, whether FOCJs are applicable for Russian municipalities has not been discussed intensively. The authors are especially interested in tackling the last two fields of research. Thus, the research question concerns: whether FOCJ are legally and financially applicable for municipal cooperation in Russia. In particular, the objectives of this chapter are to identify in which legal form they may exist in Russia, to formulate financial models of FOCJ establishment, management and production, and participant attraction, to apply these models to stress the financial and fiscal implications of Russian FOCJs, to bridge the gap between public finance, principles, and FOCJ requirements, and finally to consider the advantages and disadvantages of Russian FOCJs with regards to financial aspects.

The content of section two deals with the definition of FOCJs. The authors tackle the existence of Russian FOCJ legal forms in section three. In the following section the financial models are formulated, and the effects of FOCJs are determined. The implications for financing and municipal cooperation are stressed in the fifth section, leading to the discussion of the advantages and disadvantages of FOCJ application by Russian municipalities. The conclusions comprise the results of the study and point to requirements for future research.

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