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Research Article

Administrative regulations as a type of public administration acts

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Abstract. The article examines a relatively new type of public administration acts for the Russian legal system — administrative regulations. Despite the widespread use of this type of act, its legal nature, features of the legal structure, and classification remain insufficiently studied, which determines the relevance of this study. The purpose of the study is to identify the specific characteristics of administrative regulations, allowing to classify them as a special tool for realisation of various public administration forms. Achieving this goal suggests analysis of regulatory legal acts, both Russian and foreign, as well as certain approaches to legal doctrine to determine the essence of administrative regulations, various public administration forms, and acts of public administration. Based on the analysis of theoretical and empirical data, the authors offer their definitions of acts of public administration, administrative regulations, and tools for realisation of public administration forms. In the process of research, the authors used a formal legal method that allows characterising the legal nature of administrative regulations, their role, and place in the system of acts of public administration, a comparative legal method to identify the general and the special when comparing domestic and foreign experience and general logical methods (analysis, synthesis, analogy).

Key words: administrative regulations, administrative procedure, departmental rulemaking, public administration, acts of public administration, public administration forms, tools for realization of public administration forms

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Научная статья

Административные регламенты как вид актов государственного управления

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Аннотация. Исследуется такой вид актов государственного управления, как административные регламенты. Несмотря на широкое применение данного вида актов управления, их правовая природа, особенности правовой конструкции, классификаций остаются недостаточно изученными, что и обуславливает актуальность настоящего исследования. В статье выявляются специфические признаки административных регламентов, характеризующих их в качестве особого инструмента реализации различных форм государственного управления. Достижение поставленной цели обеспечивает анализ нормативных правовых актов, как российских, так и зарубежных, а также сформировавшихся в правовой доктрине подходов к определению сущности административных регламентов, различных форм государственного управления и актов государственного управления. На основе анализа теоретических и эмпирических данных авторы предлагают собственные дефиниции актов государственного управления, административных регламентов и инструментов реализации форм государственного управления. В процессе исследования авторами применялся формально-юридический метод, позволяющий охарактеризовать правовую природу административных регламентов, их роль и место в системе актов государственного управления; сравнительно-правовой метод, для выявления общего и особенного при сравнении отечественного и зарубежного опыта регламентного регулирования; общие методы исследования (анализ и синтез, аналогия и др.).

Ключевые слова: административные регламенты, административная процедура, ведомственное нормотворчество, государственное управление, акты государственного управления, формы государственного управления, инструменты реализации форм государственного управления

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Introduction

Public administration, including its varied forms, are among the important theoretical and empirical issues of administrative law. There are also several scientific works looking at this issue from the position of the general theory of law and state (Arzamasov, 2007; Arzamasov, 2013:249—274). This multifaceted issue is of many dimensions; therefore, it needs to be studied in various legal branches (constitutional, municipal, labour law, etc.).

The administration itself is a special kind of human activity. Apart of legal component it also includes organisational activity, control, and others, manifested in a whole complex of functions and subfunctions inherent in almost any modern state. Administration, if it is properly organised and relies on a powerful resource base, allows ensuring and protecting state interests, realising relative public authorities and officials' competences, and rights and freedoms of citizens and their associations.

In the context of global coronavirus epidemic, difficult international situation associated with introduction of new economic sanctions against Russia, digitalisation of economy and other spheres of human life and activities, theoretical and practical significance of the designated problems gain relevance with renewed vigour.

The analysis showed that one of the most common types of acts of public administration is administrative regulations, which are a relatively new type of regulatory legal acts for the Russian legal system. Their emergence is associated with one of the stages of the administrative reform, which began in the first decade of the XXI century¹. Almost all the variety of administrative procedures is currently mediated with the help of administrative regulations.

Despite the significant prevalence of administrative regulations in rulemaking and law enforcement practice today, many issues related to this type of act are not fully investigated, which gives rise to various empirical and theoretical problems in a conceptual plan. For example, there is no legal definition of administrative regulations, the system of existing administrative regulations is not clearly presented, and their role in realisation of public administration forms is not well defined.

Given the expansion and application of administrative regulations, issues related to legal and technical aspects of preparing and adopting administrative laws and unification of legal structures under study come into focus.

¹ The following articles are devoted to these issues: (Dobrolyubova, Yuzhakov & Aleksandrov, 2014; Yuzhakov, 2016; Sungurov & Tinyakov, 2016).

Public administration forms and their effectiveness

Today, Russian legislation has no definition to reveal the concept of «public administration form». In this regard, at different times, Russian scientists offered to scientific community, students, and practitioners their interpretations of this concept.

The most popular was the concept proposed by professor Y.M. Kozlov; it was within the so called “narrow” approach to the issue when public administration was associated only with the activities of the executive authorities and officials of such bodies. In his opinion, the form of administration should be understood as an externally expressed action of the executive body (official), carried out within its competence and causing certain consequences (Alekhin, Karmolickiy & Kozlov, 1996:221).

However, considering that not only state executive bodies, but also local self-government bodies and municipal employees can take various acts of administration to manage various social processes, it is necessary to pay attention to the definition that reflects a broader interpretation of the essence of public administration. Such a definition was proposed by professor Y.N. Starilov, who suggested that the form of administration should be understood as an external expression of the content of administration activities, the limits of specific administration actions that are performed by certain state and local self-government bodies (Starilov, 2001:11).

M.V. Puchkova proposed a broader list of actors that adopt administration acts. In her opinion, the subjects of public administration are not only the executive authorities but also public institutions such as the Accounts Chamber, the Central Bank and the Pension Fund of the Russian Federation, which are state executive bodies endowed with the appropriate legal powers (Puchkova, 2015:21). It is also important to note that M.V. Puchkova drew attention to the presence of an intra-administrative component in the activities of executive bodies whose purpose is to ensure functioning of the apparatus of these bodies, to achieve their fundamental goals and objectives (Puchkova, 2015:21).

Each type of state activity, including the administration activity under study, has its own most characteristic organisational and legal forms². The basis for the paradigm of the forms of public administration classification was the monograph «Methods and forms of public administration» edited by professor A.E. Lunev. He proposed to subdivide the forms of public administration into legal (establishment of the rule of law and its application) and non-legal (implementation of organisational actions and performance of material and technical operations) (Lunev, 1977:31—37). Many scientists have expressed a similar point of view³. This classification is still relevant. For example, N.V. Makareiko in section «12.1. The concept, general

² One of the first to investigate the problems of legal forms of public administration was I.I. Evtihiev, for details see: (Evtihiev, 1948).

³ For details see: (Alekhin, Karmolickiy & Kozlov, 1996; Bahrah, 1997; Kovaleva, 2004).

features, types, and classification of public administration forms» of his coursebook highlighted the legal and non-legal forms of public administration (Makareiko, 2014).

According to professors R.F. Vasiliev and Y.M. Kozlov, the forms of executive and administrative (managerial) activity are creation of legal norms, application of legal norms, organisational activities, material and technical actions⁴. The first two elements relate to legal forms of public administration, and the last two — to non-legal ones.

Exploring various approaches to classify the forms of public administration, V.M. Bezdenezhnykh notes that «an unambiguous classification of the forms of administration activity is difficult due to their wide variety» (Popov (ed.), 2000:205—206).

Thus, summarising the issue related to classification of forms of public administration, we consider it necessary to note that it should be based on various criteria such as:

- Types of legal activities. According to this criterion, it is possible to distinguish rulemaking, law enforcement, control, and supervisory activities.
- Public administration consequences. As it was mentioned above, it is possible to distinguish legal and non-legal forms of public administration.
- Principle of separation of powers. According to this principle it is necessary to highlight the legislative, executive, and judicial forms of public administration. Also, following the ideas of professor V.E. Chirkin control forms of administration can also be distinguished (Chirkin, 1993).
- Means of expression. They involve written, electronic, oral, and conclusive forms of state activity.

It is important to indicate that correlation of goal and result is central in determining effectiveness of forms of almost any legal activity. A similar thought was expressed in the monograph by E.A. Mamai, who noted that «the positive value of effectiveness studies, ... should consist in assessing the achievement of legal and social goals when comparing them with the actual results achieved» (Mamai, 2012:95).

It should be noted that the administrative activities of the executive authorities are also characterised by a certain set of external attributes that differ both in their legal nature and requirements imposed on them, which, of course, need scientific interpretation.

The overall efficiency of administration process directly depends on the efficiency of work at each of the stages of administrative activities⁵. It follows from this that the overall efficiency of public administration forms depends on a whole set of determinants, and ideally, on a whole system of factors, including human resources

⁴ For details see: (Kozlov (ed.), 1969; Vasil'ev, 1987:4).

⁵ The first major scientific study devoted to the theory of effectiveness of administration activity was the collective study: (Tikhomirov (ed.), 1973).

and financial support, without which no project can be implemented today. This also concerns modern digitalisation and introduction of new computer programs into the administration process.

Changes in social relations as a result of legal regulation have both a quantitative and qualitative determinant, which is primarily understood as the goal of such regulation. It should be noted that the goals of legal regulation can be both specific, with established deadlines, tasks and plan of main and additional measures, and far-reaching, related to the establishment of legal order in society. Implementation of the body of these goals acts as a specific criterion for indicators of overall efficiency.

At the same time, identifying the role of administration in achieving the outcome is the task associated with certain methodological challenges. In this regard, one should agree with the opinion of M.V. Puchkova, who asserts that «the theory of forms of public administration is not sufficiently developed and needs to be improved» (Puchkova, 2015:21).

Nevertheless, Russian science has repeatedly attempted to determine the final overall efficiency. In fact, professor A.P. Shergin connects the possibility of final assessment of administration effectiveness with determining the reasons for established changes in the objects of administration (Shergin, 1979:129).

It follows from the foregoing that effectiveness of administration is expressed in manifestation of significant changes in the object of administration in various spheres of public life (transport, tourism, mass communications, agriculture, sports, education, etc.). This raises the question if effectiveness of administration is expressed only in positive changes occurring in the object of administration. An unequivocal affirmative answer to this question is only appropriate to target efficiency.

In fact, the effectiveness of administration is manifested not only in the presence of positive changes in the object of administration but also in the improvement of the very subject of administration activity, as well as the administration process itself. At the same time, the ongoing changes should, in our opinion, be verified by monitoring the goals and objectives' implementation of a certain type of administration activity⁶, as well as by legal analysis of the results of law enforcement activities⁷.

Based on the foregoing, it seems possible to speak about the existence of various types of efficiency, for example, organisational efficiency, resource efficiency, and others. The systemic efficiency of public administration activities consists of all the listed types of efficiency, that is, from their complex. Thus, it may be concluded that the efficiency concept is multifunctional and multidimensional.

⁶ On legal monitoring see: (Arzamasov & Nakonechnyj, 2009; Baranov & Mushinskij, 2011; Bachilo, 2009; Chernogor & Zaloilo, 2018).

⁷ On legal analytics see: (Isakov, 2014; Dankova, 2016).

The analysis of scientific and educational studies on the concept and types of legal forms of public administration made it possible to single out the following features:

- it is established by the source of law in the form of a regulatory legal act,
- it is an external expressed action of a government body or an official,
- the actions of the governing bodies are carried out in accordance with the legislation, functions of the governing body, and program documents.

Thus, the form of government is the outwardly expressed actions of state authorities and local self-government, aimed at implementing functions of such bodies, and realising themselves in corresponding legal consequences.

The concept and features of public administration acts

Acts of administration are of great importance in the forms of public administration realisation. Such acts are a widespread type of influence on various social relations. They are associated with activities of both legal entities and individuals. Every lawyer, financier, manager, regardless of the place of work (business structure, government body, local government, etc.) constantly deal with acts of administration. Not an exception is individuals who follow orders of federal and regional ministers at work or imperative orders of their immediate superiors and comply with prohibitions associated with the coronavirus pandemic or traffic rules, guided by traffic signals and/or traffic controller gestures.

In fact, *acts of administration are certain instruments to realise the forms of public administration activity; they are specific and recognised by the state legal working elements, contributing to carry out various types and forms of administration.* Law is, on the one hand, a certain instrument of legislative activity, and on the other, a certain result of legislative activity implementation. Orders and other acts of law application, adopted by the heads of executive bodies, by the collegium of federal ministries, act as a tool to realise the executive form of public administration. Sentences, rulings, court orders, and other acts of the judiciary are instruments of the judicial form of public administration. Acts adopted by public services, as well as acts of prosecutor's response (prosecutor's protests, warnings concerning inadmissibility of violating the law, etc.), can be attributed to supervising forms of public administration.

As for creation of legal norms, expressed in various forms of the law-making process, this activity is a distinctive feature of public authorities, mainly executive authorities, associated with implementation of various administrative functions; most regulatory legal acts are adopted by the executive authorities and officials, since concretisation of legislative norms provisions is carried out through departmental regulatory legal acts⁸. For example, the Federal Education and Science Supervisory

⁸ For details see: (Arzamasov, 2008; Vlasenko, 2015).

Service (Rosobrnadzor), in 2018 alone, adopted 30 orders of normative content, specifying legislative norms.

The study of the legal literature on the analysed problem has shown that there are issues that have been considered by legal scholars at different times and which constitute a general concept, in other words, the theory of administration acts.

These issues include:

- concept of the act of administration,
- classification of acts of administration types,
- requirements of legality that apply to acts of administration,
- procedure for issuing acts of administration,
- study of the course and results of the administrative reform being carried out in the Russian Federation (including implementation of anti-corruption expertise, adoption of administrative regulations, etc.).

Acts of administration are traditionally an important part of national legal systems related to the Romano-Germanic legal family. In this regard, it is worth mentioning that in «Pure Theory of Law» Hans Kelsen emphasised significance of by-laws and acts of law enforcement in the hierarchical system of legal acts⁹. In modern Russian legal system, acts of administration also play an extremely important role, which is emphasised by professor V.V. Chernikov (Chernikov, 1996:3).

A «narrow» approach to acts of administration understood them as acts adopted by officials and government bodies, or, as they were called before, — organs of governance. Within the framework of the «broad» approach, acts of administration mean not only acts-documents of state bodies but also various volitional lawful actions of administrative nature.

Resting on the analysis of legal literature, it is possible to single out four different approaches to understanding the acts of administration.

For example, professor V.I. Novoselov asserted that acts of administration should be understood as authoritative actions of the bodies of the Soviet government that are performed in the process of executive and administrative activities. The purpose of realisation of such actions is to create rules of conduct, and/or express the will of the authorities. Besides, these actions entailed emergence, termination, or change of certain relations of administrative and legal nature (Novoselov, 1968).

Of course, at the present stage of legal science development, it is necessary to somewhat update the presented definition since the acts of administration are characteristic not only of the socialist socio-economic formation. Abstracting from the ideological coloring it is more essential to talk about state bodies and officials.

The second approach defines acts of administration as state-power acts adopted on the basis and in pursuance of such regulatory legal acts as laws, presidential decrees, and regulatory legal acts of the Government.

However, similar proposals, as a result of the analysis, were made by professor R.F. Vasiliev back in 1987 (Vasil'ev, 1987:139—140). Thus, in this case, we are

⁹ For details see: (Lezov, 1988).

talking about acts-documents. Professor N.G. Aleksandrov noted that a written legal act is a document that objectifies the instructions of a governing body¹⁰.

In her dissertation research T.E. Kucherova tried to combine the two above-described approaches, defining the act of administration as «... a legal act containing the imperious expression of the will of the authorised subject of the executive power, adopted under the established procedure, and aimed at establishing administrative legal norms or the emergence, change or termination of legal relations to fulfil the tasks and functions of the executive power» (Kucherova, 2006:88—89).

In our opinion, the reference to the establishment of mere norms of administrative-legal nature is a bit too categorical. An act of public administration can establish not only public law norms but also norms of branches of law that are traditionally referred to as private law.

The third highlighted direction is associated with understanding of act of administration as a legal form of executive and administrative activities of state bodies, implemented in the manner prescribed by law, on the basis and in pursuance of laws and relevant competence of such bodies¹¹.

The fourth approach involves understanding the act of public administration as a kind of administrative decision. Professor A.P. Korenev, in this regard, pointed out that this administration regime reflects functions and methods of activity of the subjects of public administration, as well as their goals and objectives (Korenev, 2010:174).

Along with the term «act of administration», the concept of «administrative act» is also widely applied in Russian science today (Savostin, 2002:54). Often, the terms are used as synonyms.

D. N. Bakhrakh and S. D. Khazanov, in turn, used the concept of «act of state administration» as a synonym to «act of administration». Researchers have identified a number of characteristics of this type of acts: first of all, they emphasised the legal form of executive and administrative activity; these acts are of a subordinate nature and are adopted in the process of state administrative activities; the official nature of these acts is associated with publishing on behalf of the state body, expressing the will of the state, and emerging official consequences; based on a unilateral imperious expression of will, they allow to exercise power; when drawn up properly and adopted in the prescribed manner, these acts acquire a legal character; they are legal facts and create corresponding legal consequences (Bahrah & Hazanov, 1999:8—10).

The existing terminological variability should not diminish the significance of acts of administration, which today are an effective tool for law enforcement, a convenient instrument for realising the executive form of public administration. As a rule, this type of activity is within the competence of the executive authorities and officials within the powers granted to them. Nevertheless, there are situations

¹⁰ For details see: (Aleksandrov, 1963:430; Petrov, 1950:59).

¹¹ For details see: (Vlasov & Studenikin, 1959:124).

when the powers to apply certain laws are delegated to public bodies by the will of the state. As an example, we can cite the right of trade unions to participate in rule-making activities, represent employees, and protect their social and labour rights and interests, enshrined in Article 11 of the Russian Federal Law on Trade Unions. Obviously, within the framework of implementing the designated rights, trade unions also follow certain norms of labour legislation.

One of the main distinguishing features of law enforcement as one of the forms of law implementation is that in the field of public administration the main subject of implementation of legal norms is officials and authorities.

At the same time, acts of administration can be expressed not only in the written form of acts-documents (orders, instructions, etc.) but also in oral, verbal forms. As an example, we can cite the oral orders of the director, chief, manager, failure to comply with which may result in disciplinary measures. Thus, it is obvious that oral acts of management can also generate significant legal consequences.

Meanwhile, we must not forget that not every document issued by an authority is a legal act. For example, forms, passes, travel tickets are not legal acts.

Among other things, acts of administration are one of the forms of administrative activity and, therefore, state administrative policy. In turn, the administrative policy is a kind of legal policy, as well as politics in general¹². Professor A.V. Ma'l'ko gives the following definition: «Legal policy is a scientifically grounded, consistent and systematic activity of state bodies and civil society institutions to create an effective mechanism of legal regulation, to use legal means in a civilised way in achieving such goals as the most complete provision of rights and freedoms of man and citizen, formation of legal statehood and a high level of legal culture and legal life of society and individual» (Mal'ko, 2012:42). In our opinion, legal policy should be subdivided into law-making and law enforcement. We agree with another thought expressed by A.V. Mal'ko: the main goal of such policy should be qualitative improvement in the life of various subjects of legal relations.

Acts of public administration allow implementation of both internal and external government functions while exerting a legal impact on both legal entities and individuals. In general, we can say that political and legal regime of a state is determined by the content of acts of public administration, which are issued on legislative provisions.

Next, we will analyse characteristics that reflect specifics of acts of administration.

Acts of administration are imperious, and strong-willed. With the help of such acts, authorities exercise their powers related to both legal regulation and executive, administrative, and control powers. In most cases, acts of administration are issued by executive authorities or their officials.

¹² On formation of the administrative policy of the state, see: (Arzamasov, 2012; Vol'man & Kulman, 2017).

Acts of administration give rise to legal consequences that can be both positive and negative for the participants in certain legal relations. Acts of administration are of a legal nature. As noted above, not all documents issued by an authority are legal. Legal acts, in our opinion, are normative, interpretational, individual, as well as acts of mixed character.

In most cases, *acts of administration are by-laws*; they are adopted in execution, based on laws and cannot conflict with them, since they are lower in the hierarchical subordination¹³.

Acts of administration are created to regulate social relations; they are aimed at creating, changing, or cancelling certain relations in our society. It seems that today the «narrow» approach to the acts of administration is losing its relevance since they are associated with the emergence, change, and cancellation of social relations connected with the most diverse spheres of life. These include labour, financial, informational, and other relations. Acts of administration are not limited only to administrative and legal relations. It should also be noted that such relations, mediated by the power decisions of authorised bodies and officials, could be both abstract and specific.

Acts of administration are a kind of management decision.

It should be noted here that the above signs of acts of public administration are also characteristic of almost all legal acts (federal laws, presidential decrees, judicial precedents, if we are talking about the Anglo-Saxon legal family). All these testify to the insufficient degree of research on issues related to acts of administration. So, for example, the issue of departure from traditional understanding of the act of administration only as a by-law is still unclear. Although almost all scientists in the field of administration, the theory of law and state and administrative law recently agree with the idea that the highest form of government is law, act of administration in the old-fashioned way is called a by-law. One of the possible reasons for this state of affairs is that the concept of acts of administration and the doctrine were developed not in line with the general theory of law and the state, but within the branch of legal science — administrative law. In this regard, it seems appropriate to apply an interdisciplinary approach to the study of public administration issues, given the fact that this activity is associated with a variety of spheres of public life. At the same time, we are not at all agitating for jurisprudence, levelling the importance of applying an integrated approach. Undoubtedly, this kind of research should involve not only lawyers, but also sociologists, economists, political scientists, and representatives of other specialties.

Summing up this part of the study, let us designate the definition of an act of public administration, which, in our opinion, reflects the most important essential characteristics of this concept. *An act of public administration is an imperious volitional action of public authorities and officials, in most cases documented,*

¹³ On the hierarchy of departmental regulatory legal acts, see: (Arzamasov, 2013).

carried out for realisation and based on normative legal acts and orders of the highest bodies of state power, aimed at regulating public relations.

Features of administrative regulations as acts of public administration

The emergence of administrative regulations in the Russian legal system as sources of law is not so old and signifies, mainly, one of the stages of administrative reform. The legal basis for developing and adopting administrative regulations was formed by the Resolution of the Government of the Russian Federation No. 30 «On the Model Regulations for Interaction of Federal Executive Bodies»¹⁴ of January 19, 2005.

Referring to the etymology of the term «regulation» makes it possible to understand that this word has the following meanings: «routine», «rule», «control». The Legal Encyclopaedic Dictionary defines regulation as a normative legal act dedicated to the issues of the order of activity and the internal organisation of any body, as well as its divisions (Krutskih, 2004).

T.Ya. Khabrieva, A.F. Nozdrachev, and Y.A. Tikhomirov presented a short but capacious definition of administrative regulations: these are normative legal acts, whose content is represented by administrative procedures (Naryshkin & Habrieva, 2006:34).

Despite the attractive lapidary nature of this definition, it does not allow to identify the entire palette of specific features of administrative regulations that would help to reveal their legal nature and determine their place in the system of sources (forms) of Russian law.

It should be noted that an appeal to foreign legal orders allows to discover some forms of law that are similar to administrative regulations in the legal systems of other states. For example, Italy, Spain, and France employ the concept of «regulatory power», denoting the competence of the government in the field of issuing normative legal acts that are lower in the hierarchy than laws. At the same time, the designated acts are not by-laws in the classical general theoretical understanding, since, in most cases, they are adopted on issues that are not reflected in legislative acts. Moreover, within the French legal system, it is impossible to adopt laws on this range of issues (Marcou & Moderne, 2006). The French doctrine describes such acts as «autonomous acts of the executive branch» (Frier & Petit, 2014).

The Romano-Germanic legal family operates with the so called “administrative circulars”, which, although they have an outward resemblance to Russian administrative regulations, do not contain legal norms, and therefore do not meet the requirement of normativity. The essence of administrative circulars is to indicate the meaning given to certain legal norms by administration (Lochak, 2015).

Coming back to the Russian legal system, we must note that one of the fundamental characteristics of administrative regulations determining all their

¹⁴ Collection of Legislative Acts of the Russian Federation. 24.01.2005, (4), 305.

subsequent essential characteristics, is the normative nature of administrative regulations, since they enshrine certain rules of law, mainly of a procedural character. By their legal nature, these acts relate to a certain type of acts of administration that confirms their imperative nature, since from the point of view of legal regulation method they, in most cases, *consolidate binding norms*.

At the same time, *administrative regulations differ in a special legal structure* from other acts of administration. Following professor S.S. Alekseev, by legal structure, we understand one of the means of rule-making legal technique, expressed in a special structure of the normative material corresponding to one or another type of existing legal relations (Alekseev, 1973:145—146). The legal structure can be compared with a certain «scheme» or «model»; with its help the normative material acquires a certain form of administrative regulation.

Without going into details concerning classification of administrative regulations currently applied in Russia, we argue that these acts of administration can be divided into two groups: external and internal regulations. The first group regulates the issues of interaction of the bodies that have adopted such administrative regulations with other subjects of law, the second one regulates the issues of the internal organisation of the designated bodies. In turn, each of these blocks can be subdivided into different types of administrative regulations. To analyse the legal structure of administrative regulations, let us look at one of the varieties of the so called «external» regulations, namely, administrative regulations for the provision of public services.

In a generalised form, the structure of such an administrative regulation can be presented in the following form: 1) general provisions containing information on the subject of regulation of a specific administrative regulation, the range of individuals who may apply for a particular public service, requirements regarding the procedure for informing the applicant about the progress in providing this public service; 2) the standard of providing public services, enshrined in these administrative regulations, which presupposes the name of the public service, results and timing of its provision, regulatory framework and authorised bodies involved in providing this public service; 3) a set of administrative procedures that must be implemented as part of providing public services, sequence of actions, indicating specific terms and requirements. Due to the development of information technologies and communications, this section also often reflects peculiarities of performing certain administrative procedures in electronic form; 4) forms of control over the execution of administrative regulations used by authorised bodies; 5) indication of possibility of pre-trial (out-of-court) appeal against decisions, actions and omissions of actions by the state body and officials providing public services, as well as procedure for such appeal; 6) specifics of implementing administrative procedures in multifunctional centres for providing public and municipal services (MFC)¹⁵.

¹⁵ Collection of Legislative Acts of the Russian Federation. 30.05.2011, (22), 3169.

The foregoing confirms that *administrative regulations are acts of administration, characterised by a high degree of concretisation*, which allows ensuring maximum detail and accuracy of administrative procedures reflected in administrative regulations.

As mentioned earlier, administrative regulations are a means of securing administrative procedures, which implies that *administrative regulations are procedural acts*.

At the same time, administrative regulations ensure not only procedural but also substantive norms. As a rule, the latter represent determination of the legal status of the subjects involved in implementing a particular administrative procedure. However, due to the specifics of the legal nature, it should be concluded that most of the norms enshrined in administrative regulations are of a *procedural nature*.

Moreover, it should be noted that *administrative regulations are codified normative legal acts*, which adds specificity to legal norms presentation and structure.

Codification is one of the ways to systematise the existing normative material; it acts as a type of systematising legal norms characteristic of the Romano-Germanic legal family.

Due to codification, instead of a huge set of normative legal acts, a single codified act makes it possible to ensure the unity of legal regulation in a particular area of public relations, overcome the multiplicity of normative legal acts, and avoid legal conflicts, gaps, and duplication of existing normative material.

The clarity of the structure and specificity of the legal structure of administrative regulations, which were considered above, are also closely related to the codified nature of this type of act of administration.

A characteristic feature of administrative regulations is the copying of individual provisions contained in departmental acts that governed similar social relations before adopting the analyzed regulations.

It is necessary to emphasise that *administrative regulations are certain modern legal types among the variety of management decisions*. In this case, codified legal acts of administration are aimed at solving important problems through legal regulation of specific social relations.

From the standpoint of the general theory of decision-making, L.A. Trofimova defines a managerial decision as «a choice from a set of the most preferable alternatives» (Trofimova, 2011:6). At the same time, the choice of the management decision through adopting a departmental regulatory legal act as an administrative regulation, as opposed to publication of law application acts, is explained, firstly, by legal nature of administrative regulation, and its greater legal force in comparison with a decree and/or individual order, secondly, by a permanent clearly established legal regulation, thirdly, by a special legal structure that regulates legal procedures related to implementation of state functions in providing public services to legal entities and individuals, etc.

It is also necessary to note the peculiarity of administrative regulations, which, in our opinion, has a distinctive negative character. We are speaking about *the practice of approving administrative regulations by orders*, which is a legacy of the Soviet legal tradition.

In our opinion, it is necessary to change the existing state of affairs by eliminating legal archaism and preventing approval of codified departmental acts (administrative regulations) by simple departmental acts.

Currently, administrative regulations are not subject to regulatory impact assessment (hereinafter — RIA). This fact cannot be considered satisfactory either, given that RIA is a kind of core of regulatory policy. At the stage of drafting regulatory legal acts, this procedure allows to identify the excessive duties, restrictions, and prohibitions, which is extremely important for administrative regulations due to their functions in the mechanism of legal regulation.

The foregoing testifies to the existing shortcomings of the rule-making legal technique of administrative regulations, which require attention, research and elimination of defects.

The significant *anti-corruption potential of administrative regulations* is also worth mentioning; by fixing deadlines, a clear order of terms, and actions within the framework of implementing administrative procedures, these acts practically leave no room for various kinds of illegal acts. Clarity and detailing all actions and administrative procedures necessary for providing a particular state and/or municipal service, implementation of a specific public-power function actually makes it impossible to impose on citizens any additional duties and burdens not provided for in the text of administrative regulations by the public authorities and officials. It is also difficult to make unreasonable decisions because all stages, terms, list of applicants, necessary documents, and results of specific actions are also reflected in the administrative regulations.

In the previous part of this study, it was concluded that *act of administration is one of the forms of public policy manifestation*. Administrative regulations in this case are no exception. Under the provisions of the Decree of the President of the Russian Federation «On the system and structure of federal executive bodies»¹⁶, federal ministries are engaged in law-making activities and, thus, form state policy within the spheres of social life regulated by them.

Besides, *administrative regulations are one of the instruments of the administrative reform, which is under way in Russia*. Thus, in the Concept of Administrative Reform, approved by the Order of the Government of the Russian Federation No. 1789-r¹⁷ of October 25, 2005, the development, adoption, and implementation of administrative regulations in the Russian legal system are designated as an independent task of the ongoing administrative reform. The purpose

¹⁶ Collection of Legislative Acts of the Russian Federation. 15.03.2004, (11), 945.

¹⁷ Collection of Legislative Acts of the Russian Federation. 14.11.2005, (46), 4720.

of these activities is to improve efficiency of administrative processes in the field of administration activities.

Speaking about essential features of administrative regulations, it should be noted that they are *integral tools for realisation of various forms of public administration*. For the most part, administrative regulations implement executive forms of government, if we take classification by branches of government as a basis. A good example of this is the Order of the Ministry of Education and Science of the Russian Federation No. 428 of April 27, 2015 «On approval of Administrative Regulations of the Ministry of Education and Science of the Russian Federation to provide public services to issue at the request of educational institutions of higher education, educational organisations of additional vocational education and scientific organisations permits for creating on their basis councils for the defence of dissertations for the degree of candidate of science, for the degree of doctor of science, for determining and changing the composition of these councils, for determining the list of scientific specialties for which these councils are granted the right to accept dissertations for defence»¹⁸.

Considering that administrative regulations are of a normative nature, *they are one of the varieties of legal forms of public administration*.

For a comprehensive study of administrative regulations as types of acts of public administration, it is important to look at them from the point of view of the concept of public administration forms. Applying the provisions of this theory and employing various criteria specified in the first section of this article, we can highlight the main features of administrative regulations as forms of public administration.

1. In terms of legal consequences, administrative regulations refer only to *legal forms of public administration*, and it would be difficult to imagine existence of any regulations of a criminal group. Administrative regulation, adopted in any form, is, first of all, a legal document that ensures norms of law different in their focus; thus, it has certain legal force, which determines its regulatory capabilities.

2. From the point of view of legal typology, administrative regulations should be attributed to *the results of rule-making activities*, mainly of federal executive bodies, their structural and regional divisions, as well as local government authorities.

3. In terms of their functional focus, administrative regulations *are subordinate normative legal acts* aimed at specifying legislative, executive and governmental regulations.

4. Based on such criterion as the principle of separation of powers, administrative regulations for the most part refer to the *executive forms* of public administration. However, analysis of the system of normative legal acts of the Russian Federation shows that there are regulations that, in terms of their content, can be attributed to other forms of public administration. Quite often, administrative regulations also act as tools for exercising *control powers*. A striking example is the Order of the Ministry of Economic Development of Russia No. 33 dated January 22,

¹⁸ Rossiiskaya Gazeta. 15.06. 2015. (127).

2020, which approved the Administrative Regulations for the implementation by the Ministry of Economic Development of the Russian Federation of state control (supervision) over the activities of self-regulatory organisations in the field of energy inspection¹⁹.

However, *judicial forms of public administration* can be implemented through adopting administrative regulations. For example, based on the norms of the Commercial Procedure Code of the Russian Federation and clarifications of the Resolution of the Plenum of the Supreme Commercial Court of the Russian Federation No. 12 dated February 17, 2011 «On some issues of the application of the Commercial Procedure Code of the Russian Federation as amended on July 27, 2010 (No. 228-FZ)» to fully implement the possibility of participating in a court session of a commercial court through videoconferencing systems, commercial courts of the constituent entities of the Russian Federation adopt regulations for preparing and conducting court sessions using videoconferencing systems²⁰.

5. By way of expression, administrative regulations are of two types — *written* and *electronic*. Today, in federal executive bodies, administrative regulations are drawn up, both in electronic and written forms, to protect information from hacker attacks, which have become more frequent recently, both in Russia and in other states. However, with introduction of the blockchain system into management activities of public authorities, there has been a gradual transition to electronic forms of creating, processing, systematizing and storing legal information.

Based on the foregoing, we propose the following definition of administrative regulations: these are *codified normative legal acts, the special legal structure of which enshrines administrative procedures and standards aimed at implementing certain forms of public administration to implement legal policy of the state*.

The role of administrative regulations is also being updated within the framework of a large-scale reform of Russian legislation, caused by the need to adopt, amend, and abolish a wide range of laws and other regulatory legal acts as a result adopting numerous amendments to the Constitution of the Russian Federation. Generally, the constitutional and legal inclusion of local self-government bodies in the «unified system of public power» should be reflected in the administrative regulations on the issues of external interaction of public authorities and various aspects of their relationship. Also, in connection with adopting a number of amendments to the Constitution related to the social sphere of public life (guarantees of wages of at least at the subsistence minimum, the need to index pensions at least once a year, obligation of social insurance and indexation of social payments), it will be necessary to adjust the provisions of administrative regulations governing the types of relations under study.

¹⁹ Official Internet portal of legal information. Available at: <http://publication.pravo.gov.ru/Document/View/0001202003250006> [Accessed 06 March 2021].

²⁰ The Arbitration Court of the Republic of Adygea. Available at: <https://adyg.arbitr.ru/node/13043> [Accessed 06 March 2021].

Prospects for the development of administrative regulations as acts of public administration are seen in the widespread use of information and communication technologies, and digitalization, which is especially important in the context of the pandemic of a new coronavirus infection. Introduction and employment of electronic administrative regulations will raise efficiency of interaction between citizens and governmental officials.

In conclusion, we note that today administrative regulations are in the process of realising their goals. Despite many positive aspects, certain circumstances complicate this process. Among these circumstances, one should mention lack of a legal definition that would consolidate all the essential characteristics of administrative regulations and lack of a clearly built system of administrative regulations that allows them to be properly differentiated depending on typical features.

Conclusion

Administrative regulations are an integral part of the modern legal system of the Russian Federation. Administrative regulations are special acts of public administration, which have become one of the most important instruments of the ongoing administrative reform. Development and adoption of a significant number of administrative regulations make the activities of executive authorities and their officials more transparent.

The study of foreign experience allows us to speak about the special nature of the administrative regulations in the Russian legal system. Investigation of features of this type of public administration acts allowed the authors to offer a definition to administrative regulations.

In our opinion, administrative regulations have significant anti-corruption potential, contributing to minimising the number of cases of unreasonable discretion of government officials, arbitrariness of unscrupulous officials, state, and municipal employees.

Moreover, administrative regulations are integral tools for realisation of various forms of public administration, mainly the executive form of public administration, as well as specific types of management decisions.

Conclusions and recommendations presented in this article can be used to study various types of administrative regulations.

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