Problems of administrative law in the system of public administration

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Abstract

Purpose

The relevance of the work is determined by the fact that administrative law appears as one of the significant factors influencing the development of both the public administration system as a whole and the processes of its reform that the Russian Federation has faced today. The authors show that if the relations of state administration are the subject of the administrative law's influence (after all, it is they who are influenced by administrative and legal norms), then we are faced with an extremely important question regarding the character and specificity of the relationship between administrative and legal relations and relations of state management, on the one hand, and analysis of the concept of administrative and legal regulation of public administration relations on the other. This goal is important, given that the authors substantiate the relationship between administrative law and public administration through identifying the possibilities of regulatory influence on the part of administrative law on public administration relations.

Design/Methodology/Approach
Prospects for the further development of the study are the formation of an understanding that government is not limited to administrative law, but it cannot be denied that the regulatory impact of law in public administration is decisive, and therefore public administration is largely a state-legal category, although it is not limited to this.

Findings

So, having analyzed the above approaches and positions of scientists regarding the subject of administrative law, we believe that it can include any managerial activity of the state authority and local government bodies that: does not directly concern the subject matter of another branch of law; is realized with the help of the executive-administrative mechanism (in this case the author does not consider the executive-administrative mechanism as an exclusive prerogative or a unique feature of the executive authorities, although, of course, he agrees that it is the most typical and characteristic feature for them); is realized within the framework of a certain state authority, local government or non-governmental organization (in case of delegating state powers to it) in order to ensure its proper functioning (internal management relations); is implemented outside the framework of a certain state authority, local government or non-governmental organization (in case of delegating state powers to it) and is directed to other (external) with respect to the relevant body or organization of entities (external organizational management relations); are largely characterized by relative constancy and immediacy of implementation relative to the management object.

Originality/Value

Prospects for the further development of the study are the formation of an understanding that government is not limited to administrative law, but it cannot be denied that the regulatory impact of law in public administration is decisive, and therefore public administration is largely a state-legal category, although it is not limited to this. At the same time, indistinctness and uncertainty about different ways of understanding public administration often generate negative effects both at the general scientific level and at a purely practical level (when it comes to the exercise of administrative powers by certain state authorities).

INTRODUCTION

One of the leading approaches to understanding the place of administrative law in public administration is defined as state-administrative, alternative to it as administrative-legal. Naturally, in this case we are not talking about a categorical delineation of such disciplines as the science of public administration

and the science of administrative law and an attempt to single out among them some dominant way of determining the essence of public management relations. But nevertheless, the introduction of a certain clarity in this issue, especially when it is not a question of a particular sphere of state administration, but of relations of state administration as a whole, is important and at the same time an urgent task for modern legal science and for our research.

Since public administration is called upon to ensure a stable and orderly development of society, it is quite natural that it is implemented with respect to a huge array of manifestations of social life. Recognition of this feature helps in a better understanding of the dynamic (such that it is constantly changing), the complex and mosaic nature of the subject of regulation of administrative law, and in an adequate explanation of the fact that scientific research on the subject of administrative law always faces certain difficulties. Moreover, now the problem of formulating the subject of administrative law is complicated by the reformatting of state administration to ensure the interests of an individual. These circumstances testify to the particular relevance and significance for the science of administrative law of such a legal phenomenon's investigation as is the connection of this branch of law with state administration.

During the social transformation, the introduction of democratic values and European standards in state building are changing. The existing model of public administration in that form no longer satisfies the needs of modern society. All this actualizes the importance of introducing a management model aimed at ensuring sustainable development of the state and improving the quality of human life.

Both domestic and Russian researchers have already addressed the questions of determining the specifics of relations of state management regulation. However, we should point out that we aim to investigate not so much as the essence and form of the relations of state administration implementation as a whole (this task to a certain extent extends beyond the science of administrative law), but to highlight such a dimension of this broad topic as the administrative and legal aspects of government relations' regulation. In our opinion to successfully solve this problem, the following specific tasks should be solved:

–describe the main scientific and theoretical approaches to the definition of the essence and specific features of public management relations;

–highlight the theoretical basis for analyzing the processes of public administration relations' regulation from the point of view of the administrative law science;

–determine the main directions of the impact of the administrative law on the development and improvement of the system of public administration relations.

LITERATURE REVIEW

It is obvious that the phenomenon of public administration has a universal character. In this sense, individual researchers even state the thesis that virtually all branches of state power, without exception, realize the functions of state administration. For example, according to B. Kassow, the essence of

public administration is revealed through its definition as a purposeful influence of the state through the system of all its bodies on public relations (Kassow, 2016). Similarly, in his later writings, he describes public administration as a practical, organizing and regulating influence of the state on the social life of people, which, in fact, extends this concept to all spheres of the state power's exercise. Another lawyer D.C. Dragos characterizes the state administration in such a way: public administration is an integral sphere of activity of the state power, all its branches, all its bodies, all officials, the realization of state power in all its forms and methods (Dragos, 2016). A similar interpretation of public administration is proposed by D. Howland, who writes that the term management refers to the process of managing public affairs, which is carried out by all organs of the state and in all branches of government (Howland, 2016). The definition of P. De Hert and G. Boulet suggests that public administration is a purposeful organizational and regulatory influence of the country on the state and development of social processes, the consciousness, behavior and activities of a person and a citizen in order to achieve the goals and the state functions' realization, reflected in the Constitution and legislative acts, through the introduction of state policy developed by the political system and legislatively secured through the state power bodies' activities, endowed with the necessary competence (De Hert, 2016).

However, along with this approach to understanding the essence of public administration and public-management relations, there is another methodological position. At one time, S. Chatzopoulou, B. Poulsen wrote that public administration is the activity of executive and administrative bodies of state power, and any attempts to expand the content of state-administrative relations lead only to erroneous ideas about it (Chatzopoulou, 2017). J.E. Jreisat also considers it inappropriate to extend the content of the concept of "public administration" to others, except for the executive branch of government (Jreisat, 2016). The same opinion is held by H.O. Koenig, who writes that public administration is the activity of specially created bodies, public-service posts that constitute the system of executive bodies (Koenig, 2016).

Without dwelling now on a detailed analysis of what exactly the concept of public administration is from the point of view of its theoretical content, let us note only that for our research this issue is important for the reason that outside a clear understanding of the essence of public administration and the fact that it includes this concept, it will be extremely difficult for us to find out both the content of the relations of state administration and understand in what relation to the state-management relations are administrative and legal relations. As well as describe the legal and administrative aspects of the public relations management's regulation, as well as of the administrative and legal support reform.

RESULTS AND DISCUSSION

Theoretical constructions of administrative law and state administration. One of the first generally accepted definitions of the subject of administrative law was proposed by the Soviet scientist R. Prunty. To the subject of administrative law, he enumerated public relations of managerial nature, directly related to the performance by state agencies of specific executive and administrative tasks, namely, the constant and direct management of economic and cultural-political construction (Prunty, 2016).

I. Leksin held similar views on the subject of administrative law, which he understood as a set of public relations arising in connection with the implementation of public administration functions, regarding the implementation of wide and diverse executive and administrative activities (Leksin, 2016).

S. Zhu among the main characteristics of public relations, which constitute the subject of administrative law, identifies the following (Zhu, 2016):

–arise only as a result of state-managerial (power) activity,

–the executive body of the state is an obligatory participant.

The subject of administrative law includes public relations that arise, change, and cease in the course of practical implementation by state bodies, primarily executive bodies, powers of a state-imperious nature, in accordance with the competence assigned to them in exercising the functions of state administration.

A common feature of the above definitions is their general and elastic nature, which is caused by the use of verbal revolutions of the type related to management: directly related, in connection, as a result, in the process. On one hand, the advantage of this approach to the definition of the notion of the administrative law subject is its voluminous and relatively uncertain nature, which, in our opinion, avoids the excessive dogmatism associated with an exhaustive enumeration of those social relations that constitute the subject of this branch of law and cover any new social relations that may arise in communication, in the process or as a result of managerial activity (Miller, 2016). However, its obvious shortcoming is that it, so to say, to some extent blurs the boundaries and does not give a clear and objective idea of what kind of social relations form the subject of this branch of law.

The subject of administrative law includes public relations, formed in connection with:

–the implementation of public administration (management relations);

–ensuring the protection of public order (relations in the field of law enforcement);

–ensuring the process of realization by citizens of their subjective rights and interests by the executive authorities (relations in the sphere of law-ensuring activity);

–police and relations in the field of administrative justice.

In turn, G.J. Gordon tried to generalize the definition of the subject of administrative law, which he defines as a system of homogeneous public relations of a regulative and protective material and procedural nature, in which the rights, freedoms and duties of the participants in managerial activity or administrative and legal protection are realized (Gordon, 2016).

A. Osorio sought to provide the most detailed list of social relations that constitute the subject of administrative law, to which he attributed (Osorio, 2016):

–management relations that appear within the framework of the organization of public administration;

–management relations, within the framework of which the functions and powers of the executive authorities are realized, as well as the relations that arise between different levels of the system of executive authorities and other public authorities;

–management relations arising in the sphere of management activities of executive bodies of local self-government;

–management relations of an intra-organizational nature that arise in the process of functioning of subjects of the legislative, judicial and prosecutorial authorities;

–relations arising in connection with the consideration of cases for the protection of rights and freedoms violated by public authorities and officials;

–management relations that appear in the process of implementation by non-state organizations of the delegated, by the state authorities, powers in the sphere of management activities.

The disadvantage of such detail is that, in carrying out a full recalculation of social relations that constitute the subject of administrative law, the researcher already preliminarily limits himself in the freedom of further reasoning about the subject, and this can cause some difficulties for him, since the content of the subject matter of this branch is traditionally debatable, and he himself is distinguished by a certain dynamism. This is evidenced by the well-known fact for the administrative scientists of the relatively recent attribution of the administrative law's subject to the coordination relationship. In the same case, when the researcher avoids an exhaustive enumeration of social relations relating to this object, he will face another problem – the half-heartedness of the incompleteness of the definition of the subject itself and will put the correctness of its formulation into question, since it ceases to be in principle, which can level its value.

In turn, G. Sgueo used a synthetic approach to determining the subject of administrative law. In proposing a general definition of the subject matter of this branch, she simultaneously tries to give a more concrete idea of the social relations' nature that enter into it (Sgueo, 2016). Thus, along with the general formulation of the corresponding definition, the circle of social relations that make up the subject of this branch, under which it understands a number of administrative and legal relations, is also quite successful, among which it is possible to single out the administrative relations that result on the occasion of and about the execution by state authorities of their executive-administrative functions:

–relations formed in the process of state regulation of various spheres of public life;

–relations resulting from the provision of various administrative services to individuals and legal entities;

–relations with regard to ensuring the implementation and protection in the administrative order of the rights and freedoms of citizens;

–state-service relations.

The peculiarity of these relations is that they arise only as a result of power activity, state-administrative activity, on behalf of the state and the relevant executive and administrative body always participates in them. However, the lack of this approach is its internal contradiction, which consists in a

combination of uncertainty with a relative certainty, which, in our opinion, introduces some discomfort in the perception of this kind of definitions, but this circumstance does not diminish its value. (Miller, 2016) Therefore, analyzing the positive and negative aspects of the synthetic approach, we still believe that its application is the most optimal and justified. On one hand, it delineates the general outlines of the corresponding definition, giving it certainty, and on the other hand, for the purpose of better visualization and disclosure of the content of this concept, gives the researcher the right to identify certain social relations as examples and to avoid their exhaustive enumeration. In the future, we will use it to determine the subject of administrative law.

There should be no such circumstance left outside of our attention, that along with the approach to understanding administrative law, primarily as administrative law in a broad sense, there is also a position according to which the subject of this branch is limited only to managerial relations in the sphere of executive power in administrative science, with which, in our opinion, many scholars reasonably disagree. So cases of administrative jurisdiction include cases of appealing decisions, actions or inactivity of the subjects of power authority, which are understood as state authorities, local government bodies, their officials, other entities in the exercise of their administrative functions, including the discharge of delegated authorities (here it is necessary to pay attention to the fact that the legislator quite consciously avoids the use of the notion of an executive body) (Quinot, 2016).

Interesting views on the nature of the subject of administrative law were expressed by L. Smorgunov, who, among other things, ranked it as managerial activity, which arises during the implementation of lawmaking and justice (Smorgunov, 2016). In general, we are impressed by this opinion, but with one serious addition: such managerial activity should be immediate and relatively permanent in nature and implemented on the basis of executive and administrative activities. This clarification is conditioned by the need to distinguish state administration from general government, which under certain conditions could be considered part of the subject of administrative law, since in the scientific literature it is sometimes possible to interpret the legislative function of the state as a kind of public administration (Dong, 2016).

The main thing that is inherent in the regulatory nature of administrative law and where its specificity is revealed to an excellent degree is the unambiguous output of its norms for the functioning of the public administration system and administrative law, which gives public relations a public-legal character, which contributes to a clear manifestation of all the features and characteristics of the state-management activities in them.

Detection of the grading characteristics of administrative and management activities. State administration is one of the key components of state construction and is the process of implementing state executive power as a means of functioning of any social community. According to the encyclopedia of state administration, the category of state administration is the activity of the state (public authorities) aimed at creating conditions for the fullest possible realization of the functions of the state, the fundamental rights and freedoms of citizens, the harmonization of various interest groups in society and between the state and society, ensuring public development with appropriate resources.

State administration is the practical, organizing and regulating influence of the state (through the system of its structures) on the public and private life of people for the purpose of ordering, preserving or transforming it, based on its domineering power. State administration is the process of implementing authoritarian governance through the formation and implementation of a system of state executive bodies at all levels of the administrative and territorial division of the country, which uses a combination of methods, mechanisms, methods of power influence on society. Thus, state administration is imperious and the key elements of this system are the state and state power (Farazmand, 2017).

As for public administration, this term originates from the law and practice of foreign countries (Chirita, 2016). According to the UN glossary, public administration has many definitions. Public administration is the centralized organization of the implementation of public policies and programs, as well as coordination of staff activities. Other specialists in the field of state administration determine that public administration is connected with the implementation of laws and other norms adopted by the legislative bodies of the state. Still others argue that public administration is used in managerial, political and legal theory and is a procedure for carrying out actions by the legislative, executive and judicial branches of government in order to implement state regulation and provide services to the public. According to the UN, public administration has two closely related meanings:

1) a holistic state apparatus (policies, rules, procedures, systems, organizational structures, personnel, etc.) that is financed from the state budget and is responsible for managing and coordinating the work of the executive branch of government, and its interaction with other interested parties in states, society and external environment;

2) management and implementation of the whole complex of state measures that are related to the implementation of laws, decisions of the government and management related to the provision of public services.

A.M. Simon and M.E. Milakovich define public administration as the social system's subsystem that is part of a society whose functioning and development are under the powerful influence of all other spheres of social life (Simon, 2016). Thus, for public administration, society and public authority are the key elements (Badovskis, 2017).

In today's science of administrative law, two approaches to the interpretation of the state administration phenomenon continue to exist. It is a broad and narrow understanding of state administration. For objectivity, let's imagine both. State administration in the broadest sense is the aggregate of all types of state activity that is realized in the functioning of the organs of all power branches and directed at regulating public relations. Speaking of a broad understanding of state administration, it must be said that it covers activities of (Gallahue, 2016):

–bodies of executive power – through the implementation of executive and administrative activities aimed at implementing the requirements of the norms of laws;

–legislative and judicial authorities – through lawmaking and the administration of justice;

–other state bodies that do not belong to certain branches of government – the prosecutor's office, the Central Election Commission, the National Bank and the like;

–non-state bodies (local self-government bodies, public organizations) in the course of their implementation of state-delegated powers.

The broadest understanding of state administration gained its greatest development during the Soviet period when the state existed, when the idea was realized in practice, according to which councils are represented not only by bodies of legislative (representative) power, but also by bodies that directly exercise public administration.

State management in the narrow sense is the executive and administrative activity of executive authorities, as well as other bodies, insofar as they exercise executive and administrative functions. It should be noted that along with the executive authorities, for which executive and administrative activity is the main one (that is why these bodies are the "core" of state administration in a narrow sense, the state administration in its part is also implemented by other bodies and officials (President, Prosecutor's Office, non-governmental bodies during the performance of delegated powers, etc.) A feature of this activity of other (non-executive) bodies, which allows to distinguish between a broad and narrow understanding of state law, consists in the following: only a part of the entire range of activities of state bodies that is executive-administrative in nature is included in the state administration (in its narrow sense). This activity is not leading for these bodies, it has a secondary, auxiliary, internal organizational character. It should be noted that in administrative law it is the narrow understanding of the state administration is the main one. This approach allows us to qualitatively analyze the executive activity of executive bodies (for which management is the main line of business), as well as internal organizational activities within the framework of other state bodies' functioning (Swartzendruber, 2016).

There are two approaches to the definition of public administration. In a broad sense, public administration is understood as the whole system of administrative institutions with a hierarchy of power, through which the responsibility for the implementation of government decisions is descended from the top down. That is, public administration is a coordinated group action on issues of state affairs, which are (Herm, 2017):

–associated with the three branches of power: legislative, executive and judicial;

–important in the formation of public policy;

–is part of the political process;

–significantly different from administration in the private sector;

–associated with numerous private groups and individuals who work in different companies and communities.

In a narrow sense, public administration is connected with the executive branch of power and is considered as: the professional activity of civil servants, which includes all activities aimed at implementing government decisions; study, develop and implement directions of government policy.

Thus, both state administration and public administration have both a broad and narrow understanding and with the above definitions are very similar. However, state administration refers to an authoritarian form of government, and public administration to a democratic one. Public administration is a close concept to public management and some researchers even use it as synonyms. However, these terms are completely different. Consider these concepts in this section:

1) State administration;
2) Public administration;
3) Public management.

Public administration is a link between state and public management. A number of scientists consider public administration a transitional link or stage from state administration to public management. In the state sector, the public administration model ("bureaucratic model") was transformed into a model of public management ("market model"). In the state sector, the "bureaucratic model" has evolved into a "market model": the emphasis has shifted from performing work in accordance with instructions and clear rules for work that aims to provide quality public services and achieve effective results. This led to the transformation of "state administration" into "public administration", and eventually into "public management".

Public administration is a kind of management activity of public power institutions, thanks to which the state and civil society ensure the self-development (self-governing) of the entire social system and its development in a certain, specific direction. Public administration is a form of implementation of public management that is carried out by representative bodies of democratic governance through its executive structures (Hatcher, 2016).

Let us turn to the etymology of words and analyze the pairs "state – public" and "management – administration". Of course, the concept of "public" is broader than "state" and contains definitions such as "state", and others as well: "public, popular, nationwide, generally accessible, communal, open, renowned". That is, when using "public" in the sphere, we mean what relates to the executive authorities, the administrative apparatus, local self-government bodies, public, which belongs to the people. As for "management", it includes both "administration" and "management, ownership, presidence, organization".

Thus, public administration is a component of public management, the purpose of which is the development of the state on the principles of democracy with the use of effective new methods and technologies of management and aimed at providing citizens at the level of world standards.

The encyclopedia of state administration indicates that public management means the development and implementation of public policy. In our opinion, public management is carried out through the provision of power to society – through decentralization, and the more management becomes decentralized – the more it is public. If there is a risk of publicity, state administration becomes public management through the introduction of public administration (Curtis, 2016).

The process of implementing public management is provided through public administrations. Public administration is the aggregate of state and non-state structures and authorized persons carrying

out public management and administration. The public administration includes executive bodies, administrative staff and executive bodies of local self-government.

The purpose of the management is to organize joint activities of people, their individual groups and organizations, to ensure coordination of interaction between them, and its essence is the implementation of the control impact on the relevant facilities. The management object is a system that obeys the imperious will of the management entity and performs its decision, that is, the system that is controlled. The state is the object in state administration, and in public administration, society is the object. At the same time, it should be remembered that all types of management are subject to constitutional and other legal regulation, which establish a close relationship of state administration with other types of government; interrelated, complement, replace, strengthen or weaken each other; at each historical moment have their level of development, in which their ability to manage the corresponding objects of control is expressed. Therefore, one cannot approach any kind of management abstractly, based on any preferences, as it is done today in relation to management. It is always necessary to see the real controllability of these processes, phenomena and relations, which should be controlled by specific subjects of government. In the state administration, the subjects of management are:

−executive authorities (government, ministries, state committees, other central executive bodies, local self-government bodies);

−the leaders and the executive staff of these bodies (politicians, officials, officials endowed with state-power credentials).

Correlation of administrative law and state administration. Obviously, in the most general form, relations of state administration can be described as social relations that are formed about the implementation of state power and in connection with the need to manage public and state affairs. Since these relations are regulated by legal norms, they are characterized as legal relations of state administration. This, in turn, means that their participants act as bearers of subjective rights and obligations. At the same time, it is in the process of legal regulation of public administration's relations that its functional purpose is determined, and appropriate means and technologies for ensuring the realization of the state's willful power are acquired. At the same time, when speaking about the legal regulation of state administration relations, we recognize that from the legal point of view this influence can be exercised by various branches of law, among which one of the leading places belongs to administrative law.

Our last thesis can cause serious objections. After all, now the role of administrative law in the regulation of relations of state administration acquires all purely technical nature. Moreover, if we analyze general theoretical changes in the interpretation of administrative and legal relations, we can even argue that the current trends in the development of state power and state administration enter into a dispute with the understanding of administrative and legal relations peculiar to legal science, primarily as a state public authorities' power regulated by law. However, it is unclear whether it is

possible to assert on this basis that the role of administrative law in the regulation of state administration relations is diminishing.

In our opinion, such a conclusion is still erroneous. Indeed, it is now quite justifiable to talk about the approval of a conceptually new "doctrine of administrative law", the essence of which is that administrative and legal relations are primarily interpreted primarily as public-service relations, that is, relations within and through which the state serves legitimate needs and interests of individuals. Today, we are talking not just about approving the optimal structure of executive bodies, changing their subordination and reducing the administrative apparatus, but about radically changing the entire system of administrative and legal relations, and, consequently, creating a fundamentally new system of state administration that would correspond to the model of democratic, social, legal state. By the way, this idea was clearly defined in the Concept of the Administrative Reform of 2016, where it was noted that the goal of administrative reform is the phased creation of such a system of state administration, will ensure the formation of the Russian Federation as a highly developed, legal, civilized European state with a high standard of living, social stability, culture and democracy, will allow it to become an influential factor in the world and Europe. Moreover, the goal of the administrative reform was the formation of a system of state administration that is close to the needs and demands of people, and the main priority of its activities is serving people, national interests.

However, at the same time, such a nationwide change of emphasis (which, as we noted above, was also reflected at the constitutional level) should in no way be interpreted as a refusal from the administrative and legal regulation of state administration relations or as a kind of rejection of administrative law for secondary roles.

Moreover, in our opinion, in many points we can point out for a significant increase in the role of administrative and legal relations in the process of reforming the system of public administration in the Russian Federation (at present, by the notion of administrative and legal relations, we mean, social relations regulated by the administrative and legal norms, the parties of which are bearers of mutual rights and obligations, established and guaranteed by these legal norms). In order to argue this thesis, one should remember the experience and the specifics of the construction of administrative and legal relations during the Soviet system of state power. Then the citizens were extremely reluctant to enter into relations with state authorities. And even when these administrative and legal relations did arise, they had a compulsory nature (that is, they were initiated by the state authority), or in these relations there was an undeniable domination of the state and its interests. In fact, a similar situation was an evidence of both mistrust on the part of citizens to state authorities and their lack of a real opportunity to protect their rights and freedoms in all cases where the offender was the state, its bodies or individual officials.

That is why, when we today insist on the principle of priority of human and citizen's rights and freedoms, it is also implied, among other things, that citizens can freely and confidently enter into relations with the state (public authorities) and know that by law (administrative law first of all) both

the rights and freedoms of citizens in these administrative-legal relations are reliably guaranteed, and the state's duty to ensure these rights and protect them from violations.

From this point of view, the quality and character of the administrative and legal relations that are formed in the Russian Federation are a reliable indicators of the level of democratization of state power and state administration. Thus, the task of administrative legal proceedings is to protect the rights, freedoms and interests of individuals, the rights and interests of legal entities in the sphere of public law relations from violations by state authorities, local self-government bodies, their officials, other subjects when exercising their administrative functions on the basis of legislation, including the implementation of delegated authorities.

In the theory of administrative law, as it follows from the definition given above, it is customary to define administrative and legal relations as the result of the norms' impact of the right to public relations. As a result, it becomes clear that the relations of state administration naturally acquire an administrative and legal form. Although it is worth remembering two points. First, not all administrative and legal relations with necessity are relations of state administration. And, secondly, not all relations of state administration are regulated solely by the norms of administrative law. Therefore, using logical terminology, we can say that in this case, the relation between partial intersection is defined between the concepts of "state-management relations" and "administrative-legal relations".

The need for administrative and legal regulation of state administration can be explained by two reasons. The first of them is of a general nature and concerns the problem of the legal regulation of any social relations (this thesis seems to be obvious and thoroughly studied in the general theory of law), while the latter has a special character.

In order to characterize the second reason, it is first of all necessary to point out the specifics of the subject of regulation of administrative law. The point is that the subject of administrative law is the relationship that is formed:

– in the course of state administration of economic, socio-cultural and administrative-political spheres, as well as the exercise of executive powers delegated by the state to local self-government bodies, public organizations and some other non-state institutions;

– in the course of the activity of the executive authorities and local self-government bodies, their officials regarding ensuring the implementation and protection in the administrative order of the rights and freedoms of citizens, providing them, as well as legal entities, with various administrative (managerial) services;

– in the process of internal organization and activity of the apparatuses of all state bodies, administrations of state enterprises, institutions and organizations, as well as in connection with the passage of public service or service in local government bodies;

– in connection with the implementation of the jurisdiction of administrative courts and the restoration of violated rights of citizens and other subjects of administrative law;

–in the course of applying administrative coercion measures, including administrative liability, to individuals and legal entities.

Administrative law is the right of management, which regulates a variety of relations, large in terms of the ratio in the sphere of state administration. Thus, the combination of administrative and legal regulation of state administration is quite natural and at the same time necessary for the development of both state administration and administrative law.

However, when talking about the administrative and legal regulation of state administration relations, one more important problem cannot be ignored, which can be formulated as follows: is there really an urgent need in the Russian Federation today to improve the administrative and legal regulation of state administration relations and administrative law should orient not so much on the state-management relations (as it was inherent to the Soviet tradition and understanding of administrative law) as the relations between public authoritative bodies, on one hand, and the leaded managed objects on the other hand, as a "public-service relationship" between public authoritative bodies and individuals.

In our opinion, the answer to this question should not be one-sided. Indeed, as we noted above, in the Soviet tradition of perceiving administrative law, it was interpreted primarily as a means of legal consolidation of the state's power influence in the person of its executive and administrative bodies on society and the citizen. Therefore, it is clear that today, together with the change in the general paradigm of understanding state administration, along with significant transformations in relation to the essence of state administration, the opposite tendency towards rejecting stress on regulation of administrative relations due to the norms of administrative law is gaining momentum.

However, such a decisive transfer of emphasis can also have its negative consequences. Therefore, when we examine the process of regulating the impact of administrative law on public relations, in our opinion, it is important not to go to extremes and not to try to determine the "main component" in the content of administrative law (or this is the managerial, public-service component). After all, even when it comes to the administrative and legal regulation of state-management relations, the subject of research is not how to better fix the norms that would allow the executive to effectively manage economic, political and any other social processes, but how to reorganize the system of executive authorities in such a way that they can effectively realize their functions, protect the rights and freedoms of the individual and citizen, implement laws and ensure the overall progress of the state towards the realization of the law and democracy’s values.

In other words, emphasizing the importance of administrative and legal regulation of state administration relations, we do not deny the role of administrative law in other spheres. The only point is that the new conditions for social development in the Russian Federation have not caused a rejection of the institution of state power, but only a change in the quality of this institution. Which in turn confirms the need not to abandon the administrative and legal regulation of state administration relations, but only a change in content and nature of this regulation. In this regard, in our opinion, administrative law can and should act as a powerful factor of influence that will allow realizing the

relations between public entities of power and administrative functions and society on the new fundamental principles that are enshrined in the Constitution of the Russian Federation.

Thus, speaking of the regulatory impact of administrative law on the development of state administration relations, we can distinguish two main types of state-management relations that require a clear settlement at the level of the norms of administrative law. On one hand, it is the totality of the relations arising between the executive and administrative functions assigned by the state administration body and citizens (their associations) and local self-government bodies. And in this case it is not only about the mutual rights and obligations of both citizens of the state and bodies of state executive power arising in the course of the exercise by the executive authorities and their officials of the powers granted to them by law, but also certain specific rights that are guaranteed to citizens on level of the Constitution of the Russian Federation and which are means of protecting the rights of citizens in public administration. As an example, one can cite the right of citizens to appeal, which provides opportunities for citizens of the Russian Federation to participate in the management of state and public affairs, to influence the improvement of the work of state bodies and local self-government bodies, enterprises, institutions, organizations, regardless of form of ownership, to assert their rights and legitimate interests, and restore them in case of violation. Citizens of the Russian Federation have the right to apply to public authorities, local self-government, associations of citizens, enterprises, institutions, organizations, regardless of ownership, media, officials in accordance with their functional responsibilities with comments, complaints and proposals relating to their statutory activities, a statement or petition for the implementation of their socio-economic, political and personal rights and legitimate interests and a complaint about their violation.

On the other hand, these are relations within the system of executive and administrative bodies, between which subordinate and coordinating ties are established. Moreover, in our opinion, it would be fundamentally wrong to try to bring one of these directions of the administrative law's impact on the development of public-management relations as a sacrifice to another, since the goal of state administration is the influence of systematically organized and defined in terms of the competence of its bodies, state power on public relations.

Moreover, even the very internal logic of the notion of state-administrative relations presupposes that the subject of systemic regulation by administrative law is not only the interaction of executive authorities with citizens and their collectives, but also the organization of the executive branch itself, since the vagueness in the interaction of these bodies, the uncertainty of their competence, the lack of necessary powers and measures of responsibility for their improper execution lead to the fact that overall governance mechanism as a process of influence from the executive and administrative bodies on those or other social relations is distorted.

CONSLUSION

So, having analyzed the above approaches and positions of scientists regarding the subject of administrative law, we believe that it can include any managerial activity of the state authority and local government bodies that:

–does not directly concern the subject matter of another branch of law;

–is realized with the help of the executive-administrative mechanism (in this case the author does not consider the executive-administrative mechanism as an exclusive prerogative or a unique feature of the executive authorities, although, of course, he agrees that it is the most typical and characteristic feature for them);

–is realized within the framework of a certain state authority, local government or non-governmental organization (in case of delegating state powers to it) in order to ensure its proper functioning (internal management relations);

–is implemented outside the framework of a certain state authority, local government or non-governmental organization (in case of delegating state powers to it) and is directed to other (external) with respect to the relevant body or organization of entities (external organizational management relations);

–are largely characterized by relative constancy and immediacy of implementation relative to the management object.

At the same time, in our opinion, the use of the term "management" with respect to the subject of administrative law is more appropriate than the notion of power relations or state power. We believe that the latter are much wider in content. Almost any state body, including the body of legislative and judicial power, vested with power, and with its participation there are power relations, which are not always administrative relations.

Now scientists who study the phenomenon of the subject of administrative law are not limited to including only management relations in it. Coordination relations are considered next to them, as components of the subject of this branch. This list is not exhaustive and is often supplemented by other relationships that, in the theory of administrative law, can be singled out as independent at the management level. In particular, as mentioned above, in the definition of the subject of administrative law, apart from the management relations, separately, as independent, relations were distinguished in the sphere of public order (law enforcement) and in the sphere of ensuring the protection of the rights of individuals in the sphere of executive power (law-ensuring relations). Therefore, in our opinion, in order to prevent undesirable confusion, inconsistency and unreasonable limitation of the volume of legal matter that forms the subject of administrative law, we need to move away from unconditional attempts to the maximum possible splitting. Thus, we believe that, in formulating the definition of the subject of this branch of law, we must talk about the managerial (the main ones that are most characteristic of administrative law) and other relations of ancillary nature that are directly related to ensuring proper (qualitative and lawful), in which we propose to apply the term "administrative and

legal relations of a security nature". In this case, in our opinion, they can be considered as such in the presence of a number of signs:

–arise in direct connection with administrative and legal management relations;

–ensure a high-quality, full-fledged, lawful, implementation of administrative and legal management activities. Thus, coordination relations are created by coordinating the positions of interested government bodies in solving various social problems, appropriate conditions for the implementation of administrative and legal management relations in the relevant social spheres, and the coordination relations, in turn, fulfill the function of protecting a person from violation of his rights by the state administration body, thereby also ensuring the proper functioning of management relations within the limits defined by law;

–can arise on the initiative of a party that is not in a subordinate relationship with the government (the parties to these specific administrative relations in certain cases decide how to provide management public services).

The analyzed provisions make it possible to define the subject of administrative law, by which we mean the aggregate of social relations that make up administrative relations that are not related to the subject of another branch of law, are relatively permanent and immediate, are implemented with the help of an executive mechanism, implemented within a certain government body, local government or non-governmental organization (in case of state authorities delegated to it) with the purpose of ensuring its proper functioning (intra-organizational management relations). Or outside the framework of a certain state authority, local government or non-governmental organization (in case of delegating state authorities to it) and is directed to other (external) with respect to the relevant body or organization of the entities (externally-organizational management relations), as well as public relations of the security nature of the above-mentioned management relations (of ancillary nature) that arise in direct connection with them and ensure their implementation: quality, high-grade, that meets the legal requirements.

Public administrations are the subject of public administration. State administration and public administration are subspecies (components) of social management. Public administration is a link between state administration and public management and ensures the organization and implementation of its decisions. The key elements of state administration are the state and state power, and for public administration – society and public authority. The state is the object for state administration, and in public administration, society is the object. Authoritarianism is typical for state administration, and democracy is typical for public administration. Thus, public administration introduces democratic values and contributes to the sustainable development of our state in the social transformation process.

Administrative reform is in one way or another connected with the changes that occur both at the level of the general paradigm of administrative law and at the level of direct administrative legislation. The main goal of administrative law at the present stage of state and legal reform is the legal settlement of relations in the system of executive authorities, which will increase the effectiveness of executive

and administrative activities and establish responsibility for improper performance of the functional duties assigned to them. Thus, further improvement of the administrative and legal regulation of state administration, which occurs in parallel with the process of reforming administrative law itself, is one of the most powerful factors in the development of the Russian Federation as a legal, democratic and social state.

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