DOI 10.52468/2542-1514.2024.8(4).103-112

THE RIGHT TO BE HEARD: TOWARDS A GENERAL PRINCIPLE OF ADMINISTRATIVE LAW**

Pavel A. Kuryndin
St. Petersburg University, St. Petersburg, Russia

Article info
Received –
2024 March 20
Accepted –
2024 September 20
Available online –
2024 December 20

Keywords
General principles of administrative law, administrative procedure, due process, natural justice, opportunity (right) to be heard, right to participation

The subject of the article is related to the analysis of Russian legislation formation of opportunities for an individual to be heard, reflected in judicial practice.
Methods. This analysis is based on the right to be heard as a general principle of administrative law, taken from foreign legal orders through the comparative legal method. In addition, the article used formal-dogmatic, historical methods. Initially, the guarantee in question is of a judicial nature, that is, it appeared and was further clarified in judicial practice. The lead in substantiating the right to be heard belongs to the Anglo-American legal family, since there has always been a special emphasis on procedural aspects. Along with this, French administrative law was not an exception, where the opportunity to be heard was also introduced by the State Council, but enshrined much later in the Code on regulating relations between the population and the administration. It should also be noted that the presence of a legislative act does not prevent the development of judicial doctrines.
The purpose of this observation is to study the possible role of Russian judicial practice in the development of the right to be heard as a general principle of administrative law. To do this, it is necessary to determine the historical background for the emergence of this right, the development features in various legal traditions, to identify the features of Russian judicial practice, correlating them with foreign doctrines and associated concepts (primarily, with the right of participation).
Main results. In Russian law, the right to be heard is provided by some federal laws. However, this principle has not yet been reflected in any act of higher judicial authorities, which could affect the level of protection by consolidated uniform approaches. The court decisions of the cassation instances presented in the study, on the contrary, show he discrepancies and shortcomings of legal regulation in disputes with citizens and in economic affairs. In the latter case, the legislation is more detailed; the courts apply it more readily, siding with private individuals. Whereas, within the framework of a personal reception of citizens, restoring rights is much longer and more difficult, because the administrative bodies themselves create various obstacles.
Conclusion. These problems can be overcome through the perception of comparative legal approaches in understanding the right to be heard as a general principle of administrative law. Indeed, a private person should be able to present his point of view and evidence, especially when it comes to interference with his freedom.

** The research was carried out at the expense of a grant by Russian Science Foundation No. 23-28-01729, https://rscf.ru/project/23-28-01729/.

ISSN 2542-1514 (Print)

1. Introduction

The issues discussed in this article relate to administrative procedures where non-controlling entities are given an opportunity to be heard[1]. The Anglo-Saxon legal system is the first in developing procedural principles. One of these guarantees is the right to be heard. It is part of a more general concept: in British law, the notion of natural justice [4, 5] is used more often than not, whereas in American law it is the Due process [6, 7]. In other words, a rather abstract theory finds in the concrete possibility of an incompetent subject to justify that the final decision on his case was taken without taking into account his position [8]. Thus, the US Administrative Procedure Act (APA) provides general rules for conducting hearings in the regulation and resolution of administrative cases, unless there are exceptions in the law.

For Russia as a state belonging to the continental legal tradition, it is necessary to look at the similar experience of judicial development of the principle in the absence of a single normative approach in the national system. The practice of France is relevant, since general principles of administrative law are the result of the work of the Council of State [9][2]. At the same time, the judicial nature of administrative law does not preclude codification. Thus, in 2015 the Code on Regulation of Relations between Population and Administration (hereinafter – Code on Regulation) was introduced, replacing the Law of April 12, 2000 No. 2000-321 "On the Rights of Citizens in their Relations with the Administration"[3]. Even the enactment of legislation does not prevent the Council of State from continuing to influence administrative law and to identify general principles [10, c. 139] (for example, an administrative court may review decisions of bodies that are not formally administrative acts)[4].

The Code of Relations guarantees the right to be heard: for example, in the case of a mandatory preliminary hearing procedure in the event of sanctions, revocation of a positive decision, restrictions on rights, etc. (article L. 121-1).

There are rules in Russian law that define similar requirements. By virtue of article 13 of the Federal Law of May 2, 2006 No. 59-FZ "On the Procedure for Consideration of Appeals of Citizens of the Russian Federation" (hereinafter - FZ on the procedure for consideration of appeals) the personal reception procedure is established. In addition, the Federal Law of July 31, 2020 No. 248-FZ "On

[1] The use of the word «heard» rather than «listened» is grammatically correct. The first meaning of the verb «to hear» in the Interpretation dictionary of Okonov S. I. is related to listening before, while «to listen» - to listen to anything publicly announced at the end [1, P. 189 and 339]. The first term is also used in the scientific literature [2, 3]. The Supreme Court of the Russian Federation uses the word «hear» in its documents for speaking at court (see, for example, «Review of the practice of inter-state bodies on the protection of human rights and fundamental freedoms 10 (2021)»; or «Review of the practice of inter-state bodies for the protection of human rights and fundamental freedoms 1 (2022)» (here and hereafter normative legal and judicial acts from the information system "ConsultantPlus")).

[2] Here and below the translation from French - P.K.

[3] Code des relations entre le public et l'administration, du 23 octobre 2015 №°2015-1341 (CRPA).
URL: https://codes.droit.org/PDF/Code%20des%20relations%20entre%20le%20public%20et%20l'administration.pdf.

[4] In one case, the Council of State recognized that it was possible to control a press release from an administrative body with a warning against one investor company (Conseil d'État, Assemblée, du 21 mars 2016, 368082 // Published at recueil Lebon URL:ttps://www.legifrance.gouv.fr/ceta/id/CETATEXT000007670561

ISSN 2658-4050 (Online)

State Control (Supervision) and Municipal Control in the Russian Federation" (hereinafter - FZ on C&S) is generally based on ensuring the possibility of participation of non-sovereign subject in various control procedures: The right to view the results of control (supervisory) activities or actions, and to inform the control authority of its agreement or disagreement with it (article 36); interaction with the controlled person is carried out during control (supervisory) activities (article 56); right to object to the act of control (supervision) activity (article 89).

This study is based on the hypothesis of the possible role of Russian judicial practice in the development of the right to be heard as a general principle of administrative law. In order to confirm this hypothesis, it is necessary to determine the historical prerequisites of the emergence of this right, features of its development in various legal traditions, to identify features of Russian judicial practice, comparing them with foreign doctrines and related concepts.

2. History of the right to be heard in foreign legal systems

Procedural guarantees are particularly well known in the Anglo-American legal family. The right to be heard in this sense is not an exception, but a basic requirement of administrative procedure in UK and US law. Courts check the observance of the rights of an insubordinate subject not only in terms of formal requirements, but also on the substance.

In the UK, the first time the right to be heard in an administrative procedure was discussed in 1863 Cooper vs. Longterm Works Committee[5] because of a 5-day notice of construction rather than a 7-day notice. The Late Work Committee decided to close the building, without listening to the developer. The Court confirmed that it is necessary to refer to "universal principle of natural justice" so that the person can be heard in administrative procedure, although the law does not say this explicitly.

Further in the case of "Ridge vs Baldwin", considered by the House of Lords[6], the doctrine of natural justice has been extended not only to property rights but also to reputation or means of subsistence. In the circumstances, the Brighton Police Department dismissed its Chief Constable (C. Ridge) without allowing him to defend his rights. The Chief Constable appealed, claiming that the Brighton Observatory (head J. Baldwin) acted unlawfully by removing him from office in 1958 following a criminal proceeding against him without allowing him to participate and speak out on all counts. Lord Reed proposed to consider the concept of «judicial power» in an expanded way. In his view, the very fact that power affects rights or interests makes it «judicial» and thus subject to procedures required by natural justice. Therefore, the rule expressed by the Latin maxim: *Audi alteram partem* (heard must be also another party), applies to administrative procedures [5, p. 571 et seq.].

The right to be heard in administrative proceedings is unique in the American legal system, as it stems from the Fifth and Fourteenth Amendments to the US Constitution [11]. For example, in one of the first hearings following[7] a complaint by Opp Cotton Mills, the US Supreme Court stated that due process

[5] The Court of Common Pleas, 21 April 1863, "Cooper v Wandsworth Board of Works" (1863) // 14 CB (NS) 180 (CP) (1863) 143 ER 414 // URL: http://www.worldlii.org/int/cases/EngR/1863/424.pdf.

[6] United Kingdom House of Lords Decisions, 14 March 1963, «Ridge v Baldwin» // The Law Reports (Appeal Cases), 1964. P. 40 URL: https://www.bailii.org/uk/cases/UKHL/1963/2.html

[7] Opp Cotton Mills, Inc. v. Administrator: Decided February 3, 1941, No. 330 // United States Supreme Court Reports. 19. Vol. 312. P. 126. URL: https://supreme.justia.com/cases/federal/us/312/126/

ISSN 2542-1514 (Print)

requirements do not provide a particular point at which an unempowered subject can be heard in some way or another.

Along with this, the US Supreme Court later stated: "[some] form of hearing is necessary before a person will be permanently deprived of property [or liberty]"[8]. The worker's disability benefit was discontinued as a result of the circumstances. By law, it was his duty to prove that recovery had not yet occurred and the administrative authority conducts a permanent assessment of entitlement to benefits, receiving information from the worker and the hospital. If benefits were discontinued, the beneficiary had six months to appeal. However, the worker instead began to contest the constitutionality of the procedure. And the court of first instance, relying in part on Goldberg v Kelly[9], ruled that the suspension proceedings violated due process, the recipients should be heard.

In France, the right to be heard was based on a decision of the Council of State in 1913[10] on the disciplinary proceedings of the head of the department of philosophy. The applicant was a professor at the Lyceum of Laon. The Council of State noted: "The decisions of the [Supreme Council of Popular Education] of 7 and 18 July do not mention the names of the members who attended the hearings and participated in the said decisions, it cannot be ascertained that all those who participated in the decision of 18 July heard the comments Mr. X and his defender in the previous session on 7".

Later, in 1963, Jean Rivero indicated that an administrative act could be adopted either by a discussion as in the court proceedings or by a decision of the superior, as in the case of a single certificate in the army [12, p. 813]. Indeed, the judicial procedure is based on principles of competition (exchange of legal positions). With this in mind, the judicial system should also use such approaches when reviewing administrative acts.

In 2014, the State Council for residence permit proceedings noted: "The right to be heard implies that the authorities [...] shall give the person concerned an opportunity to submit his or her written comments and allow him or her, at his or her request, to make oral comments, That it may express its views on the measure in a positive and effective manner before it enters into force [...]"[11]. The complainant insisted that he should be heard when the request to leave France was accepted. The Council of State stated that this right was exercised when refusing to grant a residence permit, and that the obligation to leave was the consequence of such refusal. Therefore, there can be no double hearing.

[8] Mathews v. Eldridge: Decided February 24, 1976, No 74-204 // United States Supreme Court Reports. 1944. Vol. 424. P. 319. URL: https://supreme.justia.com/cases/federal/us/424/319/
URL: https://supreme.justia.com/cases/federal/us/424/319/.

[9] In the case of a New Yorker, the city reversed the state benefit decision without proper notice, and the US Supreme Court, inter alia, noted that there must be a hearing, the decision maker must be impartial, give reasons (Goldberg v. Kelly: Decided March 23, 1970, № 62 // United States Supreme Court Reports. 1908. Vol. 397. P. 254. URL: https://supreme.justia.com/cases/federal/us/397/254/

[10] Conseil d'Etat, du 20 juin 1913, № 41854, // Recueil Lebon,
URL: http://www.legifrance.gouv.fr/affichJuriAdmin.do?idTexte=CETATEXT000007631577&dateTexte

[11] Conseil d'État, 2ème / 7ème Sous-sections réunies, 04.06.2014, № 370515 // Recueil Lebon,
URL: http://www.legifrance.gouv.fr/affichJuriAdmin.do;jsessionid=04B7DFAC2B46EC87959E1BBF1BC90494.tpdjo15v_2?oldAction=rechExpJuriAdmin&idTexte=CETATEXT000029046224&fastReqId=75840008&fastPos=16

3. Terminology approaches to the definition of the right to be heard

The right to be heard is a basic category for the Anglo-American legal family [13, p. 1093]. In any case, this guarantee means that the private party communicates with the responsible official, submits documents, presents other arguments, discusses something orally. There may also be a separate meeting to decide on, or simply to answer the questionnaire that determines the factual circumstances of the case, and this may imply other forms of participation by the applicant. Thus, the right to be heard in administrative proceedings determines that the format may be hybrid and depends on the factual circumstances and the degree of interference of the administrative act with individual freedom [13, p. 1115, 14, p. 349 et seq., 15].

Continental tradition has a different view: Recommendation of the Committee of Ministers of the Council of Europe dated the 20th of June 2007 CM/Rec(2007)7 "On Good Governance"[12] in Article 8 refers to the participation of an unempowered entity in the adoption and execution of administrative decisions, which affect his rights or interests, unless urgent circumstances require otherwise. Hearings are understood to be direct interventions (see art. 14 and 15). On the other hand, the EU Charter of Fundamental Rights[13], in contrast, uses the right to be heard (cf. article 41), whereas participation is mentioned in the context of inclusion of older persons and disabled people, that is in the social sphere.

The Code of Relations in article L132-1 enshrines the principle of participation in mandatory consultations provided for by regulatory acts and conducted by independent administrative bodies. In other articles of this Code also the term "participation" in various options of interaction of private persons with administrative bodies is used, and "to listen (other words)" - only in a narrow sense: in the context of meetings.

In any case, for France, the scientists say that there is a substantial change in the rights of the powerless when the powerless. Thus, J.-B. Auby calls among the achievements of administrative democracy "progress in participation procedures" [16, p. 915]. G. Aïdan agrees with him and speaks of administrative democracy as «the participation (to varying degrees) of people concerned in making administrative decisions that concern them» [17, p. 141].

In this case, for the Russian theory and practice, due to the lack of precise legislative regulation, it is necessary to refer to the origins of the guarantee developed in judicial proceedings, that is, the right to be heard by the court. This means that the plaintiff can make explanations and objections, make applications and present other procedural documents, and the court must create the conditions for this and reflect the arguments of the parties in a reasoned decision [18, 19]. Indeed, if the parties have only submitted written positions, it still means that they were heard. Similarly, this right is proposed to be considered in the academic literature and in the administrative sphere [20].

Thus, for Russia the right to be heard should be considered as a broader category encompassing various forms of interaction: direct speech by an individual, presentation of a written position, participation in evidence collection, etc.

4. Right to be heard in Russian judicial practice

In Russia, the right to be heard was not considered separately by the highest judicial authorities. However, there are cases in the

[12] URL: https://rm.coe.int/16807096b9

[13] URL: https://www.europarl.europa.eu/charter/pdf/text_en.pdf

ISSN 2542-1514 (Print)

practice of courts of general jurisdiction and arbitral tribunals at cassation level where the substantive debate on the right to be heard concerns different forms of enforcement.

4.1. Personal reception of citizens as a possible guarantee to be heard

Personal admission in administrative bodies by the head or authorized persons is regulated by article 13 of the FZ on the procedure for consideration of appeals, but its judicial review is important.

In the cassation decision of the First Court of Cassation of General Jurisdiction of May 16, 2023 No. 88a-15532/2023 in case No. 2a-3453/2022 it was noted that at personal admission "The head of Department of the Ministry of Internal Affairs for Belgorod district giving the applicant an oral answer that on the requests X. will be analyzed, and if it is found to the facts of not receiving any response to the request this violation shall be eliminated [...]". However, the absence of a response to the applicant actually means that the citizen was not checked, although he was heard. On this basis, the three authorities have declared the failure of the supervisor to act as unlawful and have given him the duty to send a written reply after the personal meeting.

In another case[14], a private person, among other questions about tax deductions, demanded to recognize the illegal omission of the head of tax inspectorate on Tambov, who did not give an answer after personal reception. The case itself has twice been appealed, as it was referred to appeal for reconsideration. The appeal refers twice to the decision of the court of first instance: It was established that the administrative plaintiff's application at a personal reception was given explanations, the fact that the facts and circumstances stated in the oral appeal required further examination, thus not hindering the exercise of rights, freedoms and realization of legitimate interests of the administrative plaintiff are not created». The Court of Cassation also supports the position of the Federal tax service representative in its first definition: "[d]isagreeing with the findings of the Court of Appeal, the representative of tax inspectorate on Tambov in cassation pleads that the decision in this part is not enforceable because the content of the oral address to the personal point was not entered, It is not possible to establish the questions that were raised by the administrative plaintiff". It turns out that the risk of violation of the personal reception procedure is an powerless subject, if data are not entered, therefore there should be no answer. Such an approach cannot be accepted, and the private person cannot and should not bear such legal consequences. Otherwise, it turns out that the powerless subject must make an audio or video recording to prove his position, which can also cause problems[15].

Along with this other incompetent entity

[14] Cf. The cassation decisions of the Second Court of Cassation of October 12, 2022 No. 88a-22924/2022 and April 26, 2023 No. 88a-11499/2023 in case No. 2a-254/2022.

[15] In the news report HTH24 (URL: https://www.youtube.com/watch?v=pRb2vrL-o7o&ab_channel=HTH24) it was reported that one of the citizens who came for a personal reception to the head of the Main Directorate of the Ministry of Internal Affairs department for the Novosibiria region, was called to administrative responsibility (five days of arrest) for disobeying a lawful request from a police officer. Citizen was videotaped during a personal reception, but he was forbidden to do so, citing internal acts. Although on the desk of the official was a sign with the inscription "audio and video recording".
The court order refers to an order of the Russian Federation Supreme Administrative Court on the Republic of Tatarstan dated 25 September 2017 No. 86 "On the organization of a personal reception of citizens in the investigative department of the Investigative Committee of the Russian Federation for the Republic of Tatarstan".

had to go to the cassation court challenging the refusal to hold a personal appointment because he did not agree to put down his telephone number before the personal appointment. In the cassation decision of the Sixth Court of Cassation of April 21, 2021 on case No. 2a-2860/2020, such actions of investigation officers in the Republic of Tatarstan are considered illegal. The Court noted that in the FZ on the procedure for consideration of appeals for such a ground of refusal does not and cannot apply the by-law of this body: [Argument of cassation complaint that] requirements of paragraph 3.3. The order is aimed at protecting information of confidential nature and is subject to rejection, since such conclusions as well as references to the Presidential Decree of March 6, 1997 No. 188 "On Approval of the List of Confidential Data» the present Order does not contain". In other words, there should not be equal treatment when it comes to the investigation of crimes and the protection of secrecy, and in other circumstances, when it comes to activities outside criminal proceedings. In the latter case, citizens may discuss not the investigative actions themselves, but the degree of involvement of the investigator and the quality of his work. If they have questions about the appeal of its actions, then the management receiving citizens is obliged to explain the special procedure for such an appeal.

This part of the law shows that the right to be heard does not work as effectively as it could, so often powerless actors have to go to court for their rights with various demands.

4.2. The right to be heard in economic disputes

One of the ideas for consolidating the highest courts is to create a uniform judicial practice. This part should also assess the results of economic dispute resolution in comparison with legal cases brought by citizens. It will also allow to see how the principle of equality is implemented in different types of proceedings for the same guarantee.

The first example is the ruling of the Arbitration Court of the West Siberian District of May 30m 2023 No. F04-2134/2023 in case No. A03-12825/2022 and the Arbitration Court of the East Siberian District of November 17, 2022 No. Ф02-5525/2022 in case No. A33-29313/2021[16]. They declare the requirements of control bodies illegal.

The control activities included a comprehensive audit, which included several controls, in particular inspection and sampling, because production activities and land use were assessed. In both acts it is noted that "according to the meaning and content of the above-mentioned law, as well as the provisions of articles 37, 76 of Law No. 248-FZ [the same, than FZ on C&S]" should be recorded on video event if the controlled person is not present (there is no such requirement directly enshrined in article 81, para. 2).

However, the non-controlling entity did not participate in these checks and could not object. Partial video recording was made only in the second case, with only one background sample taken out of four samples, as the court indicated. The courts have therefore specifically noted a violation of such principle as protection of the rights and legitimate interests of controlled persons. It is possible to deduce the right to be heard, because the legality of the sampling and the indication of discrepancies and other significant violations - this is in essence the protection of rights and legitimate interests of a private person.

[16] The decision of the Supreme Court of the Russian Federation of March, 9 2023 No. 302-ЭС23-943 has rejected the referral of case No. A33-29313/2021 to the Judicial Panel on Economic Disputes of the Supreme Court of the Russian Federation for review in cassation proceedings of this ruling.

ISSN 2542-1514 (Print)

In two other arbitrations[17], the non-authoritative entities have claimed that the inspection visit was carried out without their participation, which is not in accordance with the requirements of FZ on C&S. However, this argument was not accepted by the court, because the administrative body uploaded all documents in a timely manner to a single (regional) portal of state and municipal services, and individuals agreed to receive them electronically.

Also, the late notification of an unscheduled inspection does not always lead to its cancellation, because the non-controlling entity has participated in it anyway. The Thirteenth Arbitral Court of Appeal in its judgment of March, 9 2023 No. 13АП-1948/2023 in case No. A42-6920/2022 took into account that the notification itself was carried out, although 23 hours before the inspection. In general, it is questionable whether this is a significant violation. Article 91, paragraph 2, of FZ on C&S contains a list of gross violations that invalidate the results of the control activity. This includes the violation of the notification requirements but the unaccountable entity has clearly failed to participate in the verification.

So, in economic activity the right to be heard works better than in disputes with ordinary citizens.

5. Conclusion

The definition of the procedure for exercising the right to be heard within the framework of administrative procedures is probably one of the most difficult tasks for this sector not only in Russia but also in foreign systems.

Indeed, the administrative procedure should not be entirely duplicative or at least attempt to replicate most aspects of the judicial process. In other words, the more an powerless actor is involved in the administrative procedure, the longer and more costly it will be for all parties. On the other hand, it is clear that administrative proceedings are more subject to the principle of procedural economy than judicial proceedings. However, the speed of the administrative procedure is its distinguishing feature. In this regard, the legislator in any state should seek a balance between the right to be heard with speed and objectivity with comprehensiveness, guaranteeing directly this right, and in some cases it is ensured by judicial practice.

Otherwise, it is as in the Russian legal reality different consequences depending on the type of court proceedings.

The mechanism for exercising the right to be heard in the FZ on the procedure for consideration of appeals is not sufficiently clear and precise. And this leads to the fact that powerless subjects are forced to go to court for protection, but courts do not always effectively protect rights: either they cannot intrude into the administrative sphere or they find an unlawful omission of the administrative authority, but it still does not properly restore rights due to various circumstances.

The relative criterion for involving an unaccountable entity in administrative proceedings may be circumstances, when the identity of the applicant is important in terms of its behaviour or the purpose of obtaining a public service, or when clarification of circumstances is possible only in interaction with an individual, as foreign experience shows. In fact, it is the latter that has built up the procedure of participation of a controlled person, as indicated by arbitral tribunals. The procedure itself is not important, but the «feedback» of the controlled person to present objections.

[17] Cf. The Second Arbitral Court of Appeal's ruling of December, 5 2023 No 02АП-8164/2023 in case No A82-5914/2023 and of December, 11 2023, No 02АП-8162/2023 in case No A82-5883/2023.

REFERENCES

1. Opalev R.O. On the question of the correlation of administrative proceedings and administrative procedures. *Vestnik grazhdanskogo protsessa = Bulletin of civil procedure*, 2021, vol. 11, no. 2, pp. 66–79. DOI: 10.24031/2226-0781-2021-11-2-66-79. (In Russ.).

2. Lukianova I.N. The right to be heard as a fundamental idea of modern Russian civil proceeding. *Vestnik Universiteta imeni O.E. Kutafina (MGYuA) = Courier of Kutafin Moscow State Law University (MSAL)*, 2021, no. 12, pp. 133–139. DOI: 10.17803/2311-5998.2021.88.12.133-139. (In Russ.).

3. Jackson P. Administrative Law and Natural Justice. *The Modern Law Review*, 1972, vol. 35, no. 1, pp. 94–96.

4. De Smith S.A. The Right to a Hearing in English Administrative Law. *Harvard Law Review*, 1955, vol. 68, no. 4, pp. 569–599.

5. Mott R.L. *Due Process of Law: A Historical and Analytical Treatise of the Principles and Methods Followed by the Courts in the Application of the Concept of the «Law of the Land»*. New York, Da Capo Press, 1973. 721 p.

6. Nathanson L.N. The right to fair hearing in Indian, English and American administrative law. *Journal of the Indian Law Institute*, 1959, vol. 1, no. 4, pp. 493–522.

7. Ilyin A.V. On the principle of fairness of administrative proceedings. *Zakon = Law*, 2019, no. 1, pp. 95–101. (In Russ.).

8. Vedel G. Le droit administratif peut-il demeurer indéfiniment jurisprudentiel?. *Etudes et documents du Conseil d'État*, 1979–1980, no. 31, pp. 31–46. (In French).

9. Costa D. Codification of Administrative Law: A French Oxymoron, in: Uhlmann F. (ed.). *Codification of Administrative Law: a comparative study on the legal basis of administrative law*, Oxford, Hart Publ., 2023, pp. 127–146.

10. Rivero J. Le système français de protection des citoyens contre l'arbitraire administratif à l'épreuve des faits, in: *Mélanges en l'honneur de Jean Dabin*, in 2 volumes, Bruxelles, Bruylant Publ.; Paris, Sirey Publ., 1963, vol. II, pp. 813–836. (In French).

11. Davis K.C. The Requirement of Opportunity to Be Heard in the Administrative Process. *Yale Law Journal,* 1942, vol. 51, no. 7, pp. 1093–1142.

12. Galligan D.J. *Due Process and Fair Procedures: A Study of Administrative Procedures*. Oxford University Press, 1996. 513 p.

13. Davydov K.V. The Right to Participate in Consideration of Administrative Matters as a Fundamental Right of Administrative Procedure Participants: Comparative Legal Analysis. *Aktual'nye problemy rossiiskogo prava = Actual Problems of Russian Law*, 2019, no. 10, pp. 11–19. DOI: 10.17803/1994-1471.2019.107.10.011-019. (In Russ.).

14. Auby J.-B. La bataille de San Romano: réflexions sur les évolutions récentes du droit administratif. *L'Actualité juridique. Droit administratif*, 2001, no. 11, pp. 912–926. (In French).

15. Aïdan G. De la démocratie administrative à la démocratie sanitaire dans le secteur public de la santé. *Revue française d'administration publique*, 2001, no. 137–138, pp. 139–153. DOI: 10.3917/rfap.137.0139. (In French).

16. Sherstyuk V.M. Doubts about the existence of the principle of "the right to be heard and to be heard" in civil procedural law should be dispelled. *Sovremennoe pravo = Modern law*, 2020, no. 6, pp. 66–70. DOI: 10.25799/NI.2020.10.43.014. (In Russ.).

17. Lukyanova I.N. The right to be heard and heard in the first and verification instances of civil proceedings. *Zakony Rossii: opyt, analiz, praktika*, 2022, no. 9, pp. 50–55. (In Russ.).

18. Sultanov A.R. The legal consequences of the lack of motivation of non-normative legal acts when challenged in courts. *Vestnik grazhdanskogo protsessa = Bulletin of civil procedure*, 2014, no. 4, pp. 221–231. (In Russ.).

INFORMATION ABOUT AUTHOR

Pavel A. Kuryndin – PhD in Law,
Assistant, Department of Administrative and Financial Law
St. Petersburg University
7-9, Universitetskaya nab., St. Petersburg, 199034, Russia

ISSN 2542-1514 (Print)

E-mail: p.kuryndin@spbu.ru
ORCID: 0000-0002-0133-3953
RSCI SPIN-code: 4659-1914; AuthorID: 1079485

BIBLIOGRAPHIC DESCRIPTION

Kuryndin P.A. The right to be heard: towards a general principle of administrative law. *Pravoprimenenie = Law Enforcement Review*, 2024, vol. 8, no. 4, pp. 103–112. DOI: 10.52468/2542-1514.2024.8(4).103-112. (In Russ.).