

## PUBLIC ADMINISTRATION IN RUSSIA AS A SUBJECT OF ADMINISTRATIVE PROCEDURE

Alexander I. Stakhov<sup>1</sup>, Natalia V. Landerson<sup>1</sup>, Dmitry G. Domrachev<sup>2</sup><sup>1</sup> Russian State University of Justice, Moscow, Russia<sup>2</sup> Vyatka State University, Kirov, Russia**Article info**

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The subject. Doctrinal approaches that reveal the place and role of public authorities, as well as organizations performing the functions of these authorities in the administrative process carried out in the Russian Federation, the principles and norms of the Constitution of the Russian Federation, administrative procedural legislation that form the legal basis of the administrative process in Russia.

The purpose of the article is scientific substantiation of the integration of non-judicial bodies carrying out the administrative procedure into a special subsystem of public power, called public administration in the Russian Federation.

The methodology. Formal logical and dialectical methods as well as private scientific methods such as method of interpretation of legal norms, method of comparative jurisprudence were used.

The main results, scope of application. The article reveals the scientifically based content of the integrative approach to understanding the administrative process in contemporary

Russia, taking into account the norms of the Russian Constitution and the analysis of existing doctrinal developments of administrative scientists. The article substantiates the structure of the administrative procedural legislation of the Russian Federation and its constituent entities, which includes the judicial administrative process and the executive (non-judicial) administrative process implemented by the public administration (executive authorities, local self-government bodies, other administrative and public bodies). Administrative-indicating legal norms are distinguished, the analysis of which allows us to reveal the content, form, structure of the judicial administrative process and the executive (extra-judicial) administrative process, as well as to establish an integrative relationship between them with the help of such special categories as “judicial administrative case”, “extra-judicial administrative case”, “administrative proceedings”, “administrative proceedings”. A number of key proposals are put forward to systematize the judicial administrative process and the executive (extrajudicial) administrative process in Russia on the basis of developed scientific positions. The article reveals the question of a scientifically based theory for understanding the administrative and public functions of public administration, as well as the system and structure of public administration in modern Russia.

Conclusions. The presented integrative approach to understanding the administrative process and its differentiated systematization for the judicial administrative process and the executive (non-judicial) administrative process are the only true way to develop the Russian model of administrative process. The question of the need to systematize the administrative and public functions implemented by the public administration is raised. It is proposed to develop and adopt a federal law “On Public Administration in the Russian Federation”, the authors substantiate the content of the structure of this law.

## 1. Introduction

One of the important and relevant directions of Russian administrative processualism is the development of such key categories as "administrative procedural legislation", "public administration", "administrative process" in the relationship.

The All-Russian referendum on the approval of amendments to the Constitution of the Russian Federation, held in Russia on July 1, 2020, approved Part 3 of Article 132 of the Constitution of the Russian Federation, which predetermines the creation and development of a unified system of public power in Russia as part of state authorities (including, obviously, executive authorities) and local self-government bodies, as well as the recognition of the inviolability of paragraph k) of Part 1 of Article 72 of the Constitution of the Russian Federation in terms of attribution of administrative procedural legislation to the joint jurisdiction of the Russian Federation and subjects of the Russian Federation (hereinafter - the Russian Federation, subjects of the Russian Federation) and Part 2 of Article 118 of the Constitution of the Russian Federation in terms of separation of administrative proceedings as an independent form of justice.

At the same time, the popular vote confirmed the inviolability of Articles 10, 18, 118 of the Constitution of the Russian Federation, which predetermine the differentiated direction of administrative and procedural activities of judicial authorities and non-judicial law enforcement bodies of public authority (executive authorities and local self-government bodies).

In this regard, it is extremely important to resolve the issue of the independence and interconnection of executive authorities, local self-government bodies, judicial authorities established and functioning in the Russian Federation as subjects of the administrative process.

## 2. Doctrinal approaches to understanding the administrative process.

Currently, there are three doctrinal approaches to understanding the administrative process in

Russia.

1. The administrative process is the activity of public administration bodies to resolve all categories of individual legal cases under their jurisdiction, both related and unrelated to the resolution of disputes and conflicts (a broad understanding of the administrative process, management concept) [1, p.203]. Emphasizing the features of the content, we will call this scientific position a managerial approach to understanding the administrative process. This concept originated in the Soviet era in the works of administrative scientists [2] under the conditions of the regulatory impact of Soviet constitutions, in the norms of which the system of public administration was distinguished. In the post-Soviet period, supporters of the managerial concept of the administrative process began, under the influence of the norms of the Constitution of the Russian Federation, to link this legal process with the activities of executive authorities. So, for example, V. D. Sorokin defined the administrative process as "the procedure regulated by law for resolving individual-specific cases in the field of public administration by the executive authorities of the Russian Federation and its subjects, and in cases provided for by law by other authorized subjects" [3, p.175].

2. Administrative process is the activity of courts (judges) to consider cases arising from material administrative legal relations and therefore the administrative process is reduced only to administrative proceedings (judicial understanding of administrative process, judicial concept) [4]. Using the term "justice" as a term meaning justice, we will call this scientific position a judicial approach to understanding the administrative process.. Proponents of the situational approach to understanding the administrative process as a key argument argue that the legal process involves a legal dispute and the mandatory participation of three persons: two parties and an arbitrator [5, p. 11]. Within the framework of this approach, Yu. N. Starilov considers the administrative process in the proper sense of the word as a judicial process, linking it with the resolution of a dispute about law

and identifies the administrative process, in fact, with administrative proceedings [6, pp. 44, 53, 55].

3. Administrative process - the external law enforcement activity of bodies and officials of public administration (executive authorities and local self-government bodies), other administrative and public bodies, as well as courts (judges) to resolve administrative and judicial-administrative cases under their jurisdiction in accordance with the procedures established by law [7, p. 28]. This scientific position was formulated for the first time in 2013 by a group of administrative scientists (A. B. Zelentsov, P. I. Kononov, A. I. Stakhov) [8] and was developed in modern educational publications [9-14], as well as scientific literature [15-25].

It is important to emphasize that all three approaches to the understanding of the administrative process are united by one scientific position - in them the administrative process is identified with the activities of law enforcement bodies of public authority, namely: executive authorities, judicial authorities, local self-government bodies and therefore legislative authorities are excluded from the number of subjects carrying out the administrative process. Such a scientific technique corresponds to the established domestic doctrinal ideas about subjects engaged in other types of law enforcement process, namely: criminal proceedings and civil proceedings. In particular, the criminal process identified in the domestic doctrine with the activities of the court and competent extrajudicial law enforcement agencies (including investigative and inquiry bodies) [26, 27]. The civil process, according to the unanimous recognition of legal scholars, is carried out exclusively with the activities of the courts [28, 29].

Meanwhile, from the position of the constitutional principle of recognizing the independence of judicial authorities, executive authorities and local self-government bodies, with sufficient certainty manifested in Articles 10, 18 and 12, 132 of the Constitution of the Russian Federation, the managerial approach to understanding the administrative process and the judicial approach, in fact, mutually negate each other. In our opinion, these scientific positions

reveal certain aspects of the modern administrative process and, therefore, its complex content, predetermined by the Constitution of the Russian Federation, is distorted and emasculated.

Thus, assessing the managerial approach to understanding the administrative process, we emphasize that in the absence of such categories as "public administration bodies", "public administration", "managerial activity" in the norms of the Constitution of the Russian Federation, the doctrinal connection of the administrative process with public administration bodies, which is used in the managerial concept of the administrative process, seems unreasonable. At the same time, it seems untenable to consider it as the only entity carrying out the administrative process by virtue of Part 3 of art. 132 of the Constitution of the Russian Federation, which recognizes state authorities and local self-government bodies as a unified system of public power.

Assessing the judicial approach to understanding the administrative process, it is obvious that reducing the administrative process only to administrative proceedings seems groundless due to the fact that, in accordance with paragraph k) of Part 1 of Article 72 of the Constitution of the Russian Federation, administrative procedural legislation is presented more broadly than is necessary for the administrative process carried out by the courts. From the analysis of the norms that make up the legal basis of the judicial system in Russia, it can be concluded that the procedural activities of federal courts and courts of the subjects of the Russian Federation (including, obviously, administrative procedural activities) can be regulated by the Constitution of the Russian Federation, federal constitutional laws and federal laws.

### **3. Comprehensive analysis of federal administrative procedure legislation and administrative procedure legislation of the subjects of the Russian Federation from the perspective of an integrative approach to understanding the administrative process**

In the integrative approach to understanding the administrative process, the revealed contradictions of managerial and judicial approaches are excluded,

since this scientific position has been developed in strict accordance with the principles and norms of the Constitution of the Russian Federation and taking into account a comprehensive analysis of federal administrative procedural legislation and administrative procedural legislation of the subjects of the Russian Federation. From the position of this approach, the administrative procedural legislation of the subjects of the Russian Federation is understood as an array of laws of the subjects of the Russian Federation, as well as other regulatory legal acts issued in the subject of the Russian Federation, which regulate the administrative procedural activities of non-judicial law enforcement agencies established on the territory of the subject of the Russian Federation and performing law enforcement functions regulated by administrative legislation within the subjects of jurisdiction of the subject of the Russian Federation and municipalities.

It is important to emphasize that the subjects of jurisdiction of a subject of the Russian Federation and municipalities formed on its territory, in turn, are defined by Articles 72, 130-133 of the Constitution of the Russian Federation, as well as two system-forming federal laws: FZ of 06.10.1999 N 184-FZ "On general principles of organization of legislative (representative) and executive bodies of state power of the subjects of the Russian Federation", FZ of 06.10.2003 N 131-FZ "On general principles of organization of local self-government in the Russian Federation". A comprehensive analysis of the norms of these federal laws and a number of administrative procedural laws (for example, the Administrative Code of the Russian Federation, Federal Law No. 248-FZ dated 31.07.2020 "On State Control (Supervision) and Municipal Control in the Russian Federation") indicates the possibility of recognizing executive authorities of the subject of the Russian Federation and local self-government bodies performing law enforcement functions regulated by administrative legislation as subjects of administrative process.

From our point of view, in accordance with art. 10 and 18 of the Constitution of the Russian Federation, the law enforcement functions of executive authorities and local self-government

bodies regulated by administrative legislation have a single focus - ensuring compliance with the norms of federal legislation and legislation of the subjects of the Russian Federation by individuals, organizations, and other bodies in order to achieve a balance of human and civil rights and freedoms enshrined in the Constitution of the Russian Federation and specified in current legislation (hereinafter - private rights, legitimate interests), with the rights and legitimate interests of public entities - Of the Russian Federation, subjects of the Russian Federation, municipalities (hereinafter - public rights, legitimate interests). In this regard, the law enforcement functions of executive authorities and local self-government bodies regulated by administrative legislation are proposed to be called administrative and public functions in the future.

In accordance with Part 3 of Article 17 of Federal Law No. 184-FZ dated 06.10.1999 "On general Principles of Organization of Legislative (Representative) and Executive Bodies of State Power of the Subjects of the Russian Federation", we emphasize that the executive authorities of the subjects of the Russian Federation form, together with the federal executive authorities, a unified system of executive power in the Russian Federation. Therefore, it would be logical to assert that the executive authorities of the subjects of the Russian Federation carry out the administrative process in cooperation with the federal executive authorities endowed with the necessary powers. In accordance with Article 2 of the Federal Law of 06.11.2020 N 4-Federal Law "On the Government of the Russian Federation", and the Decree of the President of the Russian Federation of 09.03.2004 N 314 (ed. dated 20.11.2020) "On the system and structure of Federal executive authorities" it can be concluded that in order to legally regulate the administrative process carried out by federal executive authorities, it is possible to issue federal laws and other regulatory legal acts of the Russian Federation containing administrative procedural principles and norms (including regulatory legal acts of the President of the Russian Federation, the Government of the Russian Federation and other federal executive authorities), which form an array of federal laws and other regulatory legal acts of

federal administrative and procedural legislation<sup>1</sup>.

From the analysis of a number of federal laws that regulate the administrative and public functions of executive authorities (including federal executive authorities and executive authorities of subjects of the Russian Federation), as well as local self-government bodies, it is worth noting that some of these functions are carried out by organizations that, by virtue of the relevant federal law, are endowed with the status of a state or other body (for example, the following organizations perform administrative and public functions by virtue of federal law: the Accounts Chamber of the Russian Federation<sup>2</sup>, The Central Bank of the Russian Federation<sup>3</sup>, administrative commission<sup>4</sup>, commission on juvenile Affairs and protection of their Rights<sup>5</sup>, state corporations and other organizations that have the status of a control (supervisory) body<sup>et al.6</sup>). Thus, through the described method of legal regulation, the impact of the administrative procedural legislation

of the Russian Federation is expanded, since not only executive authorities and local self-government bodies performing administrative and public functions fall under the regulatory impact of this legislation, but also organizations that have the status of a state or other body in accordance with federal law in order to perform certain administrative and public functions.

Specifying Part 3 of Article 132 of the Constitution of the Russian Federation, it is proposed to single out a single subsystem of public power in relation to the administrative process, covering executive authorities and local self-government bodies performing administrative and public functions, as well as organizations that, by virtue of federal law, have the status of a state or other body in order to perform these functions. It is logical to call this subsystem of public power a public administration in the Russian Federation comparable to foreign countries in which public administration is distinguished in special laws<sup>7</sup> and doctrinal sources [30-39].

Taking into account the peculiarities of domestic administrative and legal regulation, it is advisable to distinguish in the system of public administration of the Russian Federation: public authorities performing administrative and public functions (including executive authorities, local self-government bodies), as well as other administrative and public bodies - organizations that have the status of a state or other body by virtue of law in order to perform certain administrative and public functions. Accordingly, executive authorities and local self-government bodies performing administrative and public functions, as well as other administrative and public bodies in a generalized form, it is logical to call public administration bodies or administrative and public bodies.

A comprehensive analysis of the domestic administrative legislation regulating the activities of

<sup>1</sup> See, for example, the Administrative Code of the Russian Federation, Federal Law No. 229-FZ of 02.10.2007 "On Enforcement Proceedings", Federal Law No. 59-FZ of 02.05.2006 "On the Procedure for Considering Appeals of Citizens of the Russian Federation", Federal Law No. 99-FZ of 04.05.2011 "On Licensing of Certain Types of Activities", Federal Law No. 248-FZ of 31.07.2020 "On State Control (Supervision) and Municipal Control in the Russian Federation", Decree of the Government of the Russian Federation No. 373 of 16.05.2011 (ed. dated 03.11.2018) "On the development and approval of administrative regulations for the implementation of state control (supervision) and administrative regulations for the provision of public services" administrative regulations of federal executive authorities, etc.

<sup>2</sup> See: Article 2 of the Federal Law of 05.04.2013 N 41-FZ "On the Accounts Chamber of the Russian Federation".

<sup>3</sup> See: Part 1 of Article 74 of the Federal Law "On the Central Bank of the Russian Federation (Bank of Russia)", Articles 22.1., 23. 74. of the Administrative Code of the Russian Federation..

<sup>4</sup> See: Article 22.1. of the Administrative Code of the Russian Federation..

<sup>5</sup> See: Articles 22.1., 23.2. of the Administrative Code of the Russian Federation

<sup>6</sup> See: Article 7 of Federal Law of 01.12.2007 N 317-FZ of 01.12.2007 N 317-FZ "On the State Atomic Energy Corporation "ROSATOM".

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<sup>7</sup> See, for example, the Spanish Law on the Legal Regime of the Public Sector of 2015. Spanish Law on the Legal Regime of the Public Sector 2015), the Organic Law of Mexico on Public Administration of 1976 (as amended in 2018) The Act of Organic Public Administration / Mexico 1976. <https://yandex.ru/search/?text=Mexico%27s%20organic%20public%20administration%20act%201976%20&lr=213&clid=9582> etc..

executive authorities and local self-government, as well as other administrative and public bodies, allows us to compile the following list of scientifically-typed administrative and public functions performed by these bodies: administrative enforcement, administrative obligation, administrative incentives, administrative authorization, countering administrative torts, countering administrative incidents, resolving out-of-court disputes, having administrative and public significance, administrative enforcement of judicial and administrative acts [40, pp. 196-199].

Depending on the way to achieve a balance of private and public rights, legitimate interests applied by the competent executive authorities, local self-government bodies, and other administrative and public bodies, it would be logical to systematize the administrative and public functions performed by them, distinguishing two consolidated types: 1) administrative and administrative functions that ensure the interconnection, consistency of private and public rights, legitimate interests (including: administrative enforcement, administrative obligation, administrative incentives); 2) administrative and protective functions that ensure the protection and protection of private and public rights, legitimate interests (including: administrative authorization, countering administrative torts, administrative enforcement of judicial and administrative acts, countering administrative incidents, resolving out-of-court disputes of administrative and public importance).

With this approach, it is obvious that executive authorities and local self-government bodies, as well as other administrative and public bodies, carry out the administrative and public functions assigned to them in two areas of administrative and legal regulation: 1) the sphere of administrative and administrative activity of the Russian state; 2) the sphere of administrative and protective activity of the Russian state.

During the exercise of administrative and public functions, the public administration of the Russian Federation acts as the subject of the administrative process, as it initiates, considers and resolves, on the basis of and in accordance with

administrative procedural legislation, a number of administrative cases predetermined by these functions. Such administrative cases should include, for example, cases of administrative offenses, which are indicated by Articles 23.2 - 23.92, 28.3 of the Administrative Code of the Russian Federation, cases of enforcement of requirements contained in the executive document, which are predetermined by Article 47 of the Federal Law "On Enforcement Proceedings", licensing cases, which are established by Article 16 of the Federal Law of 04.05.2011 N 99-FZ "On licensing of certain types of activities", etc.

It is important to note that the listed administrative cases are considered and resolved by the public administration in the Russian Federation through out-of-court proceedings of the corresponding category of case, the type of which is directly or indirectly determined by the legislator, namely: through proceedings on administrative offenses<sup>8</sup>, by means of enforcement proceedings<sup>9</sup>, through the production of licenses<sup>10</sup>. In this regard, the extrajudicial proceedings carried out by the public administration of the Russian Federation on administrative cases are proposed to be called in a generalized form administrative proceedings..

Emphasizing the hidden specifics of administrative cases referred to the competence of the public administration of the Russian Federation, we will call them extrajudicial administrative cases. Accordingly, it is logical to call an administrative process, the subject of which is the public administration of the Russian Federation, an executive or extrajudicial administrative process.

Summarizing the above, (executive) extrajudicial administrative process is defined as a complex activity of public administration regulated by administrative procedural legislation, including: federal executive authorities, executive authorities of subjects of the Russian Federation, local self-government bodies, other administrative and public bodies for the consideration and resolution of extrajudicial administrative cases through a system

<sup>8</sup> See: Section IV. Administrative Code of the Russian Federation.

<sup>9</sup> See: Chapter 5 of the Federal Law of 02.10.2007 N 229-FZ "On enforcement proceedings".

<sup>10</sup> See: Articles 13-15 of the Federal Law of 04.05.2011 N 99-FZ "On licensing of certain types of activities".

of administrative proceedings corresponding to the category of the case being resolved.

Justifying the possibility of forming federal and regional administrative procedural legislation for the purpose of legal regulation of the administrative process carried out by the public administration, there is no reason to deny the possibility of forming federal administrative procedural legislation in Russia in order to regulate the administrative process carried out by the courts on the basis of Articles 18, 72, 118, 126 of the Constitution of the Russian Federation, specified by the CAS of the Russian Federation, the APC of the Russian Federation and the Administrative Code of the Russian Federation.

A systematic analysis of these constitutional norms, as well as the norms enshrined in the Federal Law of 31.12.1996 N 1-Federal Law "On the Judicial System of the Russian Federation", the CAS of the Russian Federation, the APC of the Russian Federation, the Administrative Code of the Russian Federation, indicates that the administrative process carried out by the courts is: a) an independent form of justice in administrative cases; b) regulated by a special array of federal administrative procedural legislation; c) is aimed at ensuring a balance of the most significant private and public rights, legitimate interests arising in the field of administrative and other public legal relations, namely: the rights, freedoms and legitimate interests of individuals participating in administrative and other public legal relations (as a general rule – individuals and organizations) with the rights and legitimate interests of public entities (including: Of the Russian Federation, subjects of the Russian Federation, municipalities), whose bearers are public authorities, as well as organizations endowed with separate state and other public powers, representatives of these bodies and organizations.

It is important to emphasize that depending on the way the court ensures a balance of private and public rights, legitimate interests arising in the sphere of administrative and other public legal relations, it is proposed to distinguish between two main functions of justice in administrative cases carried out by the Supreme Court of the Russian Federation, courts of general

jurisdiction and arbitration courts on the basis of and in accordance with administrative procedural legislation:

1) judicial and administrative protection of the most important private and public rights, legitimate interests arising in the field of administrative and other public legal relations. For example, the court performs the function of judicial and administrative protection in cases of challenging decisions of administrative bodies on bringing to administrative responsibility, which are predetermined by Part 3. of Article 30.1 of the Administrative Code of the Russian Federation and Article 207 of the APC of the Russian Federation; in cases of protection of violated or disputed rights, freedoms and legitimate interests of citizens, rights and legitimate interests of organizations, which are indicated by Part 2 of Article 1 of the CAS of the Russian Federation;

2) judicial and administrative protection of the most significant private and public rights, legitimate interests arising from administrative and other public legal relations. The function of judicial and administrative protection is carried out in cases of bringing to administrative responsibility, which are predetermined by Article 23.1 of the Administrative Code of the Russian Federation and Article 202 of the APC of the Russian Federation; cases related to the implementation of mandatory judicial control over the observance of human and civil rights and freedoms, the rights of organizations in the implementation of certain administrative power requirements to individuals and organizations, which are provided for by Part 3 of Article 1 CAS of the Russian Federation (including cases of suspension of activity or liquidation of a political party, termination of the activities of mass media, administrative supervision of persons released from prison, involuntary hospitalization, etc.).

It is important to note that the administrative cases listed above are considered and resolved by the courts through judicial proceedings corresponding to the established category of the case. According to Article 118 of the Constitution of the Russian Federation, judicial proceedings in administrative cases are called in a generalized form administrative proceedings. Accordingly, it would be

logical to call administrative cases considered and resolved through administrative proceedings judicial administrative cases.

Emphasizing the revealed independence of the administrative process carried out by the courts, it is proposed for scientific and practical purposes to call it a judicial administrative process and define it as a complex activity of the judicial system regulated by administrative procedural legislation (including: the Supreme Court of the Russian Federation, courts of general jurisdiction, arbitration courts) for the consideration and resolution of judicial administrative cases through a system of administrative proceedings corresponding to the category of the case being resolved.

Summarizing the above, we can conclude that **the administrative procedural legislation of the Russian Federation by virtue of paragraph k) of Part 1 of art. 72 of the Constitution of the Russian Federation serves as a unified legal basis for the administrative process carried out by the judicial system (including: the Supreme Court of the Russian Federation, courts of general jurisdiction, arbitration courts), which is logically called judicial administrative process, as well as the administrative process carried out by public administration (including: federal executive authorities, executive authorities of subjects of the Russian Federation and local self-government bodies performing administrative and public functions, as well as other administrative and public bodies - organizations that have the status of a state or other body in accordance with federal law in order to perform certain administrative and public functions).**

From the position of the stated approach, we will distinguish two components of the administrative procedural legislation of the Russian Federation, which the Russian Federation and the subjects of the Russian Federation are authorized to form and develop jointly on the basis of paragraph k) of Part 2 of Article 72 of the Constitution of the Russian Federation:

**1) judicial administrative procedural legislation** - an array of federal administrative procedural legislation regulating the administrative process carried out by courts (including: federal

laws regulating the administrative process carried out by the Supreme Court of the Russian Federation, courts of general jurisdiction, arbitration courts);

**2) executive (non-judicial) administrative procedural legislation, namely:** federal and regional administrative procedural legislation regulating the administrative process carried out by federal executive authorities, executive authorities of constituent entities of the Russian Federation, local self-government bodies performing administrative and public functions, as well as organizations that have the status of a state or other body in order to perform certain administrative and public functions (including: federal laws and other regulatory legal acts of the Russian Federation, laws and other regulatory legal acts of the subjects of the Russian Federation).

The presented structure of the administrative procedural legislation of the Russian Federation necessitates an independent study of the system and structure of the public administration of the Russian Federation as a subject of the administrative process.

#### **4. The system of public administration in the Russian Federation.**

The issue of legislative regulation and the need for the legislative circulation of such a term, "the system of public administration in the Russian Federation" currently remains open for discussion among scientists and legislators. It seems necessary to fill this gap and propose the following definition.

**The system of public administration in the Russian Federation** is a set of interconnected executive authorities and local self-government bodies performing administrative and public functions, as well as organizations that, by virtue of federal law, have the status of a state or other body for the purpose of performing administrative and public functions, representatives of these bodies and organizations (including persons holding state and municipal positions, positions of state and municipal employees, other officials exercising administrative and public functions in the areas of administrative and administrative and security activities of the state).

It is important to note that in accordance with Article 10, Part 3 of Article 132 of the



Constitution of the Russian Federation, it is proposed to separate the system of public administration in the Russian Federation in the unified system of public authority as follows:

1) **specialized public administration bodies in the Russian Federation - public authorities performing administrative and public functions** (executive authorities and local self-government bodies);

2) **other bodies of public administration in the Russian Federation (other administrative and public bodies)** - organizations endowed by virtue of the law with the status of a state or other body in order to carry out the administrative and public functions assigned to them.

It seems obvious that the designated public authorities and organizations can be called in a generalized form **public administration bodies in the Russian Federation or otherwise - administrative and public bodies**.

Thus, the **system of public administration in the Russian Federation** includes two interacting systems of public administration bodies:

1) **the system of public authorities performing administrative and public functions, including:** the system of executive authorities performing administrative and public functions (the federal system of executive authorities performing administrative and public functions, and the system of executive authorities of the subjects of the Russian Federation performing administrative and public functions) and the system of local self-government bodies performing administrative and public functions;

2) **the system of other administrative and public bodies**.

The analysis of the norms of the current legislation of the Russian Federation makes it possible to reveal the internal content of the system of public authorities performing administrative and public functions, as well as the systems of other administrative and public bodies.

**4.1. The system of public authorities performing administrative and public functions consists of two components:**

1) **the system of executive authorities performing administrative and public functions,**

**including:**

- the federal system of executive authorities performing administrative and public functions;
- the system of executive authorities of the subjects of the Russian Federation performing administrative and public functions;

2) **the system of local self-government bodies performing administrative and public functions.**

**4.1.1. The federal system of executive authorities performing administrative and public functions.**

Analyzing the constitutional foundations of the current federal system of executive authorities in Russia, it is important to note that:

1) according to Articles 110, 114 of the Constitution of the Russian Federation and Part 1 of Articles 1, Articles 12, 13 No. 4-FKZ "On the Government of the Russian Federation"<sup>11</sup> executive power in the Russian Federation is exercised by the Government of the Russian Federation and other federal executive authorities in accordance with the structure of federal executive authorities under the general leadership of the President of the Russian Federation, as well as executive authorities of the subjects of the Russian Federation;

2) along with this, it seems obvious that the system of federal executive authorities includes their officials (persons holding public positions of the Russian Federation, civil service positions), endowed with administrative and public powers;

3) the legal regulation of the issue of the system of federal executive authorities according to Part 1 of paragraph "d" of Article 71 of the Constitution of the Russian Federation is under the jurisdiction of the Russian Federation. However, this issue has been regulated for many years by Decree of the President of the Russian Federation No. 314 of 09.03.2004<sup>12</sup>, according to which

<sup>11</sup> Federal Constitutional Law of 06.11.20 N 4-FKZ "On the Government of the Russian Federation"/ Electronic resource:

[http://www.consultant.ru/document/cons\\_doc\\_LAW\\_366950](http://www.consultant.ru/document/cons_doc_LAW_366950) (accessed: 05.07.2021).

<sup>12</sup> Decree of the President of the Russian Federation of 09.03.2004 N 314 (ed. of 20.11.2020) "On the system and structure of federal executive authorities"/ Electronic resource:

the system of federal executive authorities includes: federal ministries, federal services and federal agencies, whose activities are managed by the President of the Russian Federation and the Government of the Russian Federation.

In general, the issue of the distribution of administrative and public functions between federal executive authorities is currently not an easy one.

- On the one hand, Decree of the President of the Russian Federation No. 314 of 09.03.2004 attempted to regulate four main types of administrative and public functions (the function of adopting regulatory legal acts, the function of control and supervision, the functions of state property management, the function of providing public services), as well as to determine their content, including the specifics of their assignment to the jurisdiction of federal ministries, federal agencies and federal services on the basis of relevant Decrees of the President of the Russian Federation and Resolutions of the Government of the Russian Federation.

- On the other hand, analyzing the powers of these bodies, it can be concluded that, regardless of the type and name of the body, they can be endowed with a complex of all the above administrative and public functions. For example, the Ministry of Internal Affairs of the Russian Federation performs not only those administrative and public functions that are typical for federal ministries (for example, functions for the adoption of regulatory legal acts) and federal services (functions for control and supervision on the basis of a Decree of the President of the Russian Federation, for example, federal state control (supervision) in the field of migration, control over the circulation of weapons, etc.), but also functions for the provision of public services and management of state property that are assigned to the jurisdiction of federal agencies (for example, state services for the issuance and exchange of passports, management and disposal of the housing stock, assigned to the right of operational

management for the Ministry of Internal Affairs of Russia, etc.)<sup>13</sup>. Such a merger of administrative and public functions can be a characteristic legal phenomenon, both for federal ministries and for federal services and federal agencies. For example, the federal agency - the Office of the President of the Russian Federation is entrusted with the function of implementing federal state sanitary and epidemiological supervision, which, as a general rule, is typical for federal services<sup>14</sup>. The Main Directorate of Special Programs of the President of the Russian Federation, which is a federal agency, carries out regulatory and legal regulation<sup>15</sup>, which, as a general rule, is typical for federal ministries.

The list of administrative and public functions implemented by federal executive authorities is much wider than those that are attributed to the normative definition in the Decree of the President of the Russian Federation No. 314 of the internal content of the concepts of four public functions (for the adoption of regulatory legal acts, control and supervision, management of state property, provision of public services).

It is worth noting that there is currently no systematic approach to the regulatory establishment of administrative and public functions

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<sup>13</sup>Decree of the President of the Russian Federation dated 12/21/2016 No. 699 (ed. dated 02/19/2021) "On approval of the Regulations on the Ministry of Internal Affairs of the Russian Federation and the Model Regulations on the territorial body of the Ministry of Internal Affairs of the Russian Federation for the subject of the Russian Federation". Electronic resource: [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_209309/b9256590f74894be85664a5711cb4198f78f0a9bb](http://www.consultant.ru/document/cons_doc_LAW_209309/b9256590f74894be85664a5711cb4198f78f0a9bb) (accessed: 05.07.2021).

<sup>14</sup>Decree of the President of the Russian Federation of 17.09.2008 N 1370 (ed. of 17.09.2020) "On the Management of the Affairs of the President of the Russian Federation". Electronic resource: [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_80180/8236e51678ff4f9774718adc5bb4793b6e9beb48](http://www.consultant.ru/document/cons_doc_LAW_80180/8236e51678ff4f9774718adc5bb4793b6e9beb48) (accessed: 05.07.2021).

<sup>15</sup>Decree of the President of the Russian Federation dated 31.12.2017 N 651 (ed. dated 25.12.2018) "Issues of the Main Directorate of Special Programs of the President of the Russian Federation". Electronic resource: [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_286738/93cabfaeec225c8b1521b685a176cd2c93576379](http://www.consultant.ru/document/cons_doc_LAW_286738/93cabfaeec225c8b1521b685a176cd2c93576379) (accessed: 05.07.2021).

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[http://www.consultant.ru/document/cons\\_doc\\_LAW\\_46892/942772dce30cfa36b671bcf19ca928e4d698a928](http://www.consultant.ru/document/cons_doc_LAW_46892/942772dce30cfa36b671bcf19ca928e4d698a928) (accessed : 05.07.2021)..

in the regulations on the relevant federal ministries, federal agencies and federal services. However, the federal executive authorities carry out the whole complex of administrative and public functions of both administrative and administrative nature (administrative rulemaking, administrative law enforcement (in the provision of state and municipal services, registration of rights to movable and immovable property, etc.), administrative obligation, administrative incentives), and administrative and protective nature (administrative authorization (issuance of licenses, permits), counteraction to administrative offenses (proceedings on cases of administrative offenses, control and supervisory proceedings.), counteraction to administrative incidents (accidents, fires, epidemics, etc.), resolution of disputes of administrative and public importance, administrative enforcement of judicial and administrative acts. To resolve the current situation, it seems reasonable to talk about the need to allocate a special section of the federal law "On Public Administration in Russia", in which it is logical to settle the issues of establishing a federal system of executive authorities performing administrative and public functions. In this section of the federal law, it would be logical to consolidate the concept and typified types of administrative and public functions performed by the Government of the Russian Federation and federal executive authorities in the areas of administrative and administrative and protective activities of the state.

#### **4.1.2. The system of executive authorities of the subjects of the Russian Federation performing administrative and public functions.**

The issue of the system of executive authorities of the subjects of the Russian Federation is regulated by Articles 17, 18, 20 of the Federal Law of 06.10.1999 N 184-FZ<sup>16</sup>, according to which this system is represented by: the highest

executive body of state power of the subject of the Russian Federation and the highest official of the subject of the Russian Federation (the head of the highest executive body of state power of the subject of the Russian Federation - the head, the governor). At the same time, according to the above-mentioned law, the name of these bodies, the procedure for their formation, types are established by the constitution (charter) and laws of the subject of the Russian Federation, taking into account historical, national and other traditions. However, in some cases, the system of executive authorities of the subject of the Russian Federation may be established by Decrees of the highest official of the subject of the Russian Federation.

It is important to note that the system of executive authorities of the subjects of the Russian Federation is characterized not only by different variants of their legal regulation, but also by their diversity in number and types (individual and collegial, sectoral and intersectoral, centralized and decentralized (territorial)), name (ministries, departments, commissions, inspections, main departments, departments, commissions, etc.) and functional administrative and public powers. For example, on the basis of the law of the Novgorod region of October 27, 2017 No. 178-OZ<sup>17</sup> the system of executive authorities of the Novgorod region includes: the Governor, the Government, the Administration (the body for ensuring the activities of the Governor and the Government), other executive authorities of the Novgorod region (ministries, committees, inspections).

It is very interesting that some laws of the subjects of the Russian Federation regulate the concept of "system of executive authorities".

1) So, for example, in the Altai Territory, the "system of executive authorities of the Altai Territory" is understood as a set of organizationally united and mutually connected, differing in legal status and scope of powers of the executive

<sup>16</sup> Federal Law No. 184-FZ of 06.10.1999 (as amended on 24.02.2021) "On the general principles of the organization of legislative (representative) and executive bodies of state power of the Subjects of the Russian Federation". Electronic resource: [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_14058](http://www.consultant.ru/document/cons_doc_LAW_14058) (accessed: 05.07.2021). Law Enforcement Review 2021, vol. 5, no. 4, pp. 55–77

<sup>17</sup> The Law of the Novgorod Region of October 27, 2017 No. 178-OZ "On the system of executive authorities of the Novgorod Region". Electronic resource: <http://docs.cntd.ru/document/450365701> (accessed: 05.07.2021).

authorities of the Altai Territory<sup>18</sup>, which is represented by: the Government of the Altai Territory, headed by the Governor of the Altai Territory, as well as the regional executive authorities of the Altai Territory, the Administration of the Governor and the Government of the Altai Territory; including ministries, departments, inspections, representative offices of the Altai Territory and territorial executive authorities of the Altai Territory. The same law establishes that the executive authorities of the Altai Territory are created in the form of the Main Administration of the Altai Territory, the administration of the Altai Territory, the committee and the inspection of the Altai Territory (Article 4).

2) In the law of the Moscow Region "On the system of executive bodies of state power of the Moscow region", it is determined that the Governor of the Moscow Region heads the executive power of the Moscow region, and the executive power of the Moscow region is exercised by the executive bodies of state power of the Moscow region, which make up the system, which includes: the highest executive body of state power of the Moscow region - the Government of the Moscow Region; central executive bodies of state power of the Moscow region: ministries, committees and main departments of the Moscow region; territorial executive bodies of state power of the Moscow region<sup>19</sup>.

3) On the basis of the Decree of the Governor of the Sverdlovsk region of 28.10.2003 N 573-UG<sup>20</sup> the system of executive bodies of this

subject includes: the Government, branch executive bodies of state power (ministries, departments, main departments, departments, committees and commissions), as well as territorial branch executive bodies of state power (Departments of Agriculture and Food of the Ministry of Agriculture and Food of the Sverdlovsk region., Departments of Social Protection of the population of the Ministry of Social Protection of the Population of the Sverdlovsk region, the Committee on Land Resources and Land Management of the Sverdlovsk region, financial and financial-budgetary departments (departments) Ministries of Finance of the Sverdlovsk region, Departments of civil registration in cities and districts of the Sverdlovsk region.), as well as Territorial intersectoral executive bodies of state power of the Sverdlovsk region (district administrations).

Analyzing the legislation of the subjects of the Russian Federation, it seems important to note that the system of executive authorities of the subjects of the Russian Federation includes not only the highest official of the subject of the Russian Federation, the Government of the subject of the Russian Federation and other types of executive authorities (ministries, committees, departments, inspections, commissions, etc.), as well as their representative offices<sup>21</sup> and officials performing administrative and public functions (persons filling positions of the civil service of the subject of the Russian Federation).

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resource: <http://docs.cntd.ru/document/802009604> (accessed: 05.07.2021).

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<sup>18</sup>The Law of the Altai Territory of September 02, 2015 N 69-ZS "On the system of executive authorities of the Altai Territory". Electronic resource: <http://docs.cntd.ru/document/430541464> (accessed: 05.07.2021).

<sup>19</sup>The Law of the Moscow Region of July 19, 2005 N 185/2005-OZ "On the system of executive bodies of state power of the Moscow region". Electronic resource: <http://docs.cntd.ru/document/5811124> (accessed: 05.07.2021)..

<sup>20</sup>Decree of the Governor of the Sverdlovsk region of 28.10.2003 N 573-UG Yekaterinburg "On the system of executive power of the Sverdlovsk region". Electronic

<sup>21</sup> For example, the Representative Office of the Altai Territory - the regional executive authority of the Altai Territory, authorized to represent the interests of the Government of the Altai Territory in the Government of the Russian Federation, the Federal Assembly of the Russian Federation, other federal public authorities, public authorities of the subjects of the Russian Federation in the exercise of its functions to participate in the conduct of state policy. (see: The Law of the Altai Territory of September 02, 2015 N 69-ZS "On the system of executive authorities of the Altai Territory". Electronic resource: <http://docs.cntd.ru/document/430541464> (accessed: 05.07.2021).

At the same time, the question of the specifics of the distribution of functional powers between the executive authorities of the subjects of the Russian Federation remains very important. Only in isolated cases, out of the entire array of laws of the subjects of the Russian Federation and Decrees of senior officials of the subjects of the Russian Federation on the system of executive authorities of the subjects of the Russian Federation, the concept and types of public functions implemented by these bodies can be fixed. For example, the Law of the Altai Territory "On the system of Executive Authorities of the Altai Territory", modeled on the provisions of the Decree of the President of the Russian Federation No. 314, establishes the concept of public functions implemented by these bodies (functions for participation in public policy, functions for regulatory regulation, functions for control (supervision), functions for the management of state property, functions for the provision of public services). At the same time, having established that the Ministry of the Altai Territory can perform functions of control (supervision), provision of public services, and other functions in accordance with the regulatory legal acts of the Russian Federation, the Altai Territory. The Administration of the Altai Territory may perform functions for regulatory regulation, control (supervision), provision of public services, and other functions in established areas of activity (no more than two) in accordance with the regulatory legal acts of the Russian Federation, the Altai Territory. The Inspection of the Altai Territory does not have the right to carry out the functions of regulatory regulation, state property management, provision of public services in the established spheres of activity, we are talking about the implementation of the functions of control and supervision that are characteristic of federal services. In most cases, this issue is not regulated, and the assignment of functional powers to the relevant ministries, committees, inspections, commissions, directorates or main directorates, departments and departments, as executive authorities of the subjects of the Russian Federation, is carried out within the

discretion, taking into account the peculiarities of the region.

The analysis of the legal status of executive authorities in the subjects of the Russian Federation allows us to make a generalizing conclusion not only about the variety of administrative and public functions implemented by them, but also about the absence of a unified systematic approach to defining the concept of the system of executive authorities and a unified understanding of the list of administrative and public functions performed by these public authorities. In this regard, it seems reasonable to systematize the administrative and public functions performed by the executive authorities of the subjects of the Russian Federation, distributing them according to the spheres of administrative and administrative and protective activities of the state. In a special section of the federal law "On Public Administration in Russia", dedicated to the system of executive authorities of subjects of the Russian Federation performing administrative and public functions, "The system of executive authorities of subjects of the Russian Federation performing administrative and public functions".

#### **4.1.3. The system of local self-government bodies performing administrative and public functions.**

The issue of the system of local self-government bodies performing administrative and public functions remains open for the development of a scientifically based theory and further legal regulation.

On the one hand, the types of local self-government bodies are defined by Federal Law No. 131-FZ of 06.10.2003<sup>22</sup>, according to which they include: the representative body of the municipality, the head of the municipality, the local administration (the executive and administrative body of the municipality), the control and accounting body of the municipality, other bodies and elected officials of local self-government

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<sup>22</sup> Federal Law No. 131-FZ of 06.10.2003 (as amended on 29.12.2020) "About the general principles of the organization of local self-government in the Russian Federation". Electronic resource: [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_44571](http://www.consultant.ru/document/cons_doc_LAW_44571) (accessed: 05.07.2021).

provided for by the charter of the municipality and having their own powers to resolve issues of local significance (part 1 of Article 34). On the other hand, this law is not about the system, but about the structure of local self-government bodies. At the same time, local self-government bodies are not included in the system of state authorities and in the system of executive authorities, but, according to Part 3 of Article 132 of the Constitution of the Russian Federation, they are a body of the unified system of public power in Russia, including implementing administrative and public functions of administrative and administrative and protective nature.

Taking into account the analysis of the legislation regulating the administrative and legal status of local self-government bodies, it seems that the system of local self-government bodies performing administrative and public functions covers: the head of the municipality (the highest official of the municipality), the local administration (the executive and administrative body of the municipality), as well as the representative body of the municipality as a public administration body carrying out administrative rulemaking, as well as officials of the specified local self-government bodies performing administrative and public functions of these bodies (an elected person or a person who has concluded a contract (employment contract), endowed with executive and administrative powers to resolve issues of local significance (municipal employees)).

The issue of transferring administrative and public functions to local self-government bodies, state control over their execution, as well as issues of interaction of local self-government bodies with executive authorities and other public authorities within the framework of administrative and public functions performed, lies in the plane of granting these bodies separate state powers and therefore should be detailed and specified in a separate section of the federal law "On Public Administration in the Russian Federation".

From our point of view, issues of separation of local self-government bodies and their representatives performing administrative and public functions, transfer of these functions to local

self-government bodies, state control over their execution, as well as issues of interaction of local self-government bodies with executive authorities and other public authorities arising within the framework of administrative and public functions should be regulated in a special section of the federal law "On Public Administration in the Russian Federation" - "The system of local self-government bodies performing administrative and public functions".

#### **4.2. The system of other administrative and public bodies performing the functions of public administration.**

It would be logical to develop such a category as "other administrative and public bodies" taking into account such a term as "other state bodies", which was recently enshrined in Article 2 of Federal Law No. 394-FZ "On the State Council of the Russian Federation" on 08.12.2020<sup>23</sup>. This Federal Law reveals the concept of a unified system of public power in Russia, in which such entities as "other state bodies" are distinguished.

Analyzing the specifics of the legislatively regulated status of other state bodies, it can be stated with sufficient confidence that **the system of other administrative and public bodies performing the functions of public administration** It includes organizations that have the general status of a state body or a special status of a control (supervisory) body or other body that perform administrative and public functions in the areas of administrative and administrative and protective activities of the state. To other administrative and public bodies, for example, the Bank of Russia, the Accounts Chamber of the Russian Federation, control and accounting bodies of subjects of the Russian Federation and municipalities, the Central Election Commission of the Russian Federation, election commissions of subjects of the Russian Federation, territorial and precinct election commissions, registry offices, administrative commissions, commissions on minors (commissions of subjects of the Russian Federation

<sup>23</sup> Federal Law No. 394-FZ of 08.12.2020 "On the State Council of the Russian Federation. Electronic resource: [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_370105/14cdda58ac8b709aeb7af023769bc5ed1870b098](http://www.consultant.ru/document/cons_doc_LAW_370105/14cdda58ac8b709aeb7af023769bc5ed1870b098) (accessed: 05.07.21)..

and territorial (municipal) commissions), state corporations ROSATOM and ROSCOSMOS, public law companies ("Military Construction Company", "A single customer in the field of construction", "The Fund for the Protection of the Rights of Citizens Participating in Shared Construction"), the Pension Fund of the Russian Federation (PFR), the Social Insurance Fund of the Russian Federation (FSSR), the Federal Compulsory Medical Insurance Fund of the Russian Federation (FFOMSR), etc..

Organizations that belong to other administrative and public bodies have the following characteristic features.

Firstly, administrative and public bodies can be created, reorganized and liquidated on the basis of the norms of administrative and other public legislation not only by executive authorities and local self-government bodies, but also by legislative (representative) authorities, judicial authorities, the President of the Russian Federation, the Government of the Russian Federation, the highest official of the subject of the Russian Federation, the head of local administration in accordance with the procedure established by the relevant law and, as a rule, are accountable or subordinate to the founders. Depending on the type of founder, "other administrative and public bodies" can be divided into four groups:

1) administrative and public bodies established by the President of the Russian Federation, legislative authorities, judicial authorities, other state and public bodies;

2) administrative and public bodies established by federal executive authorities;

3) administrative and public bodies established by the executive authorities of the subjects of the Russian Federation;

4) administrative and public bodies established by local self-government bodies.

Secondly, other administrative and public bodies are subject to state registration and inclusion in the Unified State Register of Legal Entities maintained by the Federal Tax Service of Russia<sup>24</sup>. As an example, we can cite the Federal

Tax Service of the Russian Federation, which implements administrative and public functions to ensure the state registration of the public law company "Single Customer in the field of construction" and making an entry in the Unified State Register of Legal Entities on the termination of the activities of reorganized institutions<sup>25</sup>.

Thirdly, other administrative and public bodies may open branches and representative offices. For example, the supervisory board of the public law company "Single Customer in the field of construction" has the right to make decisions on the establishment and liquidation of branches of the company, on the opening and closing of representative offices of the company, etc.. At the same time, administrative and public bodies may act as founders of public organizations. For example, the State Corporation ROSCOSMOS is the founder of the backbone organizations of the rocket and space industry, including the public joint stock company Proton-Perm Motors.

Fourth, other administrative and public bodies may be characterized by a relatively equal amount of administrative and public functions they perform, both administrative and administrative and protective. Meanwhile, there are exceptions to this rule, since not all of them are authorized to draw up protocols on administrative offenses or to consider

organizations". Electronic resource: [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_8824](http://www.consultant.ru/document/cons_doc_LAW_8824) (accessed: 08.02.2021); See also Article 8- Article 11 of the Federal Law of 08.08.2001 N 129-FZ (ed. of 31.07.2020) "On State registration of legal entities and individual entrepreneurs" (with amendments and additions, intro. effective from 19.10.2020). Electronic resource: [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_32881/3c6129155fd519f7ed7b1efb29c70297a0955306/#dst100060](http://www.consultant.ru/document/cons_doc_LAW_32881/3c6129155fd519f7ed7b1efb29c70297a0955306/#dst100060) (accessed: 05.07.2021).

<sup>24</sup> P. 4, p. 5 of the resolution of the RF Government dated 31 December 2020, No. 2395 "On public-law company "one customer in the construction industry"/. Electronic resource:

[http://www.consultant.ru/document/cons\\_doc\\_LAW\\_373566/](http://www.consultant.ru/document/cons_doc_LAW_373566/) (date of access: 05.07.2021).

"Code of the Russian Federation on administrative offences" from 30.12.2001 N 195-FZ (as amended on 04.02.2021). Electronic resource:

[http://www.consultant.ru/document/cons\\_doc\\_LAW\\_34661/](http://www.consultant.ru/document/cons_doc_LAW_34661/) (date of access: 05.07.2021).

<sup>24</sup> See: Article 13.1 of Federal Law No. 7-FZ of 12.01.1996 (as amended on 30.12.2020) "On non-profit Law Enforcement Review 2021, vol. 5, no. 4, pp. 55–77



cases of administrative offenses in accordance with the Administrative Code of the Russian Federation. For example, state corporations ("ROSATOM", "ROSCOSMOS") and public law companies ("Military Construction Company", "Single Customer in the field of construction", "Fund for the Protection of the Rights of Citizens Participating in Shared Construction"), which exercise the administrative and public powers of the control (supervisory) body, are not entitled to draw up protocols on administrative offenses detected in the established field of activity. At the same time, for example, the Bank of Russia, the Accounts Chamber of the Russian Federation, as state control (supervision) bodies, are empowered to draw up protocols on administrative offenses, as well as to consider this category of administrative-tort cases in accordance with the Administrative Code of the Russian Federation (paragraph 3, Part 5 of Article 28.3, part 1 of Paragraph 3.1 of Article 22.1, Chapter 23.)<sup>26</sup>. Along with this, the Commission on Juvenile Affairs and protection of their Rights<sup>27</sup>, as well as administrative commissions<sup>28</sup>, not having the status of a control (supervisory) body, they are specialized bodies

performing administrative and tort functions for the consideration of cases of administrative offenses in accordance with Article 4, Part 2, Article 22.1 and Article 23.2 of the Administrative Code of the Russian Federation<sup>29</sup> and a number of administrative and administrative powers accompanying this function.

It is important to note that all of the above "other public administration bodies" may act as an administrative defendant in administrative proceedings regulated by the CAS of the Russian Federation.

In order to systematize the administrative and public functions of organizations that have the status of a state or other body, it is proposed to allocate a special section of the federal law "On Public Administration in the Russian Federation" - "the system of other administrative and public bodies operating in Russia"

## 5. The structure of public administration in the Russian Federation.

Each of the listed types of bodies included in the system of public administration is also characterized by the presence of its own normative-established internal organizational structure.

**The structure of public administration in the Russian Federation** is an intra-organizational structure of normative-established and subordinate structural elements (departments or departments, departments, collegial and individual bodies, their officials) of public administration bodies (executive authorities, local self-government bodies, other administrative and public bodies).

For example, **the structure of the Government of the Russian Federation** consists of the Chairman of the Government of the Russian Federation, Deputy Prime Ministers of the Russian Federation and federal ministers (Part 2 of Article 110 of the Constitution of the Russian Federation, Article 4 No. 4-FKZ)<sup>30</sup>. The structure of federal

<sup>26</sup> "The Code of the Russian Federation on Administrative Offenses" dated 30.12.2001 N 195-FZ (ed. dated 04.02.2021). Electronic resource: [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_34661](http://www.consultant.ru/document/cons_doc_LAW_34661) (accessed: 05.07.2021).

<sup>27</sup> See Article 11 of the Federal Law No. 120-FZ of 24.06.1999 (as amended on 24.04.2020) "On the basics of the system of prevention of neglect and juvenile delinquency". Electronic resource: [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_23509](http://www.consultant.ru/document/cons_doc_LAW_23509) (accessed: 05.05.2021); Decree of the Government of the Russian Federation of 06.11.2013 N 995 (ed. of 10.02.2020) "On approval of the Approximate Regulations on commissions for minors and protection of their rights". Electronic resource: [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_154121](http://www.consultant.ru/document/cons_doc_LAW_154121) (accessed: 05.07.2021); Article 23.2 of the Code of the Russian Federation on Administrative Offenses.

<sup>28</sup> See, for example: The Law of the Moscow region of December 26, 2017 N 243/2017-OZ "On administrative commissions in the Moscow region". Electronic resource: <https://base.garant.ru/43211398> (accessed: 08.02.2021); Law of the Moscow region N 37/2016-OZ "Code of the Moscow region on Administrative offenses". Electronic resource: <https://base.garant.ru/43135806> (accessed: 05.07.2021)..

<sup>29</sup> "The Code of the Russian Federation on Administrative Offenses" dated 30.12.2001 N 195-FZ (ed. dated 04.02.2021). Electronic resource: [http://www.consultant.ru/document/Cons\\_doc\\_LAW\\_34661](http://www.consultant.ru/document/Cons_doc_LAW_34661) (accessed: 05.07.2021).

<sup>30</sup> See: Federal Constitutional Law of 06.11.20 N 4-FKZ "On the Government of the Russian Federation" Law Enforcement Review 2021, vol. 5, no. 4, pp. 55–77



executive authorities in the Russian Federation, in turn, was approved by Presidential Decree No. 21 of 21.01.2020<sup>31</sup> and is currently represented by federal ministries, federal agencies, federal services, which are managed by the Government of the Russian Federation and the President of the Russian Federation<sup>32</sup>. Federal executive authorities may create their own territorial bodies and appoint appropriate officials to exercise their powers (Article 78 of the Constitution of the Russian Federation). The organizational structure of the federal executive authority, as a rule, includes the head (minister, director), his deputies, the central office (departments in the main areas of activity with the intra-organizational structure of the departments that make up them), as well as territorial bodies for the subject of the Russian Federation (for example, the Departments of the Ministry of Justice for the subjects of the Russian Federation (for the Altai Territory, the Republic of Adygea, the Stavropol Territory, etc.), which also include structural divisions - departments. In the structure of some federal ministries, special units are created and operate (for example, the foreign office of the Ministry of Foreign Affairs of the Russian Federation, the Ministry of Internal Affairs of the Russian Federation, the Ministry of Justice of

the Russian Federation, etc.) that implement public functions at the international level in accordance with international treaties and norms of international legislation.

The structure of the executive bodies of state power of the subject of the Russian Federation is determined by the highest official of the subject of the Russian Federation (head of the supreme executive body of state power of the subject of the Russian Federation) in accordance with the Constitution (charter) of the subject of the Russian Federation (decree (order) of the governor, head of the subject of the Russian Federation)<sup>33</sup>.

It is important to note that the structure of the executive authorities of the subjects of the Russian Federation is characterized by a variety of types of bodies and features of their names, including the scope of their functional administrative and public powers.

For example, the structure of the executive authorities of the Vladimir region includes departments for relevant industries (Department of Youth Policy and Public Projects, Department of Health, Department of Justice, etc.), as well as inspections and state inspections (for example, Inspection of State Housing Supervision, State Inspection of Administrative and Technical Supervision, Inspection of State Construction Supervision, Control and Audit Inspection), including the representation of the administration of the Vladimir region under the Government of the Russian Federation.<sup>34</sup>.

In some subjects of the Russian Federation (for example, in the Krasnodar Territory), the structure of executive authorities, in accordance with the adopted law, is designated as a system that

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Electronic resource:  
[http://www.consultant.ru/document/cons\\_doc\\_LAW\\_366950/6b84ab11983fb0296b2d2e534ceb22975aa4dbe4](http://www.consultant.ru/document/cons_doc_LAW_366950/6b84ab11983fb0296b2d2e534ceb22975aa4dbe4) .  
(accessed: 05.07.2021).

<sup>31</sup> See: Decree of the President of the Russian Federation of 21.01.2020 N 21 (ed. of 20.11.2020) "On the structure of federal executive authorities". Electronic resource: [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_343385](http://www.consultant.ru/document/cons_doc_LAW_343385) (accessed: 05.07.2021)..

<sup>32</sup>The President of the Russian Federation directs the activities of federal ministries and other federal executive bodies in charge of defense, state security, internal affairs, justice, foreign affairs, prevention of emergency situations and elimination of consequences of natural disasters, public security and other issues in accordance with the structure of federal executive bodies, appoints and dismisses the heads and deputy heads of these bodies (See: Part 2 of art. 12 federal Constitutional Law of 06.11.2020 N 4-FKZ "On the Government of the Russian Federation". Electronic resource: [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_366950/6b84ab11983fb0296b2d2e534ceb22975aa4dbe4](http://www.consultant.ru/document/cons_doc_LAW_366950/6b84ab11983fb0296b2d2e534ceb22975aa4dbe4) (accessed: 05.07.2021)).

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<sup>33</sup>See: Article 17 of Federal Law No. 184-FZ of 06.10.1999 (as amended on 24.02.2021) "On the General principles of the Organization of Legislative (Representative) executive bodies of State Power of the Subjects of the Russian Federation". Electronic resource: [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_14058](http://www.consultant.ru/document/cons_doc_LAW_14058) (accessed: 05.07.2021).

<sup>34</sup>See, for example: Decree of the Governor of the Vladimir region of June 10, 2016 N 48 "On the structure of the executive authorities of the Vladimir region" (as amended on October 26, 2020). Electronic resource: <http://docs.cntd.ru/document/439095089> (accessed: 05.07.2021). .

includes, along with departments (Department of Information Policy, Department of Investment and Development of Small and Medium-sized businesses, regional energy Commission (department), etc.), branch ministries (Ministry of Transport and Road Management, Ministry of Economy, etc.), including the state Housing Inspectorate; the Registry Office<sup>35</sup>.

This circumstance only underscores the need for legislative regulation of the concepts of "system" and "structure" of public administration bodies in order to ensure uniformity and a systematic approach in the areas of law-making and administrative-normative activities of the state.

The structure of municipal bodies of public administration in the Russian Federation (local administration) is determined by the charter of the municipality<sup>36</sup>. For example, the structure of the administration of the city of Yekaterinburg includes: the head of the city administration, his first deputy, deputies, branch (functional) bodies (departments, departments, committees and departments) exercising powers to manage branches of local economy and social sphere, heads of district administrations and territorial bodies (district administrations), as well as the collegium<sup>37</sup>. In the structure of the administration

of the municipal formation of the city of Sochi, administrative and public powers are exercised by: the head of the city, his deputies, territorial bodies (intra-city administrations of districts) and branch (functional) bodies: departments, departments and departments<sup>38</sup>. In this case, as well as in the structure of the executive authorities of the subjects of the Russian Federation, and in the structure of local administrations, there is a variety of types, names of structural bodies with features of the implementation of their functional powers.

Other administrative and public bodies are also characterized by the presence of their own internal organizational structure, which, as a rule, includes individual and collegial management and control bodies formed and created in accordance with the procedure established by the relevant law or regulatory legal act. For example, the public law company "Single Customer in the field of construction" has management bodies (supervisory board, management board (collegial executive body), general director (sole executive management body appointed and dismissed from office and control bodies in the field of financial and economic activities (audit commission)), formed and created on the basis of federal law<sup>39</sup> in the manner prescribed by the Government of the Russian Federation. A similar intra-organizational structure of management bodies can be provided for state corporations (for example, for the state corporation Rostec<sup>40</sup>) et al ..

<sup>35</sup>The Law of the Krasnodar Territory of October 21, 2015 No. 3255-KZ On the System of Executive Bodies of State Power of the Krasnodar Territory and the Structure of the Supreme Executive Body of State Power of the Krasnodar Territory - the Administration of the Krasnodar Territory (as amended on December 9, 2020). Electronic resource: <http://docs.cntd.ru/document/430643084> (accessed: 05.07.2021).

<sup>36</sup>Article 34 of Federal Law No. 131-FZ dated 06.10.2003 (as amended on 29.12.2020) "On the general principles of the organization of local self-government in the Russian Federation". Electronic resource: <http://www.consultant.ru> (accessed: 05.07.2021).

<sup>37</sup>Article 38 of the Charter of the municipal formation "the City of Yekaterinburg" (Adopted by the Decision of the Yekaterinburg City Duma of the fourth convocation of 30.06.2005 No. 8/1 (as amended. dated 21.05.2019). Electronic resource: <https://екатеринбург.рф/официально/документы/устав/глава4> (accessed: 05.05.2021); See also: Official website of the municipality of Sochi. Electronic

resource: [https://sochi.ru/gorodskaya-vlast/normativno-pravovyye-akty/?ELEMENT\\_ID=2944](https://sochi.ru/gorodskaya-vlast/normativno-pravovyye-akty/?ELEMENT_ID=2944) (accessed: 05.07.2021).

<sup>38</sup>Official website of the municipality of Sochi. Electronic resource: [https://sochi.ru/gorodskaya-vlast/normativno-pravovyye-akty/?ELEMENT\\_ID=2944](https://sochi.ru/gorodskaya-vlast/normativno-pravovyye-akty/?ELEMENT_ID=2944) (accessed: 05.07.2021).

<sup>39</sup>See: Article 8 of Federal Law No. 435-FZ of 12/22/2020 "On the Public Law Company "Single Customer in the Field of construction" and on Amendments to Certain Legislative Acts of the Russian Federation". Electronic resource: [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_371586](http://www.consultant.ru/document/cons_doc_LAW_371586) (accessed: 05.07.2021).

<sup>40</sup>Federal Law No. 270-FZ of 23.11.2007 (as amended on 31.07.2020) "On the State Corporation for the Promotion of the Development, Production and Export of High-Tech Industrial Products "ROSTEC". Electronic resource: Law Enforcement Review 2021, vol. 5, no. 4, pp. 55–77

From our point of view, it would be logical to settle the key issues of the structure of executive authorities and local self-government bodies performing administrative and public functions, as well as organizations with the status of state or other in order to perform administrative and public functions, in a special section of the federal law "On Public Administration in the Russian Federation" - "The Structure of the public administration of the Russian Federation".

## 6. Conclusions.

Taking into account the analysis, it can be concluded that in modern Russia there are a number of constitutional prerequisites (the key of which is Part 3. Article 132 of the Constitution of the Russian Federation) for the legislative separation of the subsystem of public power performing administrative and public functions in the administrative process, namely: public administration in the Russian Federation.

Developing the provisions of Part 3 of Article 132 of the Constitution of the Russian Federation, taking into account the analysis of the current federal legislation, it is proposed to understand **public administration in the Russian Federation** as a subsystem of public power, covering executive authorities and local self-government bodies performing administrative and public functions, as well as organizations that, by virtue of federal law, have the status of a state or other body in order to perform certain administrative and public functions.

Accordingly, organizations, as well as individuals who are not representatives of an executive authority or a local self-government body and do not have the status of a state or other body, but at the same time performing separate administrative and public functions of executive authorities or local self-government bodies, are proposed to be considered as private persons performing the functions of public administration.

It is also important to emphasize that from the perspective of the proposed approach, the

public administration performs administrative and public functions in two main areas of activity of the Russian state: **administrative-administrative and administrative-protective**.

In the course of implementing administrative and public functions in the areas of administrative and administrative and security activities of the state, the public administration is vested with administrative and procedural powers to review and resolve administrative cases of the appropriate category, and is a specialized authorized subject of (executive) extrajudicial administrative process. Along with this, the public administration may be a party to an administrative case in a judicial administrative process regulated by the CAS of the Russian Federation and the Agro-Industrial Complex of the Russian Federation.

It seems that the issue of legislative regulation of the administrative-procedural status of public administration in the administrative process remains very relevant and significant in the current conditions of the current norms of the administrative-procedural legislation of the Russian Federation.

To solve this task, it is proposed to develop and adopt: the federal law "**On Public Administration in the Russian Federation**", in special sections of which:

a) identify the system of executive authorities and local self-government bodies, as well as organizations and individuals performing administrative and public functions, and regulate the main legal forms of interaction of this system of public authority with the President of the Russian Federation, courts, prosecutor's offices, other public authorities, individuals and organizations;

b) to regulate the issues of establishing a federal system of executive authorities exercising administrative and public functions. In particular, to consolidate the concept and typified types of administrative and public functions performed by the Government of the Russian Federation and federal executive authorities in the areas of administrative and administrative and protective activities of the state;

c) systematize the administrative and public functions performed by the executive authorities of the subjects of the Russian Federation, distributing

them according to the spheres of administrative and administrative and protective activities of the state;

d) to regulate the issues of separation of local self-government bodies and their representatives performing administrative and public functions, transfer of these functions to local self-government bodies, state control of their execution, as well as issues of interaction of local self-government bodies with executive authorities and other public authorities arising within the framework of administrative and public functions performed;

e) systematize the administrative and public functions of organizations that have the status of a state or other body in order to perform these functions;

f) to settle the key issues of the structure of executive authorities and local self-government bodies performing administrative and public functions, as well as organizations with the status of state or other in order to perform administrative and public functions.

It seems that the federal law "On Public Administration in the Russian Federation" should be adopted "in one package" with the federal law (Code) "On Administrative Proceedings in the Russian Federation", in the sections of which: 1) define and normalize the basic concepts used in the administrative procedural activities of administrative and public bodies, including such as "administrative proceedings", "extrajudicial administrative case", "extrajudicial administrative procedure", "administrative act", taking into account their correlation with the conceptual apparatus, used in administrative proceedings and enshrined in the CAS of the Russian Federation; 2) define and normatively fix the common basic principles of administrative proceedings; 3) define and normatively fix the general requirements for the composition of participants in administrative proceedings, their legal status, evidence and evidence in extrajudicial administrative cases resolved within the framework of this production; 4) define and normatively fix the general requirements for the stages of administrative proceedings and the framework procedural rules for resolving extrajudicial administrative cases at

each of these stages; 5) define and normatively fix the general requirements for decisions taken during and as a result of administrative proceedings (administrative procedural acts and administrative acts), the rules for their entry into force, execution, suspension and termination. The initial draft of this federal law is presented to the scientific community for review [41].

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#### INFORMATION ABOUT AUTHORS

**Alexander I. Stakhov** – Doctor of Law, Professor;  
Head, Department of Administrative Law and Procedure named after N.G. Salishcheva; Chief Researcher (head of the direction), Center for the Study of Problems of Justice  
*Russian State University of Justice*  
69, Novocheremushkinskaya ul., Moscow, 117418, Russia  
E-mail: alexander-stakhov@ya.ru  
ORCID: 0000-0002-7726-1204

**Natalia V. Landerson** – PhD in Law, Associate Professor; Associate Professor, Department of Administrative Law and Procedure named after N.G. Salishcheva

*Russian State University of Justice*  
69, Novocheremushkinskaya ul., Moscow, 117418,  
Russia  
E-mail: nvt888@mail.ru  
ORCID: 0000-0002-8985-3653

**Dmitry G. Domrachev** – PhD in Law, Associate Professor; Head, Department of Constitutional, Administrative Law and Legal Support of the State Service  
*Vyatka State University*  
36, Moskovskaya ul., Kirov, 610000, Russia E-mail: zentr-pravo@mail.ru  
ORCID: 0000-0002-7967-9129

#### **BIBLIOGRAPHIC DESCRIPTION**

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