

# CONSTITUTIONAL AND LEGAL RESPONSIBILITY BINDING FEDERAL EXECUTIVE AUTHORITY OFFICIALS IN THE RUSSIAN FEDERATION

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## Abstract

**Purpose of the study:** The article analyzes constitutional and legal responsibility binding federal executive authority officials of the Russian Federation: federal ministers, heads of federal services and agencies. Special attention is paid to features of entrenching responsibility of the specified persons in the Russian legislation.

**Methodology:** On the basis of such an analysis, on the example of the legislation of the Russian Federation, authors investigate problematic aspects of legal regulation and responsibility. The authors raise the questions connected with the lack of specific entrenchment of the legal status born by officials. Presently it remains unclear whether equating the constitutional legal status of the federal services and agencies officials with the status of the federal ministers and identification of responsibility is guaranteed.

**Results:** Authors formulate a conclusion that constitutional and legal responsibility of federal executive authority officials is a voluminous yet scarcely studied legal phenomenon that does not possess sufficient legislative regulation.

**Applications of this study:** This research can be used for the universities, teachers, and students.

**Novelty/Originality of this study:** In this research, the model of the Constitutional and legal responsibility binding federal executive authority officials in the Russian Federation is presented in a comprehensive and complete manner.

**Keywords:** *Government of the Russian Federation, Ministry, Federal Agency, Federal Service, constitutional and legal responsibility, resignation, legal status, officials.*

## INTRODUCTION

The Constitution of the Russian Federation regarding part 1 of article 110 establishes that executive power in the Russian Federation is carried out by the Government of the Russian Federation. Part 3 of article 1 of the constitutional federal law "About the Government of the Russian Federation" defines that the Government of the Russian Federation, as a collegial body, heads the uniform system of executive power in the Russian Federation. Thereby executive power has the established structure of federal bodies where public administration is implemented by the Government of the Russian Federation, as well as other federal bodies: ministries, services, and agencies ([Decree of the Russian President as of 05.04.2016 N 157](#)).

In the system of executive authorities of the Russian Federation, a significant role is played by federal services and federal agencies. Their legal status differs depending on the place in the system of federal executive authorities and is defined by the purposes, tasks, competence, as well as responsibility. First of all, it concerns heads of services and agencies which activity carrying out standard instructions. Their responsibility for implementing the functions by means of their headed structural divisions is defined by a package of measures, accepted within constitutional right and norms of other branches of the law ([Decree of the Russian President as of 07.08.2004 N 1013](#)). At the same time, in the science of constitutional right questions of the legal status of the federal services and agencies officials, and their responsibility is insufficiently covered. A question of a ratio of constitutional and legal and administrative and legal (office) responsibility of the persons holding senior positions in the system of federal executive authorities is still scarcely lit.

## METHODS

The research methodological basis is presented by the system of general scientific and specific scientific methods of knowledge allowing considering an object of research most objectively from a position of its internal logic. Use of a dialectic, historical, sociological, system and structural method allowed to analyze and generalize the theory of constitutional and legal responsibility, and to build the author's concept of responsibility of federal executive authority officials based on them.

As private-law methods of theory-predictive, legal modeling, the comparative and legal analysis was widely applied. With its help comparison of various points of view concerning the responsibility of the specified subjects was carried out, as well as the analysis of its establishment in standards of the legislation both in the Russian Federation, and the foreign states.

During the research, various aspects of the specified research such as general-logical methods of deduction and induction promoting the creation of the research optimum concept were used; the analysis and synthesis allowed to investigate the essence and structure of constitutional and legal responsibility of federal executive authority officials comprehensively. At the

same time, the research was guided by requirements of the unity principles in historical and logical knowledge of government essence and system. [Huskey, E. \(2016\)](#)

## RESULTS AND DISCUSSION

The structure of federal executive authorities is non-uniform. According to the Decree of the Russian President as of March 9, 2004 N 314 "About system and structure of federal executive authorities" the system of federal executive authorities consists of the federal ministries, federal services, and federal agencies. The bodies of special competence which are a part of the system of executive power and exercising control of certain areas of public life are the ministries and branch authorities equated to them - the federal agencies and services. Federal ministers are the persons holding the state positions, they are a part of the Government of the Russian Federation, they head the system of executive authorities and exercise control over certain spheres of social activity. The legal status of federal ministers is defined by the Constitution of the Russian Federation and the Federal constitutional law "About the Government of the Russian Federation" that assumes their constitutional and legal responsibility. [Ross, C. \(2007\)](#)

The decree of the Russian President as of May 15, 2018 No. 215 "About structure of federal executive authorities" established the list of federal executive authorities where most the federal ministries, services, and the agencies are grouped into three-unit subsystems of bodies. Thus, federal services and the agencies on adjacent fields of activity submit to the head ministry responsible for the same spheres. Yet not all federal services and agencies have their own head ministries. In some cases, services and agencies directly submit to the Russian President or the Government of the Russian Federation. Heads of such federal services and agencies are appointed to a position or dismissed by the Russian President, or the Russian Prime Minister. It is caused by a variety of reasons, in particular, specifics of the sphere of activity demanding concentration of power in one body and inexpediency of dispersion of control power, regulation, and management in the same sphere between several bodies. Thus, according to the legislation of the Russian Federation regulating activity born by officials of the federal services and agencies, the decision on the quality of performance of their heads lies in the competence of either the Russian President, the Russian Prime Minister, or federal minister ([Decree of the Russian President as of 11.08.2003 N 960](#); [Decree of the Russian President as of 22.06.2016 N 293](#); [Resolution of the Government of the Russian Federation as of 23.07.2004 N 373](#) ; [The decree of the Russian President as of 09.03.2004 N 314](#); [The decree of the Russian President as of 15.05.2018 N 215](#) ).

On the basis of the federal law as of July 27, 2004 No. 79-FZ "About the public civil service of the Russian Federation" the legal status of the officials of federal services and federal agencies is defined at the level of the federal public civil servant. Positions in federal services and the agencies are subdivided into categories (heads, assistants (advisers), experts and the providing experts). All positions of the public civil service join in the register of positions of the civil service approved by the Decree of the Russian President. Therefore, competences and responsibility of the federal services and agencies officials are not always subjected to the constitutional law. The officials who are a part of federal services and agencies are public servants and bear administrative (office) responsibility.

Thus, in the system of the state positions of the Russian Federation three-level structure in which federal ministers are the persons holding the state positions are established, and heads of federal services and agencies are considered public servants. The position of the head (director) according to the Decree of the Russian President «About the register of positions of federal public civil service» belongs to the first category of the state executive power positions of the Russian Federation.

However, analyzing the legislation regulating the legal status of federal executive authority officials it should be noted that not all categories of the federal services and agencies officials are public servants. In some federal services, officials are allocated with the status and the rights of the federal minister. For example, on the basis of Decrees of the Russian President, heads (directors) of the Federal Security Service, Federal Service of National Guard of the Russian Federation, Federal Guard Service of the Russian Federation are equated on the legal status, the amount of compensation, conditions of social and medical support to the federal minister.

Heads (directors) of federal services and agencies are the highest group of positions and bear the responsibility to the Russian President who has the right to make the decision on resignation of any head, in case of inadequate duty execution. Resignation of the certain head (director) of federal service or agency, without influencing the activity of all executive power in a decisive way, is carried out through "removal" of an unreliable element from a particular uniform legal mechanism.

Respectively, if the legal status of the head (director) of any federal service or agency is equated to the federal minister does it mean that they bear constitutional and legal responsibility, but not administrative (office) responsibility? It is certain that if the legal status of the electives or officials of federal public authorities is regulated by the Constitution of the Russian Federation, Federal constitutional laws and federal laws, then these persons bear constitutional and legal responsibility. For example, federal ministers are not public servants - they are the persons holding the state position, introduced into the Government of the Russian Federation, heading the system of executive authorities. Yet as the constitutional and legal responsibility of federal ministers followed for inadequate execution of constitutional and legal duties represents an element of their constitutional legal

status, equating their legal status to that of the heads (directors) of federal services and agencies means equating the responsibility as well. Therefore, the specified heads (directors) are persons, carrying out the activity on by law and in the status of the federal minister and bear the responsibility equal to that of the federal ministers.

In this regard are there features in equating of the statuses and responsibility of federal ministers and heads of federal services, agencies? In what legal source and measure of responsibility should it be entrenched: in the law or other act (the decree of the Russian President, the Resolution of the Government of the Russian Federation) defining the status of federal services and agencies? It is currently impossible to settle the matter in legislation. It seems that legislative entrenchment as general and special responsibility basis born by officials of federal services and the agencies at the federal level will promote greater stability of these legal designs. Therefore, entrenchment in federal law seems to be the most successful.

As for the federal agencies, in the approved regulation equating them with the status of the head (director) of any federal agency was not found. However, it is possible to claim that the functions of the federal agency can be equated to the federal ministries. So, the general rule is that the federal agencies are equipped with functions to manage the state property and functions to render public services, but cannot carry out functions to adopt normative legal acts. However according to provisions of the Decree of the Russian President as of May 20, 2004 No. 649 "Questions of federal executive authorities structure" the federal agencies which are directed by the Government of the Russian Federation have the right to adopt regulations (along with other functions provided by the Decree of the Russian President as of March 09, 2004 No. 314 "About system and structure of federal executive authorities"). For example, on the basis of the Provisions approved by the Decree of the Russian President as of June 22, 2016 No. 293 "Questions of Federal Archival Agency", the Resolution of the Government of the Russian Federation of July 23 2004 N 373 "Questions of Federal Agency for State Reserves" the specific federal agencies can carry out functions on development and realization of state policy and standard legal regulation in the established sphere. However other federal agencies, for example, the Presidential Property Management Department of the Russian Federation, do not possess such functions. This means that functions of the federal ministries can be peculiar to some federal agencies that in turn indicate that officials of these federal agencies can bear responsibility at the level of the federal ministry. Thus, the federal agencies on the legal status can represent bodies with a set of functions of federal services and federal ministries ([The decree of the Russian President as of 17.09.2008 N 1370](#) ;[The decree of the Russian President as of 20.05.2004 N 649](#);[The federal constitutional law as of 17.12.1997 N 2-FKZ](#);[The federal law as of 27.07.2004 N 79-FZ](#) ).

It should be noted that one of the main functions of the federal agencies which did not allocate other federal executive authorities in rendering public services. The term "public services" for is new Russian legislation and it is seldom used federal laws. In this regard, the content of public services demands an accurate definition. The consumer should clearly understand what legal agency carries the service out, implements the provided public services and bears responsibility for them. However, in all provisions, it is possible to observe mere references to providing service, without any specifications, in this regard an uncertainty, including concerning their legal status, arises. None of the provisions contains information specifying the nature of the services rendered by the federal agencies for granting which they were created.

It should be noted that in recent years in the Russian Federation quite often the structure of executive authorities and, respectively, the provisions defining their legal status are exposed to frequent and fundamental change. Requirements to the officials exercising control over certain spheres of public life have to obtain stability. Moreover, according to the legislation of the Russian Federation, the final decision on resignation of ministers, heads of federal services and the agencies is made by either the Russian President or the Russian Prime Minister. All relevant provisions are approved by decrees of the Russian President or resolutions of the Government of the Russian Federation. It is obvious that the person carrying out jurisdictional functions of retaliatory character should not establish a responsibility basis. Therefore, besides the need of introducing the general bases for the resignation of ministers and the heads of federal services and agencies equated to them by status into the legal action, it is also required to develop special lists of the illegal bases of resignation depending on the sphere of their activity. Entrenching the specified precepts of the law not in the subordinate regulations defining the status of the appropriate executive power authority, but at the legislative level appears to be more expedient. [Shmaliy, O. V., & Dushakova, L. A. \(2017\).](#)

## SUMMARY

1. Constitutional and legal responsibility can extend to members of the government of the Russian Federation, as well as to heads of federal services and federal agencies. It is proved that the status of some heads of federal services and agencies is equated to the federal minister. The instance of responsibility observance of heads of federal services and agencies, the President and the Government, an appointment, and their dismissal– by the President's prerogative, and others – by the Government's is carried out. [Chebankova, E. A. \(2005\)](#)
2. Legal status and volume of competence of federal executive authorities need specification and careful defining. It is necessary to unify their functions and to bring them into accord with the legal status. For this purpose it is necessary to systematize the legislation of the Russian Federation regulating the rights, duties and responsibility of federal executive

authority officials and to establish validity of those state functions, powers of the federal ministries, services and agencies which are provided by the Decree of the Russian President as of March 9, 2004 N 314 "About the system and structure of federal executive authorities".

3. Features of legal status and responsibility, federal services and agencies officials, their specification and "development" have to be reflected completely in the approved regulations on subordinated executive bodies. It is expedient to develop the general legal regulation of responsibility of federal services and agencies in the system of executive power in such main directions as:
  - Exhaustive definition of legal status and, first of all, the competence of federal services and agencies on a uniform basis;
  - Standardization of functions and powers depending on a field of activity;
  - Establishment of the concrete bases of responsibility born by officials.
4. In the legislation of the Russian Federation, the status and responsibility born by officials of the federal services and agencies equated to federal ministers are not accurately defined. It is thought that it is necessary to enshrine the provisions regulating the status of the federal executive authority officials equated to federal ministers in the Federal constitutional law "About the Government of the Russian Federation". Besides entering the general bases for the resignation of the officials of federal services and the agencies equated on the status to federal ministers into legal acts, it is necessary to specify lists of the illegal bases of resignation for certain officials depending on the sphere of their activity.

## CONCLUSIONS

Summarizing, one may say, that there are considerable gaps in the standard and legal regulation of the legal status of federal services and agencies officials and insufficient entrenchment of the precepts of the law establishing their responsibility. The norms regulating matters of constitutional and legal responsibility born by officials are scattered on all branches and not systematized. Currently there is an objective need for further improvement of standard legal regulation of responsibility born by the top managers of public administration for violating constitutional precepts of law, performance of the obligations for the management of the most important spheres of economic, social and economic life, safety of the state, protection of the rights and the interests of citizens assigned to them.

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