TRANSFORMATION OF THE CONCEPT OF ADMINISTRATIVE LIABILITY IN THE PROTECTION OF THE RIGHTS, LEGITIMATE INTERESTS AND SECURITY OF CITIZENS

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https://doi.org/10.21684/2412-2343-2022-9-4-64-80

This article discusses key areas of harmonization of administrative legislation and administrative responsibility between the Russian Federation and the Eurasian Economic Union (EAEU) countries. The most important issue in modern law is understanding that the uniform practical application of consistent administrative liability will enable the creation of a customs, tax, technological, and environmental space in the EAEU and BRICS. The author, on the basis of the findings of other researchers, gives an original definition of legal and administrative liability, which can be used in the harmonization of Russian legislation with the legislation of other BRICS and EAEU countries. The author also determines the regulation of the administrative process and the difference between administrative liability and other types of legal liability in accordance with modern Russian legislation.

Keywords: administrative procedures; administrative responsibility; unification of legislation; BRICS; EAEU.

Recommended citation: Vadim Panteleev, *Transformation of the Concept of Administrative Liability in the Protection of the Rights, Legitimate Interests and Security of Citizens*, 9(4) BRICS Law Journal 64–80 (2022).

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Introduction

With the ongoing administrative reform in Russia, the formation of a single economic space in the Russian Federation, Belarus, Kazakhstan, Armenia, Kyrgyzstan, and Tajikistan, as well as in a number of other member states of the Eurasian Economic Union (EAEU), BRICS, and other political and economic interstate associations and unions, it is more important than ever to reach a common understanding of legal terms and their application in the practical activities of public authorities, the business community, and citizens. Since public administration is primarily governed by the norms of administrative law, it is the harmonization and integration of administrative legislation that should contribute to more effective economic development and stability in the political and social spheres.

When discussing the application of administrative law to the protection of rights, legitimate interests, safety of life and health, property of citizens, public, economic, industrial (technological), biological, food, information, environmental, and other types of security, it is necessary to emphasize the importance of resorting to administrative coercion in general and administrative liability as its subsystem for such ends.

Common understanding and uniform practical application of consistent administrative liability will enable the countries in these regions to create a customs, tax, technological, and environmental space and to ensure legal regulation of diverse public relations concerned with the protection of rights and legitimate interests and security of citizens, as well as to ensure the unification of the legislation of these countries. Furthermore, it also defines the establishment of ESG standards as a mechanism for protecting the rights, freedoms, and security of citizens from unlawful encroachments.

1. Transformation of the Concept of Administrative Liability

It should be noted that the functions of administrative liability should be determined by their purposes, since by its very nature such a social phenomenon as legal liability protects the society from unlawful encroachments. This goal also determines the basis for distinguishing between functions of liability: the punitive (penal) function identifies the offender and penalize them for what they have done; the restorative (compensatory) function restores the violated right and compensates for the pecuniary and non-pecuniary damage caused by the offender; and the deterrent (preventive) function prevents future offenses by both the offender (private prevention) and society (general prevention).

However, administrative liability aims not only to punish the offender but also to correct their behavior, which, pursuant to Article 2.1 of the Administrative Offense Code of the Russian Federation (hereinafter the "AdmOC RF"), is one of the purposes

of administrative punishment (its educational function). First of all, administrative liability is applied in order to protect and safeguard life, rights, and legitimate interests; health; property of citizens; public; food; economic; biological; industrial (technological); environmental; information; and other types of national security (its protective function). It should be emphasized that administrative liability is organically included in the process of administrative law regulation and, thus, it is part of its mechanism through which the regulatory function of law is carried out.

Examining the institute of administrative liability, we noted[1] that it was the most important part of police law, followed by administrative law, and that it was regarded as a mechanism of public administration to ensure public, economic, food, sanitary, and epidemiological security as well as other types of security in the political, economic, and social spheres. Our analysis of police law demonstrated that the majority of its norms concerned issues such as legal liability for violations of weights and measures; soaring food prices; the sale of low quality and unhealthy food products; protection of "people's health"; sanitary and epidemiological welfare; and so on. In particular, this conclusion is confirmed by A.B. Agapov, who thoroughly examines the genesis of the institute of administrative liability, analyzing works on police and administrative law by such famous scholars as I.T. Tarasov, V.V. Ivanovsky, I.E. Andrievsky, V.N. Leshkov, and E.N. Berendts. Exploring the development of police and administrative law in Russia, Yu.A. Tikhomirov underlines the importance of developing administrative law regulation and state management of the national economy, the normal functioning of industrial, trade, and other objects, as well as administrative law protection of the vital needs and interests of the population of the country.[2]

It should be noted that issues related to legal research conducted by the institute of legal liability established for violations of the law are debatable. First of all, it concerns the definition of legal liability in the theory of law. Thus, S.S. Alekseev emphasized that "the essence of legal liability means that a person shall face state coercive measures for an offense committed by him." Later, while examining the system of state coercive measures, S.S. Alekseev gives the definition of legal liability as the application of state coercive measures to the guilty person for the committed offense and the offense itself as the ground for legal liability characterized by four elements (aspects) that make up the elements of the offense (the object, *mens rea*, *actus reus*, and the subject). At the same time, speaking about administrative liability, he emphasizes that all elements of the offense shall be obligatory and unconditional, and we will rely on this statement in subsequent sections when qualifying administrative offenses.

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[1] *Пантелеев В.Ю.* Государственно-правовое регулирование в сфере потребительского рынка в Российской Федерации [Vadim Yu. Panteleev. *State Law Regulation in the Sphere of the Consumer Market in the Russian Federation*] 9–83 (2015).

[2] *Тихомиров Ю.А.* Курс административного права и процесса [Yuri A. Tikhomirov, *A Course of Administrative Law and Procedure*] 9–38 (1998).

S.S. Alekseev distinguishes legal liability from preventive measures established by law and defensive measures (legal restorative measures) by linking it "with the public condemnation of the offender and their socially and morally reproachable behavior."[3] This statement is extremely important for us when determining measures of administrative law protection of the rights and interests of citizens. Exploring the problems of the theory of law, S.S. Alekseev studies the system of application of law and reveals its interconnection with legal liability, pointing out that

> legal liability expressed in the form of punitive action against a person can be put into effect only on the basis of an act of application of law in the procedural forms established by law and in compliance with all democratic procedural guarantees, while protective relations begin to develop from the moment of the offense, and the act of application of law completes the elements necessary for legal liability.

Thus, we see the application of administrative law norms to committed offenses, as well as the peculiarities of its structure, stages, participants, and the interrelations of substantive and procedural norms. In addition, this definition emphasizes the need for law enforcement, but not the protection of citizens' rights from the emergence of public relations to the final stage of bringing to justice those who violate these rights.

Examining the institute of legal liability, V.D. Perevalov notes that legal liability is "the application of state coercive measures to the offender, expressed for him in deprivations provided for by legal norms." He also emphasizes that legal liability is "a negative reaction of society and the state to offenses, a kind of form of protecting society from violations." What is important is that this definition establishes the interrelationship between state and public protection of the safety of life and health of citizens, their legitimate interests and rights, property, national security and its types of public, economic, industrial (technological), food, and environmental security, among others, with a negative reaction in the form of legal liability (criminal, administrative, or civil), which is applied to offenders.

Furthermore, when discussing legal liability, V.D. Perevalov emphasizes its complex nature, which confirms our position that it is necessary to comprehensively consider both legal regulation and issues of liability for violations against citizens. In defining administrative liability, which "is imposed for the commission of an administrative offense by various administrative and supervisory authorities, mainly in the form of a fine, deprivation of a special right, etc.," he draws attention to its relationship with state coercive measures, which he classifies as compulsory measures of an educational nature, compulsory measures of a medical nature, protective measures, requisition,

[3] Tikhomirov 1998, at 155–156.

and restrictive measures. S.N. Bratus, on the other hand, takes a different position. He states that characterizing liability as a punishment is one-sided and it concerns other public relations regulated by civil law and other branches of law. However, as noted by V.A. Yusupov, M.F. Zelenov, A.V. Kirin, E.G. Krylova, N.I. Pobezhimova, V.G. Tataryan, in the content of legal liability, such an approach emphasizes the "negative" aspect, which is associated with the concept of coercion and sanctions, as well as the "positive" aspect, which is manifested through the concepts of "duty," "obligations," and responsible behavior.

Concerning the need for positive administrative liability, we are inclined to support the position of N.V. Vitruk, who underlines "the multilateral relations of society and its subjects" in terms of established norms (rules, standards) of behavior and requirements that determine the conscious and socially responsible behavior of an individual. In this case, the offender does not experience deprivations (as in the case of legal liability), because the purpose of coercion is not to punish the offender but to make the offender fulfill his or her legal obligation, through which the subjective right of the authorized party is ensured.

Article 2.1 of AdmOC RF (Chapter 2 "Administrative Offense and Administrative Liability") does not define the concept of administrative liability; rather it only establishes the relationship between an administrative offense and administrative liability. It does, however, give the concept of an administrative offense, under which an illegal, culpable action (inaction) of an individual or legal entity is recognized and for which administrative liability is imposed by the Code or by the laws of the subjects of the Russian Federation on administrative offenses (AdmOC RF Art. 2.1, pt. 1). In addition, there is administrative liability of officials (AdmOC RF Art. 2.4), administrative liability of military personnel and other persons subject to disciplinary statutes (AdmOC RF Art. 2.5), administrative liability of foreign citizens, stateless persons, and foreign legal entities (AdmOC RF Art. 2.6), administrative liability of legal entities (AdmOC RF Art. 2.10), as well as a possibility of exemption from administrative liability if an administrative offense is insignificant (AdmOC RF Art. 2.9) and the age at which administrative liability begins (AdmOC RF Art. 2.3). And with this in mind, we need to study the various approaches that administrative scholars have taken to the definition of administrative liability and then apply it to the legal relations we are investigating.

According to L.L. Popov, administrative liability is the implementation of administrative law sanctions as well as the application of administrative penalties by an authorized body or official to citizens and legal entities who have committed an administrative offense. At the same time, A.B. Agapov describes administrative liability as "one of the types of public legal liability established when committing misdemeanors (administrative offenses) entailing insignificant, real or potential harm or damage to the protected property and non-pecuniary interests" and is provided by "preventive enforcement measures (administrative restraint measures),

public sanctions, administrative penalties, and procedural measures concerning the jurisdictional activities of public bodies, organizations, and their officials."

Yu.N. Starilov defines administrative liability as the application of administrative measures to offenders in a specific procedural order established in punitive and restorative sanctions of administrative law norms containing state and public condemnation of both the person guilty of committing an administrative offense and the act committed by them, which is expressed in negative consequences of a personal, property, and organizational nature: the offender has to face them. O.S. Rogacheva defines the essence of administrative liability as the application of administrative coercive (punishment) measures provided for by administrative law to the offender (whether an individual or a legal entity). A.V. Sladkova considers administrative liability to be based on the relationship between an administrative offense and administrative punishment pursuant to Articles 2.1, 2.7, 2.9, and other articles of the Administrative Offense Code of the Russian Federation.

Examining administrative proceedings, Yu.A. Tikhomirov defines administrative liability in relation to the concept of administrative relations in accordance with the Administrative Offense Code of the Russian Federation and underlines the importance of developing such principles as accessibility, publicity, adversariality, public law assessment of acts and actions of administrative bodies, and the right to be heard, among others, in order to ensure proper protection of the legitimate interests and rights of citizens.[4]

Emphasizing the increasing role of administrative liability in the fight against offenses, N.F. Popova defines administrative liability as one of the ways of "legal protection of public relations in the field of public administration." Examining the general aspects of legal liability, Popova transforms them into administrative liability, which is a means of law enforcement; it involves state coercion and is aimed at those violating administrative law norms; it entails negative consequences for the violator in the form of deprivation of a personal, organizational, or property nature; and it is implemented in a strict procedural manner established by law.

Defining the general features of administrative liability, we emphasize its peculiar features: the ground for its application is an administrative offense, which is an illegal act in the field of public administration, for example, violations of various rules such as EAEU technical regulations; public authorities, including executive authorities and their officials, as well as individuals and legal entities who always participate in these legal relations; it has its own separate regulatory legal framework (the Administrative Offense Code of the Russian Federation and the laws of the RF subjects on administrative liability, the administrative legislation of the EAEU countries); its application is carried out following the procedure established by the AdmOC RF; it includes application of a special kind of sanctions to the guilty persons –

[4] Tikhomirov 1998, at 739, 743.

administrative penalties stated in AdmOC RF Article 3.2, which entails administrative liability for the violator (AdmOC RF Art. 4.6); it is applied to violators who are not within the administrative jurisdiction of subjects and mainly for committing offenses in the sphere of national, not private legal interests.

In this regard, it is worth looking at the scientific conclusions made by P.P. Serkov, who gives his own definition of administrative liability based on the theoretical analysis of the definitions of legal liability given by researchers of various branches of law, such as state coercion (S.S. Alekseev, S.N. Bratus, N.V. Vitruk), legal relations (Yu.A. Tikhomirov, B.T. Bazylev), sanctions (O.S. Ioffe), the state of coercion (A.P. Chirkov), equation of administrative liability with administrative coercion (V.M. Manokhin), the ability to face adverse consequences (L.L. Popov, M.S. Studenikina), with coercive measures (A.B. Agapov), with administrative punishment (B.V. Rossinsky), among others. He understands administrative liability as

> a complex legal reaction of the state to administrative illegality, containing the substantive law grounds and procedural order for initiating and considering cases of administrative offenses, imposing and enforcing administrative penalties in order to impose on the offender the obligation to face adverse consequences established by the legislator, or terminate proceedings in cases established by law.

It is important for us that this definition of administrative liability integrates "all existing methods of affecting the offender – punitive, restorative, compensatory and preventive," allows for state coercive measures if necessary, is consistent with the conclusions of the general theory of law, and allows taking into account different peculiarities of all types of legal liability. In fact, this definition confirms our position on the need for a comprehensive review of legal relations, identifying all the necessary elements of the mechanism to ensure uniform application of the RF legislation norms and of the legislation of the RF subjects on administrative liability, and based on the generalized theoretical studies, we can determine the different types, their structure, and the peculiarities of the process for bringing offenders to administrative liability.

Having analyzed various approaches, we can define administrative liability as a complex legal reaction of the state (by authorized public authorities and their officials) to the violation of rights and legitimate interests of citizens, formalized by a set of substantive norms as well as the procedural order for initiating and considering relevant cases of administrative offenses, imposing and enforcing administrative penalties in order to impose the obligation to face adverse consequences on the offender, established by the legislator through administrative punishment, or terminating proceedings in cases defined by law, which can be carried out at all stages of legal regulation.

2. Features of Bringing to Administrative Responsibility

Exploring the issues of public law protection, we have already underlined the relationship between administrative coercion and administrative liability, since administrative legislation also establishes preventive measures, in other words, measures of state coercion, in order to prevent and put an end to possible offenses. However, the difference lies in the fact that, in the case of preventive measures, there are alternative approaches to public intervention as well as a distinct purpose. It is of a short-term, situational nature and is aimed at correcting the behavior of a person or preventing the risk of illegal behavior. Given that the concept of administrative liability is defined through state coercive measures, let us focus on their definition. For example, AdmOC RF Chapter 27 provides for a number of coercive measures related to measures to ensure proceedings in the case of an administrative offense: delivery; administrative detention; personal inspection; inspection of things, inspection of a vehicle of an individual, inspection of premises belonging to a legal entity, its territories, things, and documents located there; seizure of things and documents; suspension from driving a vehicle of the appropriate type; examination of an individual for intoxication; medical examination for intoxication; detention of a vehicle; seizure of goods and vehicles; temporary prohibition of an activity; deposit for an arrested vessel; placement of foreign citizens or stateless persons subject to administrative expulsion from the Russian Federation in the form of forced expulsion with special institutions provided for by Federal Law No. 115-FZ of 25 July 2002 "On the Legal Status of Foreign Citizens in the Russian Federation" (AdmOC RF Art. 27.1). In this case, there is no offense on the part of the subjects at all, but coercive measures are applied to them in order to prevent a potential offense, ensure compliance with the laws, and so on.

Finally, the legislation also contains such a coercive measure as requisition which is the forced non-gratuitous seizure of the owner's property in the event of contingencies or extraordinary circumstances, such as natural disasters, accidents, mass diseases, poisoning of people, epidemics, epizootics, and so forth, or the seizure of things pursuant to AdmOC RF Article 27.10 and their destruction under AdmOC RF Article 27.10(11) following the procedure established by the Government of the Russian Federation to protect public health from poor quality and dangerous food stock materials and foodstuffs and to prevent their turnover.

When it comes to defining administrative liability, we noted that there must be certain grounds in order for there to be administrative liability. Based on this criterion, the legal grounds for administrative liability are divided into: the rule of law prohibiting an illegal act and providing for liability (the normative ground); the offense (the elements of the offense) as a legal fact (the actual ground); and a law enforcement act defining a specific measure of state coercion (the specific ground). In addition, there is a ground providing for exemption from liability and exemption from administrative punishment pursuant to AdmOC RF Article 29.9, part 1.

It is also important to distinguish between administrative liability and disciplinary liability, which under AdmOC RF Article 2.5 "Administrative Liability of Military Personnel, Citizens Called Up for Military Training, and Persons with Special Ranks" is understood as a responsibility, according to which relevant individuals of the military and law enforcement service are held liable for administrative offenses in accordance with disciplinary regulations. In these cases, military personnel, citizens called up for military training, employees of the internal affairs bodies, the Investigative Committee of the Russian Federation, the National Guard troops of the Russian Federation, bodies of the penal enforcement system of the Russian Federation, the State Fire Service, and customs authorities, when they commit administrative offenses, bear disciplinary liability in accordance with regulatory legal acts prescribing the procedure for serving in these bodies. However, for administrative offenses provided for by Articles 5.1–5.26, 5.45–5.52, 5.56, 6.3, 7.29–7.32, 7.32.1, Chapter 8, Chapter 12, Article 14.9, part 7 of Article 14.32, Chapters 15 and 16, Articles 17.3, 17.7–17.9, parts 1 and 3 of Article 17.14, Articles 17.15, 18.1–18.4, parts 2.1, 2.6 of Article 19.5, Articles 19.5.7, 19.7.2, part 5 of Article 19.8, and Article 11.16, Article 20.4 (in terms of violating certain requirements) and part 1 of Article 20.25 of the Administrative Offense Code of the Russian Federation, persons bear administrative liability on general grounds. Thus, it is in the sphere of protection of the rights and freedoms of citizens and their security (Chs. 5, 6, 14, etc.) that liability is imposed on general grounds.

In addition, disciplinary liability includes liability of the employee and the employer provided for by the RF Labor Code and other normative legal acts of labor legislation (for example, liability for committing disciplinary offenses) and a number of other grounds for imposing disciplinary liability. These features of bringing offenders to liability for violating the rights, legitimate interests, and security of citizens must be taken into account in the administrative law regulation we are focusing on.

When discussing offenses in connection with administrative liability, we emphasize that they are a subsystem of the general scope of legal relations and, at the same time, an independent (separate) part of administrative relations. What makes relations connected with administrative liability different from "general administrative relations" is the ground for their occurrence. In the first case, it is a legal act by virtue of which relevant subjects are granted rights and obligations, but in the case of bringing a person to administrative liability in accordance with the Administrative Offense Code of the Russian Federation; the ground is a special legal fact, that is, the commission of an administrative offense. At the same time, one subject of the legal relationship, an official, by virtue of the public character of the legal relationship, is obliged to establish sufficient evidence proving an administrative offense committed (AdmOC RF Art. 28.1) and initiate proceedings on the administrative offense committed, while the offender (AdmOC RF Art. 28.2)

shall obey the rules established by administrative legislation, despite the fact that there is an imperative interference of the state in their private interests. Moreover, pursuant to AdmOC RF Article 28.8, an administrative punishment can be imposed without drawing up a protocol on an administrative offense.

Legal relations subject to administrative liability, with the presence of a special event, namely an incident of a non-ordinary (extraordinary) character that has signs of illegality, presuppose a state law position and specific legal ways of regulating these relations, which are contained in the concept of an administrative offense, while signs of illegal behavior are defined by the norms of the special part of the AdmOC RF and the laws of the RF subject to administrative liability. The law clearly establishes different stages of administrative proceedings, which include initiation of administrative proceedings (AdmOC RF Arts. 28.1–28.9); preparation for the case (AdmOC RF Art. 29.1); consideration of an administrative offense case (AdmOC RF Arts. 29.2–29.13); and revision of rulings and decisions made after consideration of the case (AdmOC RF Arts. 30.1–30.10). The peculiarity of establishing such stages is that they are regulated only by the norms of federal legislation, namely by the Administrative Offense Code of the Russian Federation and the Administrative Procedure Code of the Russian Federation. It should be said that the administrative procedure also has such stages as the execution of resolutions concerning the imposition of administrative punishment (AdmOC RF Arts. 32.1–32.12) or the issuance of a decision on the termination of administrative proceedings (AdmOC RF Art. 29.9, pt. 1).

In our opinion, another peculiarity of bringing a person to administrative liability for violating citizens' rights is that administrative proceedings, which have been transferred to the competence of judges, include the so-called "pre-trial" stage, but it is considered to be over when the protocol on an administrative offense is drawn up (sometimes after an administrative investigation) and the case is sent to court. At the same time, under the AdmOC RF, administrative offenses are also considered by officials of executive authorities who, in fact, carry out quasi-judicial activities. And it is worth noting here that the consideration of administrative offenses involves qualifying an administrative offense and imposing administrative punishment or terminating the proceedings, depending on whether or not there are circumstances precluding the need for proceedings in the case (AdmOC RF Art. 24.5). The difference between administrative-law and civil-law relations here is that the resolution of a dispute does not require legal qualification in the sense that there are no elements of an offense or any signs of *actus reus* established by the legislator. A legal relationship arising from various disputes reaches its object without consideration of these issues since neither the court nor other subjects of such a legal relationship have any rights or obligations concerning, for example, signs of *actus reus* of an administrative offense. Our statement is also confirmed by the analysis of both the theoretical provisions already noted by us and the practice of considering

these categories of cases.[5] On the other hand, the consideration of administrative offenses in essence should not be equated with managerial functions of executive authorities. Instead, it is necessary to define them as quasi-judicial, for example, in cases where such offenses are tried by administrative courts, administrative tribunals, and other administrative justice bodies in the United Kingdom, France, and other countries concerning violations of the rights and legitimate interests of citizens in the spheres of transport, housing, and utilities and other areas of the consumer market. These are conclusions supported by our research of these processes.[6]

From the above, we can draw the following conclusions: administrative liability is imposed not for any violation of administrative law norms (illegal actions (or inaction)), but only for the violation of such norms provided for by the dispositive legal norms of the AdmOC RF special part.[7] Secondly, an administrative offense may be recognized as a violation not only of the norms of administrative law directly, but also of the norms of other branches of law, for example, constitutional, financial, and so forth. This means that legal relations subject to administrative liability are of an intersectoral nature. Thirdly, an administrative offense cannot be punished through the application of the norms of civil liability and, consequently, we cannot speak of the emergence and development of legal relations typical for it.

3. Participants of Administrative Response

An administrative offense serves as the ground for the emergence of administrative relations and their subsequent development. In cases of administrative offenses, authorized executive authorities as subjects of legal relations regulate the emergence of the relevant legal relationship; and their aim is to develop and achieve their object, which is the safeguarding and protection of the legitimate interests of citizens. Subjects of legal relations connected with administrative liability are public authorities and their officials, individuals, and legal entities. However, the peculiarity is that there are different state body subjects at different stages of administrative case proceedings. At the stage of initiating proceedings, the subjects of legal relations are represented, as a rule, by officials of executive authorities (AdmOC RF Art. 28.3). But it is important to note that not all officials of executive authorities have such a right,

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[5] Постановление Пленума Верховного Суда Российской Федерации от 28 июня 2012 г. № 17 «О рассмотрении судами гражданских дел по спорам о защите прав потребителей» // СПС «КонсультантПлюс» [Resolution of the Plenum of the Supreme Court of the Russian Federation of No. 17 of 28 June 2012. On Considering Civil Cases on the Protection of Consumers Rights in Courts, SPS "ConsultantPlus"] (Aug. 4, 2022), available at http://www.consultant.ru/document/cons_doc_LAW_131885/.

[6] Panteleev 2015, at 9–118, 553–568.

[7] *Пантелеев В.Ю.* Проблемы государственной и общественной охраны и защиты потребителей [Vadim Yu. Panteleev, *Problems of State and Public Safeguard and Protection of Consumers*] 243–244 (2007).

but only specifically authorized ones. This is explained by the fact that the initiation of a case of an administrative offense, as well as the collection of necessary evidence, including during the administrative investigation, requires procedural powers that an official should be vested with in accordance with the established procedure. The powers of such an official represent a system of their procedural rights and obligations necessary to establish the presence or absence of circumstances to be proved in the case of an administrative offense. Officials authorized to initiate administrative proceedings, regardless of their departmental jurisdiction, have equal procedural rights and perform the same duties. When considering administrative offenses under the Administrative Offense Code of the Russian Federation, the subjects of legal relations on the part of the state are judges, commissions for minors and protection of their rights, and officials enlisted in AdmOC RF Article 22.2. At the same time, the fact that the authorized subjects of legal relations arising and developing in connection with administrative liability are changed is explained by the specific content of legal relations at each stage of administrative proceedings. However, in AdmOC RF Chapter 25, the above-mentioned representatives of the state are not named as participants in administrative proceedings. Legal relations subject to administrative liability arise and develop, while subjects representing the state undertake legally significant actions, but they are not recognized as participants in the proceedings. This lack of administrative law regulation must be addressed, and the authorized officials of executive authorities should be recognized as participants in administrative proceedings and, in this regard, we should make appropriate changes to the Administrative Offense Code of the Russian Federation. Under the AdmOC RF, an individual as a subject of legal relations subject to administrative liability can act as a person brought to administrative liability (Art. 25.1), a victim (Art. 25.32), and other persons listed in Chapter 25.

At the same time, it seems possible to classify legal relations subject to administrative liability into two types: (a) substantive, aimed at the implementation of the legal qualification of illegal actions (inaction), the imposition and execution of administrative punishment, and (b) procedural, aimed at defining the rights and obligations of all subjects in achieving these desired goals. These types of legal relations are interrelated and interdependent, and this is one of the reasons for the joint analysis of the substantive and procedural aspects of administrative liability. Procedural legal relations are classified according to their functional content. Substantive legal relations are also subject to dynamics, but to a lesser extent than procedural ones. First, they arise and develop based on the evidence of the event and on the elements of an administrative offense, the guilt of the person against whom administrative proceedings are initiated, and the legal definition of illegal actions (or inactions). Substantive legal relations subject to administrative liability are largely static; however, they can be changed to some extent depending on the imposition of administrative punishment. Thus, substantive legal relations arise

with respect to specific aspects of an administrative offense related to the legal qualification, the imposition of administrative punishment, and the execution of each of the types of administrative punishment provided for in AdmOC RF Article 3.2. The content of procedural legal relations subject to administrative liability is aimed at disciplining all participants in administrative proceedings; thus after initiating administrative proceedings, each of them has both procedural rights and procedural obligations throughout the course of the proceedings. Depending on the stage of proceedings and the specific situation, their combination is continuously changed and supplemented throughout the proceedings, so each legal relationship can arise only in its own time.

The main objectives of the emergence and development of legal relations subject to administrative liability are the protection and safeguarding of the rights and legitimate interests of citizens; their health and safety; sanitary and epidemiological welfare; protection of public morality; environmental protection; the established procedure for the exercise of state power; public order and public safety; property; the legitimate economic interests of individuals and legal entities; society, and the state from administrative offenses; and the prevention of administrative offenses by bringing the guilty person to administrative liability, all of which are achieved through the imposition and execution of administrative punishment.

It should be emphasized that legal relations subject to administrative liability have a significant impact on preventing the commission of new administrative offenses. During the execution of the decision concerning the imposition of administrative punishment, the person against whom it is imposed faces certain discomfort and various adverse consequences (temporary deprivation of liberty upon arrest, inability to drive a motor vehicle when deprived of the right to do so, and so forth.). These legal restrictions not only affect the person in question, but also preventatively affect an indefinite number of other persons, deterring them from future misconduct. Moreover, focusing solely on administrative offenses unjustifiably narrows the preventive potential of legal relations subject to administrative liability, for example, deterring from committing crimes (in the fields of tax, budget, financial, customs, environmental legislation, etc.).[8]

On these grounds, it seems necessary to identify other participants in administrative proceedings along with any common and special features in their legal relations with the participation of citizens. Thus, pursuant to AdmOC RF Article 25.1, a person in respect of whom administrative proceedings are initiated has the right to get acquainted with all the case materials, give explanations, present evidence, file petitions, and claims, be legally assisted by a defender, as well as enjoy other procedural rights in accordance with the Administrative Offense Code of the

[8] *Пантелеев В.Ю.* Проблемы повышения эффективности применения административного законодательства в профилактике правонарушений [Vadim Yu. Panteleev, *Problems of Increasing Efficiency of Administrative Law Application in Preventing Offenses*] 18–46, 211–249 (2018).

Russian Federation. The Code establishes that the victim, pursuant to Article 25.2, is an individual or a legal entity who has suffered physical, property, or moral damage caused by an administrative offense. And as we have proved by examining the provisions of the Code and the RF Law "On Consumer's Rights Protection," even though there are different types of protection, such as special state, municipal, and public protection as well as protection of citizens as "weak" or "particularly weak" and "particularly vulnerable" subjects of relations with entrepreneurs engaged in the production and sale of goods, works, and services, the victim can be both a consumer and an entrepreneur. Pursuant to AdmOC RF Article 25.3, protection of the rights and legitimate interests of an individual against whom administrative proceedings are being initiated or victims, who are "particularly weak" or "particularly vulnerable" subjects of legal relations (minors or those who are physically or mentally deprived of the opportunity to exercise their rights independently) is carried out by their legal representatives. The legal representatives of such an individual are their parents, adoptive parents, guardians, or trustees. The legal representatives of an individual against whom administrative proceedings are initiated and of the victim have the rights and obligations provided for by the Administrative Offense Code of the Russian Federation in respect of the persons they represent. Protection of the rights and legitimate interests of a legal entity against which administrative proceedings are being conducted, or a legal entity that is a victim, is also carried out by its legal representatives. The legal representatives of a legal entity in accordance with the Code are its head, as well as any other person recognized in accordance with the law or constituent documents as a body of such a legal entity, and their powers are confirmed by documents certifying the official position (AdmOC RF Art. 25.4).

To provide legal assistance to a person against whom administrative proceedings are being conducted, such proceedings may engage a defender; and a representative may participate in providing legal assistance to a victim. A lawyer or any other person (AdmOC RF Art. 25.5), or Commissioner for Entrepreneurs' Rights at the President of the Russian Federation under AdmOC RF Article 25.5.1, is authorized to act as a defender or representative in administrative proceedings at the request of a person against whom proceedings are being conducted because of an administrative offense committed in the field of entrepreneurial activity.

Pursuant to AdmOC RF Article 25.6, a person who may be aware of the circumstances of the case to be established may be summoned as a witness in administrative proceedings; and pursuant to AdmOC RF Article 25.8, any adult person who is disinterested in the outcome of the case, who has the knowledge necessary to assist in the detection, consolidation, and seizure of evidence, as well as in the use of technical means, may be involved as an expert. Under the Code, any adult person who is disinterested in the outcome of the case and who has special knowledge in science, technology, art, or craft, sufficient to conduct an expert examination and give an expert opinion, may be involved as an expert (AdmOC RF Art. 25.9). And this

is especially important, since the consumer, unlike the entrepreneur, does not have this knowledge. Moreover, there are significant restrictions on their involvement when identifying, documenting, and considering cases related to administrative liability pursuant to Articles 18, 40, 45, and 46 of the RF Law "On the Protection of Citizens' Rights."

Taking into account these features of the administrative procedure, it is important to classify the persons authorized to consider administrative offenses. Such persons include judges (AdmOC RF Art. 23.1), commissions for minors and protection of their rights (AdmOC RF Art. 23.2), bodies of internal affairs (police) (AdmOC RF Art. 23.3), tax authorities (AdmOC RF Art. 23.5), customs authorities (AdmOC RF Art. 23.8), bodies carrying out federal state sanitary and epidemiological supervision (AdmOC RF Art. 23.13), bodies exercising control over the release of genetically engineered organisms into the environment (AdmOC RF Art. 23.13.1), bodies exercising state environmental supervision (AdmOC RF Art. 23.29), federal executive authority exercising federal state energy supervision (AdmOC RF Art. 23.30), federal executive authority exercising federal state transport supervision (AdmOC RF Art. 23.36), executive authorities of the subjects of the Russian Federation exercising regional state control in the field of passenger and baggage transportation by passenger taxi (AdmOC RF Art. 23.26.1), executive authorities of the subjects of the Russian Federation exercising state control in the field of passenger and baggage transportation by road and urban ground electric transport (AdmOC RF Art. 23.26.2), bodies exercising functions of control and supervision in the field of communications, information technologies, and mass communications (AdmOC RF Art. 23.44), federal antimonopoly authority, its territorial bodies (AdmOC RF Art. 23.48), federal executive authority exercising federal state supervision in the field of protection of citizens' rights (AdmOC RF Art. 23.49), bodies exercising state control (supervision) in the field of production and turnover of ethyl alcohol, alcoholic, and alcohol-containing products (AdmOC RF Art. 23.50), bodies exercising state control (supervision) in the field of state-regulated prices (tariffs) (AdmOC RF Art. 23.51), federal executive authorities exercising state control (supervision) over compliance with mandatory requirements for products and/or federal state metrological supervision (AdmOC RF Art. 23.52), executive authorities of the subjects of the Russian Federation exercising regional state housing supervision (AdmOC RF Art. 23.55), bodies exercising state construction supervision (AdmOC RF Art. 23.56), bodies exercising state supervision over the condition, maintenance, preservation, use, popularization, and state protection of cultural heritage objects (AdmOC RF Art. 23.57), bodies exercising state control (supervision) in the field of natural monopolies (AdmOC RF Art. 23.59), the Bank of Russia (AdmOC RF Art. 23.74), executive authorities of the subjects of the Russian Federation, for example, cities of federal significance such as Moscow and St. Petersburg (AdmOC RF Art. 23.79), federal executive authority exercising functions of control and supervision in the field of healthcare (AdmOC RF Art. 23.81), and

others. Pursuant to Article 40 of the RF Law "On Consumer's Rights Protection," federal executive authorities exercising federal state supervision in the field of protection of citizens' rights, as well as federal executive authorities exercising state control (supervision) over compliance with mandatory requirements for products and/or federal state metrological supervision, and courts have special powers in this area.

In particular, we have already noted the specifics of the participation of public authorities and their officials in this process and have taken into account the advanced Russian, international, and foreign experience. The prosecutor has special powers, and, in accordance with the Administrative Offense Code of the Russian Federation, within the limits of his powers, has the right to: initiate administrative proceedings; participate in the consideration of an administrative offense; present evidence; file petitions; give opinions on issues arising during the consideration of the case; bring a protest against the decision on the case of an administrative offense, regardless of participation in the case, and perform other actions provided for by federal law. In order to exercise these powers, the prosecutor is notified of the place and time of administrative proceedings for an offense committed by a minor, as well as in the case of an administrative offense initiated by the prosecutor (AdmOC RF Art. 25.11).

There are both common and essential features associated with proceedings when bringing a person to administrative liability for violating the rights and legitimate interests of citizens, their safety and health, property, and environmental protection. They are primarily related to the procedural actions used to establish the fact of an administrative offense. Taking into account this feature, we propose to determine such a stage as the stage that comes before the initiation of an administrative offense case in connection with the control purchase, research, and so on. In addition, the following stages also have special features: initiating administrative proceedings (AdmOC RF Arts. 28.1–28.9), preparing for consideration of the said case (AdmOC RF Art. 29.1), considering an administrative offense case (AdmOC RF Arts. 29.2–23.13), and reviewing rulings and decisions issued after considering the case (AdmOC RF Arts. 30.1–30.10). Unlike constitutional, criminal, and civil proceedings, jurisdictional proceedings fall within the jurisdiction of various law enforcement agencies, including executive authorities and their officials, judges of district courts, garrison military courts, arbitration courts, and justices of the peace, including the stage of executing the decision on the imposition of administrative punishment (AdmOC RF Arts. 32.1–32.12) or the decision to terminate proceedings on an administrative offense (AdmOC RF Art. 29.9, pts. 1, 11).

Administrative liability depends on the object of encroachment: (a) safety of life and health of citizens (AdmOC RF Chs. 6, 7, 8, 10, 11, 12, 13, 14), (b) rights and legitimate interests of citizens (AdmOC Arts. 5.43, 7.3,7.11, 7.12, 7.13, 7.14, 7.18, 7.19, 7.20, 7.21, 7.22, 7.23, 12.23, 13.6, 13.8, 14.3, 14.5, 14.6, 14.8), (c) property of citizens (AdmOC Arts. 7.17, 7.27, 12.27, 14.6, 14.7), (d) public, economic, food, biological,

environmental, and information production (technological) security (AdmOC Arts. 6.14, 9.1, 9.2, 9.3, 9.4, 9.5, 9.9, 9.10, 11.26, 11.28, 12.1,14.4).

Conclusion

Thus, we formulate the concept of administrative liability based on the goals of protecting and safeguarding life, rights, and legitimate interests, health, property of citizens and the public, food, economic, industrial (technological), biological, environmental, information, and other types of security (protective function), as a comprehensive legal response of the state (represented by authorized public authorities and their officials) for violation of the rights and legitimate interests of citizens. This is formalized by a set of substantive norms, as well as the procedural order for initiating and considering relevant administrative offenses, imposing and executing administrative penalties expressed in the fact that the offender is under the obligation to face adverse consequences established by the legislator through administrative punishment, or terminating proceedings in cases determined by law.

This definition integrates the majority of the existing theoretical approaches to understanding the legal nature of administrative liability, fully meets the modern needs of public law regulation of the safeguard and protection of the rights and legitimate interests and security of citizens, and serves as a scientifically sound basis to further improve both the terminology used in the legal doctrine and standardize the administrative legislation of the EAEU countries.

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