STAGES OF GLOBAL DEVELOPMENT OF THE CONCEPT OF RULE OF LAW

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Annotation: This article discusses the issues of ensuring the rule of law in society, the emergence of the concept of the rule of law and the stages of its development.

Key words: law, right, rule of law, rule of right, society, public control, local self-goverenment

In the general theory of law and the state, the rule of law is associated with an analysis of its content, that is, with the norms of what content are enshrined in laws. The crux of the matter here is that the law be consistent with the idea of justice, priority of universal human values, modern political realities and, thus, in a manner consistent with its legal nature.

In modern legal literature, the rule of law, legality are interpreted as initial, basic legal principle, method (form) of the implementation of state power, significantly less often as a principle of organization and activity of local self-government. At the same time, as the researchers note, outside the framework of the rule of law, legality, “implementation of the modern constitutional model of local self-government” is not conceivable.

The classical formulation of the principle of separation of powers was given by Montesquieu, who came to the conclusion that the protection of political freedoms requires separation of legislative, executive and judicial powers: If legislative and executive power will be united in one person or institution, then there will be no freedom, since it can be feared that this monarch or the senate will create tyrannical laws in order to tyrannically apply them.There will be no freedom even if the judiciary power is separated from legislative and executive power. If she united with the legislature, then the life and freedom of citizens will be in the power of arbitrariness, for the judge will be the legislator. If the judiciary is combined with the executive, then the judge has the opportunity to become an oppressor.

In the first half of the 20th century, the concept of "rule of law" became actively challenged, since the objection of A.V. Daisy against the government with a wide margin of appreciation, was filed by architects "welfare state" as a concept associated with its objections to government intervention in general. Liberty discretion was

considered as a necessary condition for decision-making, required in an increasingly complex society.

Since the middle of the 20th century, the concept of the “rule of law” has been reconciled with the margin of appreciation, which was accepted, but at the same time it must be limited to the letter and purpose of the law granting power powers, and such an aspect of the rule of law as the right of everyone to have access to a fair hearing by an impartial and independent court, as well as taking into account the fact that the law must be applied consistently, and in such a way that this application is not arbitrary or devoid of intelligence.

Thus the 17th century was marked by Locke's ideas that society must be governed by all known laws, the interpretation of which relegated to the competence of an impartial tribunal to uphold public agreement on legitimate government. 18th century and the beginning of the 19th century by creating mechanisms in order to realize the ideas of Locke into life (written constitutions, separation of powers, judicial oversight). In XX century, two new, but not entirely compatible problems in the concept of “rule of law”: on the one hand, the growing importance of the principle legality, and on the other hand, an increasing awareness of the presence of moral element in the rule of law.

The problem of forms of government (forms of government) is one of the "eternal" in the science of administrative law, since management is universal, inalienable property of any state necessary to ensure and protection of state interests, public interests of society and private interests of citizens. Relevance, theoretical and the practical significance of this problem increases significantly in conditions of globalization, unstable international situation, difficult crisis situation in the economy of our country.

Forms are designed to ensure legitimacy, orderly nature of management activities, most expedient, prompt execution by the executive bodies authorities (officials), other subjects of state administration, law enforcement, law enforcement legal and law enforcement management functions, their powers, as well as the rational use of management methods by them with the least expenditure of time, personnel, financial material, technical and other resources.

The history of the development of Russian science of administrative law indicates that the formation of the theory of forms of management, as well as the sciences of this branch of law as a whole, it was uneven and contradictory. It should be noted that some questions concerning the forms of management, were considered in the works of scientists-administrators (policemen) already at the end of the 19th - beginning of the 20th century.

During this period, there was still no clear delineation of concepts "form of management" and "method of management", has not been developed classification of

these forms. The main achievement of the science of administrative (police) law in pre-revolutionary times was to build the foundation of the scientific concept of administrative-legal (public) acts - one of the main forms of public administration. In the Soviet period, the study of this topic gradually becomes one of its main directions.

At the same time, the theory of forms of public administration and is currently underdeveloped and needs to be improved. There are significant conceptual "problems", little-studied, controversial issues. There is still no consensus on the name of the category "forms of state management", there is no generally recognized scientifically based the definition of this category and its essence is revealed in different ways; the characterization of the legal nature of certain types of forms raises doubts; the scientific concept of the forms of public administration does not fully meet the needs of the intensively developing practice of administrative activity, in the process of which new forms are emerging that have not yet received due attention of administrators.

In the science of administrative law, two main positions can be distinguished regarding the correlation of these concepts. Supporters of one point of view, for example, Yu.N. Starilov, using they are considered as synonyms, based on the identity of the categories "executive power" and "state-administrative activity".

However, from a methodological point of view, a more reasonable the position of the authors is presented, who argue that the concept "public administration" is broader than the concept of "executive power" . Executive power largely determines the maintaining public administration is its main element. However, the content of the management activity of the subject The activities of the executive branch are not limited to the realization of goals, tasks, functions of this branch of government.

Executive authorities also carry out internal management activities aimed at ensuring the normal operation of their apparatus, at creating various conditions necessary for them to perform their basic functions. Except In addition, it should be borne in mind that the subjects of public administration, along with executive authorities, are other state executive bodies endowed with certain legal powers. In this connection representatives of the second point of view rightly, in our opinion, believe that the term "forms of government" is also is more general than the concept of "forms of executive power", which are one of the types of forms management.

Thus, for the name of the category under consideration in a broad sense, it is advisable, in our opinion, to use the term "forms of public administration" as more capacious in its meaning, allowing to cover all types of forms management and reflect their common features.

One of the main reasons for this legal gap is, in our opinion, in the fact that in the science of administrative law, as noted above, there is still no generally recognized scientifically substantiated definition of this category, although this problem is actually

with end of the 19th century is at the center of attention of administrators. There are many different approaches to disclosure in the literature. the essence of forms of public administration, but none of the definitions proposed by the authors, in our opinion, gives a complete picture of the concept of the category under consideration.

Perhaps this is due to the fact that in the theory of administrative law, the question of general signs of forms of government. Meanwhile, it is precisely the comprehensive study of such features that is the fundamental prerequisite for a deeper and more complete understanding of the essence of this complex, multifaceted category, which makes it possible to identify features that distinguish it from other elements of the mechanism for the implementation of executive power.

We have to admit that so far in the science of administrative law, a complete list of the main general features of forms of management, similar to the list common features of public administration methods, which discussed in many administrative law textbooks. In the scientific and educational literature, the signs of administrative-legal (legal) forms are usually analyzed in detail. management in general and their individual types (administrative legal acts, administrative contracts) and partially addresses the issue of signs of "non-legal" forms.

As for the general features of the forms of government, it is the phrase is used only in some works. It is not used in most scientific works, although some of these characteristics are mentioned in the definitions of the form of management.

However, in the literature there is a certain continuity and similarity of positions many modern authors on this issue with the approaches of the administrative specialists of the Soviet period. For example, under forms managerial (administrative) activities it was proposed understand “the external organizational and legal expression of specific homogeneous actions of the public administration apparatus, committed for the practical implementation of the set tasks before him.

Thus, the above definitions reflect some identical features that characterize the forms of government. However, a significant difference between the positions under consideration is that according to compared with the Soviet period in modern conditions, the concept "public administration" has taken on a different meaning. and essence The category of "forms of government" is analyzed through the prism of the relationship between the concepts of "public administration" and "executive power".

In the science of administrative law, the essence of this category it is customary to disclose through an organic connection with the categories "content of executive power", "content of managerial activity”, based on general philosophical provisions on the relationship between the concepts of “form” and “content” of objects, phenomena, objects.

The content of executive power, as is well known, includes goals, objectives, management functions, powers of subjects executive power, the methods used to

provide a control impact on the objects of management. At the same time, it is precisely management functions (development of state policy, legal regulation, law enforcement and law enforcement functions) determine the essence of the executive power and state-administrative activity through which this branch of power is implemented

Constitutional and municipal law, as well as other branches of law that form the legal basis of the rule of law, characterizes not only normativity, universality, security with public coercive force, but also the formal and meaningful certainty of legal regulation, which can be expressed in the form of formulas of law (lat. formula - form, rule, prescription)1 . Formulas that rye, according to V.S. Nersesyants, “essentially express something in common - the universal laws of the studied world (the object of all Sciences), i.e. rules for the orderliness of this world and order in German (mathematical-numerical, legal, physical, chemical biological, etc.)” [1;2].

Considering the "rule of law" as a practical legal concepts, has been causing scientific discussions for many years, therefore, despite a long history and more and more frequent references in case law and regulations, the concept of “rule of law” remains purely doctrinal.

With the help of formulas of law, as well as with the help of legal ideas, doctrines, imperatives and principles of law, the formal and substantive regularities of the organization of the legal space, the relationship of the totality of legal acts (norms) of constitutional, municipal and other branches of law can be fixed and disclosed. For, as I.L. Chestnov, “the existence of internal content is impossible outside its external form” [2;4].

In the history of law, there are cases of deformation of the content of this formula of law, when the rule of law was replaced by the dictatorship of the law, legal legality - despotic, revolutionary, totalitarian legality, as well as class, revolutionary, popular, socialist, theological legality, as well as the unity and strengthening them. In such cases, there is a substitution of the formula of law, a legal formula, where the rule of law, legality are used not as a way implementation of natural law, but as a way of suppressing and intimidation, human rights violations.

The problem of the relationship between the law and subordinate normative legal acts (hereinafter referred to as NLA) is of paramount importance for legal theory and legal practice. It's one of those fundamental questions, the specifics the answer to which requires a revision of the basic concepts of legal doctrine and has a fundamental impact on day-to-day law enforcement.

In conclusion, Thus, the establishment of regulations in the legal acts that are different from those available in the laws is directly prohibited. It is the law that provides the primary regulation of social relations, while by-laws - usually only secondary. In fact, however, Russian legislation is still replete with conflicts between laws and legal acts, and in this The following example is illustrative.

Refrences:

1. L.A. Marozova. Teoriya gosudarstva i prava: uchebnik. – M.: Yurist, 2003.
2. Нерсесянц В.С. Философия права: либертарно-юридическая концепция // Вопросы философии. 2002. № 3. С. 3-15..
3. V.V. Lazerev. Obshaya teoriya prava i gosudarstva. – M.: Yurist, 1999
4. Честнов И.Л. Постклассическая теория права. СПб., 2012. .
5. Azizova V.T., Isayeva S.M. K voprosu o verxovenstve zakona kak priznake pravovogo gosudarstva. Vestnik Dagestanskogo gosudarstvennogo universiteta. Seriya 3: 2014.