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CONCEPTUAL FOUNDATIONS FOR THE LEGAL REGIME OF ENSURING PUBLIC SAFETY OF THE RUSSIAN FEDERATION

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The author suggests a system of views on security issues and ways to ensure it, including the main components of conceptual foundations of ensuring public safety of the Russian Federation. Administrative and legal regimes regulating relations between public authorities and population are considered as the most important elements of the organizational and legal mechanism of conceptual foundations of ensuring public safety of the Russian Federation.

The need for development of a number of federal laws designed to ensure public safety, which will form the administrative and legal regime of ensuring public safety, is substantiated in the article.

Here is noted that the content of general administrative and legal regimes to ensure public safety consists of regimes of state administration activity, namely the regimes of organization and implementation of state administrative control and supervision in order to ensure the protection of identity, society and the state as a whole.

Keywords: public safety, safety, national security, legal regime of ensuring public safety.

The task of developing an adequate scientific of security perceptions is particularly important for modern Russia, since in the post-Soviet period not only ideological and political views had been changed, but Russia as a whole was obliged to find a new identity, including the development of new ideas on the ways and objectives of further development of the country.

Despite the deep study of a number of methodological issues relating to the regularities, principles and methods of activity to ensure national security, in scientific researches the reflection of modern processes to ensure public safety is paid little attention. Moreover, down to recent times the study of this issue was not of a systematic and comprehensive nature, and was carried out mainly within the framework of departmental research and training educational institutions.

The current normative-legal regulation in the sphere of public safety does not have at its core an overall strategy. In this field there is still sufficient legal scope for further improvement. Acknowledging the fact of abundance of normative acts and separate norms relating to the regulation of various minor provisions of substantive law, operative search and other procedural means to counter encroachments on public safety, it must be recognized that the current situation is such that there is no holistic system of legislation in the field of ensuring public safety in the Russian Federation.

Noting multidimensionality of the content of public safety, volume and complexity of the issue, it should be noted that a promising and feasible way to solve it is to develop conceptual foundations of ensuring public safety and to improve on that basis a comprehensive legal regime of its ensuring.

It should be noted that the system of views on security issues is varied and sometimes contradictory. The lack of common theoretical approaches to the concept of public safety leads to different assessments, and, of course, to different ways of ensuring. The result of the lack of a unified understanding of the content of public safety, its types, threats and methods of their elimination is an inconsistency in assessments and actions, the lack of necessary coordination of security subjects, the excessive number of elements in the system of predicting and decision-making on the issues of public safety, insufficient regulation by universally binding and coordinating norms.

It seems that the main way to resolve problems encountered in the field of security of society, an individual and the state is to develop conceptual frameworks to ensure public safety of the Russian Federation, the main components of which should be:

- *aim*, defined as the formation and maintenance of protection of qualitative status of public relations that ensure progressive development of a man and society in the specific historical and natural conditions;

- *principles*, on the basis of which public safety is implemented, and the list of priorities, methods and ways of such activities.

- *system* of ensuring public safety, which is presented in the totality of security subjects, firmly interconnected by functional responsibilities and rights in the field of protection of society and personality, responsible for the development and implementation of measures of political, legal, institutional, economic, scientific and other nature, aimed at maintaining socially acceptable level of public safety.

Public safety in conjunction with state and personal security forms the content of national security, being simultaneously its types, differentiable on the basis of security object.

In structural and contensive plan the conceptual foundations of ensuring public security of the Russian Federation enshrine a system of views on the theoretical and practical aspects of the issue of ensuring public safety, as well as form the conceptual apparatus of the theory of public safety and such basic notions as aims, objectives, principles, priorities and main directions of its ensuring.

It seems, that the most important structural and contensive element of conceptual foundations of ensuring public security of the Russian Federation is its terminological apparatus, i.e. the system of definitions that disclose the essence and meaning of such concepts as “public safety”, “ensuring public safety”, “organization of public safety” “vital (national) interests”, “threats to public safety”, “objects of public security”, “subjects of public safety”, “system of ensuring public safety”, etc.

It should be distinctly emphasized that as the most important element of organizational and legal mechanism of the conceptual foundations of ensuring public security of the Russian Federation we should recognize administrative and legal regimes governing the relations developing between public authorities and population, as well as relations, in the framework of which implement state legal coercion on the basis of the federal legislation, orders of the President of the Russian Federation, decisions of the Government of the Russian Federation, normative legal acts of federal and local executive authorities.

Based on the study of the theory of law and the determination of the essence and content of the concept of legal regime, it should be noted that its essence lies in the absolute priority of the legal means of achieving objectives, what distinguishes

it from the regime as a whole. It should also be noted that the legal regime is not similar to the term of “legal status”, because its content goes beyond the definition of the legal status of a subject.

Has been revealed that the category of a sectorial legal method reflects the features of “technology” for regulation of public relations sphere, which constitute the subject of a separate branch of law, at the same time as the concept of “legal regime” is actual to denote specific techniques, ways of regulation certain types of social relations within a branch. This specificity is enshrined in the law norms governing a particular type of public relations and forming the legal institute of ensuring public safety.

The content of this institute defines, above all, the method of legal regulation and legal regime that are applied for emphasizing of appropriate branches and institutes of law.

Thus, the legal regime of public safety can be defined as a normatively established special procedure of legal regulation, which reflects a totality of legal and institutional means that regulate a particular area of public relations in various spheres of public administration, is used to consolidate the socio-legal status of both the subject and object of management, and is aimed at maintaining sustainable operation and ensuring of their protection.

Accordingly, the structure of the legal regime of public security includes items such as: regime carrier, regime legal means; regime rules, legal status of the subjects of regime regulation, the system of organizational and legal guarantees.

In this connection, the peculiarities of legal regulation of the regime of public safety lay, first of all, in the multifaceted nature of the structural elements disclosing its content and should be considered together and in their indissoluble connection with each other.

Also characteristic of the legal regulation of the regime to ensure public safety is the fact that its subject is a complex legal-institutional institute based on the norms of administrative law, which forms administrative and legal regime to ensure public safety.

The purpose of this institute is the formation of a complex administrative and legal regime of ensuring public safety, which brings together many common administrative and legal regimes that organize and consolidate the legal status of the subject of ensuring public safety, the object of managerial impact, the required degree of their subordination, information interaction, as well as special and particular administrative and legal regimes established by the norms of sub-institutes of administrative law.

The conducted study suggests that the system of views on security issues is rather varied and sometimes contradictory. The lack of unified theoretical approaches to the concept of public safety leads to different estimations and, consequently, to different ways of its ensuring. The result of the lack of a unified understanding of the content of public safety, its types, threats and methods of their elimination is an inconsistency in assessments and actions, the lack of necessary coordination of security subjects, the excessive number of elements in the system of predicting and decision-making on the issues of public safety.

The main way to resolve the problems encountered in the area of public safety, security of a personality and the state, seems to be development a strategy and defining the state policy of Russia in the field of formation of the system of public safety. In order to implement this idea, it seems appropriate to develop Federal Law “Strategy of State Policy in the Sphere of Ensuring Public Safety of the Russian Federation for the Period up to 2020”.

At that, the following methodological grounds should be considered, namely: public safety is an independent type of the national security of the Russian Federation, its organic element, endowed with its own content, which consists of the complex of following main elements – the sphere of public safety, its objects, the nature and types of threats, the system of public safety, the powers of subjects of ensuring public safety, etc. It appears that these elements can form the structure of the document under development.

The strategy of the state policy in the field of ensuring public safety should become the fundamental document defining the aims, objectives, as well as the ways and means of achieving them, expressed in the main directions of the state activities. In addition, the mechanism of implementation of the Strategy also implies the development of relevant normative legal acts, federal and regional targeted programs in certain areas of ensuring public safety.

The main thing, in our view, is that public policy in the field of public safety must be considered as part of the strategic plan, designated by the President and the Government of the Russian Federation for the period up to 2020.

The National Security Strategy is formed on the principles of continuity of state policy in the sphere of security and is based on the system of national priorities of Russia. Thus, the analysis of these documents, which are fundamental in the theory of security, shows that the aims of ensuring security lay in maintaining the protection of the vital, in fact, national interests of an individual, society and the state from real and potential threats and challenges that encroach on these interests.

With this approach, it seems that exactly threats and their consequences should be primarily taken into account in the forming of the security architecture, i.e., the security system as a whole. Exactly by the nature of threats, in our opinion, should be classified and delimited different types of security defined by the Law.

In this connection, the content of the general administrative and legal regimes to ensure public safety consists of the regimes of activity of public administration, namely the regimes of organization of implementation the state administrative control and supervision in order to ensure the protection of an individual, society and the state as a whole.

The content of the most characteristic special administrative and legal regimes to ensure public safety consists of the regimes of state administration activity in certain territories of strategic importance for realization the interests of an individual, society and the state.

The content of the special administrative and legal regimes to ensure public safety consists of the complex regimes of state administration activity governing the extreme (extraordinary) regime of implementation of public authority in a variety of situations where the normal functioning of society and the state is impossible.

Thus, the complex administrative and legal regime to ensure public safety is a totality of legal norms and organizational means, integrated into a special regime formation, the purpose of which is to ensure the security of the organically inter-connected triad: security of an individual, society and the state.

The content of the complex administrative and legal regime to ensure public safety consists of the regimes of state administration activity, which can be roughly divided into three blocks:

- regimes of regular functioning of state administration – general regimes;
- regimes of state administration activity in certain territories of strategic importance for implementation the interests of a individuality, society and the state – special regimes.
- regimes of state administration activity in emergence of extreme (extraordinary) situation – particular regimes

Each of these administrative and legal regimes is endowed with its own content and the complex of organizational-managerial and normative-legal means aimed at implementing the aims and objectives of regime, which by their nature are complex administrative and legal regimes designed to ensure public safety.

It should be noted that at the present day, the lack of provisions that directly provide for special situation regime, procedure and conditions of its introduction,

is an obvious gap of a modern legislative framework of particular administrative and legal regimes.

In our view, it would be feasible to adopt FCL (federal constitutional law) “On the Special Situation Regime” to be introduced in the event of an emergency of natural and man-made nature, which is quite different from a State of emergency.

First, the right to establish this regime has to belong both to public authorities of the subjects of the Russian Federation and bodies of local self-government.

Second, this regime does not provide for the restriction of constitutional rights of an individual, and social and political activities. Restriction of freedom of movement, freedom of enterprise, and some of other rights acts as the inevitable consequence of rescue, rehabilitation, preventive and organizational, and evacuation measures.

Third, such regime does not involve changing of the competence of public administration bodies, reallocation of powers.

Special situation regime is a special legal regime that includes the need for application of special measures, the hardness and volume of rights restriction of which significantly inferior to measures used in the regime of emergency and martial law. Thus, about special situation should be spoken when there are certain restrictions and prohibitions, but a state of emergency or martial law is not declared, i.e. this mode is at the junction of special and particular administrative-legal regimes of ensuring public safety.

In our view, it is also seems appropriate to develop and adopt FCL “On the Particular Regime” that includes the need for application of particular measures, the hardness and volume of rights restriction of which significantly exceed measures used in the regimes of special situation and state of emergency, because the threats arising in the emergencies that have become a consequence of social causes, as a result of which some territories of the Russian Federation became temporarily uncontrolled by the constitutional public authorities, and measures to eliminate them have remained outside the legal framework of the law “On the State of Emergency”. The mentioned threats are aimed at undermining the constitutional system of the Russian Federation.

This Federal Law establishes the grounds, aims, procedures of introducing and implementation of additional measures – special administrative and legal regime to protect constitutional system, territorial integrity, rights and legitimate interests of citizens upon the occurrence of extraordinary circumstances that have become a consequence of social causes, as a result of which some territories of the Russian Federation became temporarily uncontrolled by the constitutional public

authorities. This federal law also defines the powers of public authorities involved in the provision of additional measures – particular administrative and legal regime.

It appears that the attempted study of the theory and improving of the practice of the legal regime to ensure public security of the Russian Federation can serve as a basis for the further development of legal material and practice of state administration activity in the studied area.