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INTERNATIONAL ADMINISTRATIVE LAW AND ITS PLACE IN THE SYSTEM OF RUSSIAN LAW¹

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Here is noted an insufficiency in the study of the institutes of investments, innovations, concession agreements, although they have been developed in the scientific works of leading states and are widely used in their practical activities. The author substantiates the issue of establishment in Russia of the system of public administration legal regulation, which will allow comprehensive analyzing of administrative-legal relations and the content of modern administrative law on the basis of experiences and perspectives for development of administrative law in other states.

Highlights the impact of the evolution of the modern nation State, which is functioning in the conditions of globalization, on the evolution of law. The tasks that are required to be resolved by the scientists of administrative law are listed in the article.

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In substantiating the concept of administrative law and the prospects for its future development the development of its new administrative-legal aspect and substantiation of new sub-branch of administrative law – international administrative law seems to be relevant and modern.

Ongoing reforms in Russia, including administrative reform, raised the issue of the reform of administrative law.

At present, it is about the creating a new world of administrative law, which is based on modern ideas, doctrines, concepts, new vision of administrative law, on the international legal space.

Under conditions of globalization the term of “international administrative law” refers to the processes of interaction of states in respect of various legal matters such as management and its efficiency, the global crisis, active development of market relations, innovation processes, protection of human rights when appear violations encroaching upon the rights of citizens, their health (illegal trafficking in narcotic drugs, psychotropic substances and their analogs; failure to meet environmental and sanitary requirements in dealing with waste of production and consumption or other hazardous substances; violation of fire safety rules and regulations of protection aquatic biological resources; unfair competition; abuse of dominant position on the commodity market; failure to perform duties and requirements in the implementation of foreign trade of barter transactions; market manipulation; violation of customs regulations; violations encroaching on the institutes of state power; offenses in the field of protection of state border; offenses against management order; offenses encroaching upon public order and public safety, including violation of the legal regime of a counter-terrorism operation, corruption, etc.). Most of these issues has grown out of the national (domestic) level, and the norms that regulate them obtained cross-border interstate nature.

Administrative law of Russia, having come from the depths of the science on cameralistics and police law, today with its theoretical developments and experience of practical regulation the system of management of internal state affairs serves as a source and a generator of management and formation of not only the Russian legal system, but also in the establishment and regulation of interstate relations.

Administrative law is a leading basic branch of law and differs from other branches by more extensive range of diverse relations regulated by it, emerging and developing in the field of public administration. It should be emphasized that the functions of public administration are constantly evolving and transforming under the influence of various political, economic and social factors occurring

both in Russia and abroad. One can note an increase in tasks facing public administration and change of their magnitude both in our country and in other countries.

The doctrine of the development of modern administrative law is understood as a set of scientific ideas and views on the goals, objectives, principles, components and the main directions of development of administrative law, substantive and procedural law, managerial and contracted law, as well as international administrative law.

At the same time, in the modern science of administrative law an understanding of the legal nature of international administrative law and its place in the legal system of Russia has not yet been developed.

One cannot but agree with the opinion of the pleiad of legal scholars from Moscow State Law Academy that "public, including management, relations have changed, and consequently, the essence, purpose and the very content of administrative law have done the same" [2, 15]. The proposed by us classification and content of administrative law, consisting of four separate parts, are not indisputable; they include:

- essence and basic institutes of administrative law;
- organization of public administration (previously in many textbooks on administrative law that section was called the special part of administrative law, and currently there is an ongoing debate about the need for its study within the framework of administrative law);
- administrative procedural law;
- administrative law of the foreign states.

In the legal literature have been indicated different approaches to administrative procedural law, which consist in both a broad approach to the definition of administrative process [12] and in its narrow understanding (N. G. Salishcheva, M. I. Maslennikov, etc.). Administrative procedural law is proposed to consider as a separate branch of law – procedural law, as well as criminal and civil procedural law (and not just as parts of administrative law), with its own subject of regulation. This concept today seems more preferable, in the development of which the issue of establishment administrative courts, which will carry out judicial control over public administration and provide legal protection of public rights and freedoms of man and citizen and access to justice, is lawfully and objectively justified [13, 16 -17].

In considering the problems of administrative law should be noted a certain place in legal system, which is occupied by the administrative law of foreign

countries, which is an independent branch of law, has its object of study that is conditioned by the peculiarities of the legal systems of foreign states [1; 3; 5; 10].

It seems erroneous to represent administrative law of foreign countries as international administrative law.

At present, in Russia there are already works in the form of textbooks and study guides on international criminal law [7, 8], where ICL (International Criminal Law) is perceived differently both as a branch of international law and as an independent branch of law.

Of great interest is a study guide on international economic law [9], which deals with the concept of a New International Economic Order (NIEO) and the Charter of Economic Rights and Duties of States. This paper points out that in most western international law courses NIEO is considered as a concept, but not a part of the current international law, which involves updating the principles of international economic co-operation. However, as noticed by representatives of economic science, these updated principles are not classified in any single international legal instrument that would denote their legally binding nature, and referring to the opinion of many countries put the question of the need to improve the legal foundations of the world economy [9, 32-34].

Among the works of the representatives of the Russian science of international law we cannot fail to note the textbook O. I. Tiunova "International Humanitarian Law" [14] devoted mainly to the international legal regulation of the rights and freedoms of a man, peculiarities of ensuring the assumed by the state obligations in the field of human rights, including, peculiarities of domestic measures to implement these commitments in the Russian Federation. Authors of all textbooks on administrative law, published in the XXI century, pay great attention to the legal regulation of the rights and freedoms of man and citizen, and as the main subjects of administrative law allocate citizens, their rights, duties, guarantees of the rights and freedoms in exercising of executive authority activities [2; 6; 11].

To study the issue in the discussed version about the new branch of law - international administrative law, one should pay attention to the work "European Law", which was written by a large group of international lawyers [4]. In this work, along with a description of the content, nature and features of European law, describes the institutional structure of the European Union. For example, in chapter 12 of the above textbook Professor L. M. Entin in sufficient detail conducts a study of the legal status of the European Commission (EC), its mission, procedure of formation, composition, structure, organization of work and powers. As the author notes, the European Commission is designed to play a crucial

role in the management, having its own regulatory authority, and to pursue goals and objectives of European integration. The European Commission is regarded as the leading institute of the European Union.

The task of the EC is to ensure and protect the common interests of the Union, protect the interests of European integration from any encroachments on the jurisdiction and powers of the Union.

Coordinating, executive and managerial functions prevail among the functions of the EC. By the general rule its posts are occupied by the former heads of national governments, former ministers who have considerable experience of political leadership and administrative management.

In its work the European Commission relies on administrative staff numbering about 40 thousand people. In the European Union, along with the EC, have been established and operate a number of committees, the status of which has received the name of "comitology". There are three types of these committees: advisory, managerial and regulatory.

On the basis of the Treaty on European Union the Commission shall supervise the observance of constituent agreements and acts that are taken by the institutes of the European Union, for their execution, as well as supervise (under the supervision of the judiciary) the application of the Union right, upholding its common interests. The European Commission run the budget, and is a credit manager on the budget of the European Union, manages the implementation of programs.

According to the Reform Treaty (RT) in 2007, it is the European Commission becomes the bearer of executive authority, the executive and administrative body of the EU, and regulations or decisions it takes are subordinate acts and have almost the status of managerial decisions.

This, as noted by L. M. Entin, "undoubtedly brings together the European Commission with such institute as government in sovereign states" [4, 164].

Speaking at the regular international economic forum in St. Petersburg, Russian President Vladimir Putin focused attention of all states on the need for effective management.

After analyzing the activities of the European Union and the European Commission of the EU we can say that at this point in the European Union has already been established a system of bodies dealing with the efficiency of public administration and carrying out coordination, performing and managerial functions.

In this regard, as we believe, set the stage for raising the issue of a new independent branch – international administrative law and discussion of its place in the legal system, not only of the Euro-Union, but also on the global scale.

Administrative law itemizes, develops and concretizes many public relations and is implemented through the use of administrative-legal regulation of managerial relations, which are formed in the process of public administration exercising.

In Russia, currently, it comes to reassessment of the role of public administration, which is a multi-faceted and is manifested in normative-legal regulation, coordination, assistance, in establishing further cooperation between public authority and citizens, in establishing interaction of the state with business, in the active development of market relations; have been named and are being implemented, despite the global financial and economic crisis, priority national projects; have been set the task to create in Russia a powerful research and development center. But still remain controversial and poorly studied by Russian science of administrative law such institutes as investment institute, institute of innovations, concession agreements, although they have been developed in the scientific works of leading states and are widely used in their practice. The study of these and many other directions is possible in the conditions of development of international managerial relations in the field of public administration.

Science of administrative law is designed not only to note the changes that have taken place in public administration at this stage of development of the Russian state, but also to take into account those changes that are taking place in the global community. After revision it should determine all fundamental provisions of the further development of the state, the ways and prospects for its development in the context of the global financial and economic crisis. The crisis that has gripped the entire world is not only a financial and economic one, but also a crisis in governance. Russia is not an exception, and its reforms, including administrative reform, and the proposed system and structure of executive authorities are not able yet to solve their tasks.

In this regard, we believe, it is legitimate to put the question of the establishment in Russia the system of legal regulation of public administration, which will let to comprehensively analyze administrative-legal relations and content of modern administrative law after studying and analyzing the experiences and perspectives of development of administrative law in other states.

Administrative law is a complex key branch of law, comprehensive, large and very large (but not all-encompassing) spectrum of managerial relations, the boundaries of which in the context of globalization are not clearly defined. It is about the evolution of the modern national state and law that function in the context of globalization.

Domestic literature notes that the process of globalization, albeit in varying degrees, but affects virtually all of the national states and legal systems. At that, some of them it affects mainly by its economic aspect, others – by socio-political one and most of them – by both economic and socio-political aspects.

In Russia continues the search for an ideal, adequate to the new economic realities and world challenges management system, the system and structure of state power bodies. At the same time, as many representatives of administrative law believe, and the author agrees with their position on this issue, we need to reform not only and not so much the bodies of executive power, but also to reform the very ruling mechanism, to adjust relations developing between the executive branch, its agencies, officials and citizens of Russia, simultaneously with the restructuring of managerial relations at the international legal level.

The issue of the “new world” of administrative law and its new traditions based on the doctrines of a constitutional state have been repeatedly discussed in the legal literature and at numerous international and Russian conferences. We need to rethink the purpose of the modern administrative law and the role, which it has rightly been called on to play in the life of the state, society and citizen, also the administrative science has a task of bringing administrative law in line with international legal standards and terms, with which it cannot but reckon with.

We share the view of Russian legal scholars focusing attention on the need to reform management and administrative law, which under current conditions “must evolve taking into account the requirements of international legal institutes on the basis of the principle of internationalization of the world’s legal systems” [11, 17].

The representatives of the science of administrative law (both in Russia and in foreign countries) need to develop:

- concepts and principles of international administrative law (IAL), its sources, types and their general characteristics;
- international administrative-legal relations as a subject of international administrative law, the mechanism of their legal regulation;
- concept of a subject of international administrative law;
- definition of state, its functions and powers as the main subject of the IAL;
- concepts on the immunities of states and their property;
- concept of the new international the integrational law and order;
- concept of integration of states, definition of its scope and limits of this integration, etc.

This is not a complete range of issues to be investigated in the framework of the development of such a new branch, to which we refer international administrative law.

International cooperation is designed to address a number of administrative issues, among which, besides the already mentioned problems of modernization of economy, should be called the issues of counter-terrorism, search for forms of combat against illegal drug trafficking, nature-industrial and social problems (employment of the population, unemployment, conservation and transmission of natural resources to future generations etc.), creation of a customs union, further development of cooperation with the European Union and collaboration within the framework of the SCO. Under the conditions of development of international-legal norms in Russia posed the issue of anti-corruption, which is named as one of the main barriers to the development of every country, and the combating against which in the implementation of public administration must be carried out in all directions around the world.

Analysis and development of the legal forms of international cooperation, their improvement, in our opinion, cannot fail to take into account the processes of globalization, regionalization, global financial and economic crisis, many of which may be the subject of consideration in the study of international administrative law.

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