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THE IMPORTANCE OF ADMINISTRATIVE PROCESS SHOULD NOT BE DIMINISHED

*Review of the scientific monograph of M. A. Lapina "Administrative
Jurisdiction in the System of Administrative Process"*

(Moscow: Financial University, 2013, 140 pages)

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RF Presidential Decree No. 601 from May 07, 2012 "On the Main Directions of Improving the System of Public Administration" [1], other normative legal acts defining the priority areas for administrative reform, and, above all, happening right in front of our eyes reorganization of the Russian judicial system – all this determines the need for a new scientific view on the realities and the ways of development of domestic administrative law and administrative legislation, determines the need for a profound rethinking of the theoretical standards of administrative-legal regulation and standards of teaching administrative law.

In 2013 was published a scientific monograph of an authoritative Russian lawyer Marina Afanas'evna Lapina, Doctor of Law, Professor, Head of the Department "Administrative and Information Law" at Financial University under the Government of the Russian Federation.

M. A. Lapina rightly notes that the science of administrative law and process is the most demanded area of legal knowledge, but this science contains a poor or insufficient development of the most significant issues that act as research objects of the science of administrative law and process; while, on the background of modernization of management processes taking place in the system of public administration, administrative process goes to the first place (pages 124-125).

Today we need not folios based on continuous quoting or exposition in one's own words and paraphrase of the norms of administrative legislation. No, now are highly in demand such guides of the new generation, which would allow to give conceptual understanding (and in some ways rethinking) and a fundamental understanding of administrative law and administrative process, would systematically interpret basic concepts of this science at a higher (than in general use) level of scientific quality.

Agreeing with Yu. N. Starilov and A. V. Martynov that "scrappy, unsystematic and fragmentary (as if oriented for training exactly practitioners) training and respectively cognition of administrative law actually creates the basis for "cheating" in study of this discipline" [5, 27], we believe that works similar to the considered work of M. A. Lapina will let today to move to a qualitatively new level of training of domestic lawyers and legal scholars. Their study will allow going beyond the vicious circle of students' drilling of primitive understanding (rather memorization) of surface moments in administrative law.

Peer-reviewed publication pleasantly surprises with good combination of its relatively small volume and capacity of represented in it scientific material, saturation of deep understandings and generalizations. At the same time the work of M. A. Lapina represents both a scientific monograph and a valuable guide for students studying administrative law, it is a unique publication, in which has been made a serious attempt to comprehensively consider the most complicated set of topical issues of administrative law and process.

M. A. Lapina's monograph contains very deep reflections about the most important administrative-legal problems, sets reference sample of critical scientific analysis. Essentially, this is a slightly more advanced powerful academic report on the challenges and innovations in science.

At the same time as an undoubted advantage of the work should be recognized not only very deep knowledge of the author of the widest range of specific scientific-theoretical and scientific-practical issues, but also their consideration from very different perspectives, in complex, using the most diverse scientific tools.

We find it important to note that the monograph under review represents another strong pillar in the foundation of the developed and being further developed by M. A. Lapina large integral concept of administrative process system. Other conceptual securing author's ideas of M. A. Lapina for the approval and development of this her integral concept were published in scientific journals "The Issues of Economics and Law" and "Legal World" and sounded on the organized

by this author All-Russian scientific and practical conference “Administrative jurisdiction” in 2012.

The first and second chapters of the monograph seem to us central. Precisely in these chapters of her monograph M. A. Lapina with her usual thoroughness, one might even say – scrupulousness, examines the key features of administrative jurisdiction in the system of administrative process, the essence of administrative process, particularities of its system and structural elements, as well as she studies the concept, content and signs of administrative jurisdiction, characteristic features of administrative-jurisdictional activity, bases, ontology and significant characteristics of the institute of administrative jurisdiction.

In these chapters the author based on her own original scientific concept codifies the existing scientific knowledge, approaches, recent changes in administrative legislation and recent developments of judicial practice, in a new way conceptualizes the studied sphere of knowledge. M. A. Lapina actively involves not only complementary, but even more – opposing points of view of various authors, including of the Soviet period, clearly showing the distribution of scientific points of view on the key points of the studied problem. This is extremely important, because clearly at the cutting edge of scientific discussion allows to catch the finest moments of scientific interpretations of those concepts, without a proper understanding of which a student simply will not be able to become a lawyer and legal scholar, and a legal scholar would not receive impulses to develop its own conceptual approaches, which it gets after reading this remarkable scientific monograph.

A genuine interest is caused by chapter three, which is devoted to the systematization of knowledge about the main types of administrative-jurisdictional proceedings. It seems that it objectifies in a practical way those theoretical and conceptual approaches, those formulated by the author conceptual constructions that have filled the first two chapters.

The author's reflections on the problems of teaching administrative law and process are undoubtedly valuable, in particular, regarding the shortcomings of the existing study guides in this part, as well as author's thoughts about training of scientific staff in this field, including about the shortcomings of the passport of a new profession-oriented scientific specialty (pages 9-16, and so on).

Comprehensive consideration of the thoroughly researched by us monograph of M. A. Lapina, which is literally filled with theoretical innovations, would take dozens of pages. And in the present review we have to give it up just for the sake of not ruining the foretaste of potential readers, whose range is quite large, the expectation and the impression of reading this objectively very nice book.

It should be noted that the language of the author is both academic and available for understanding. Rationally designed illustrations (pages 17, 39, 45, etc.) provide the necessary understanding of the key substantive points, and it shows understanding of M. A. Lapina that her book will be read not only by great scientists, but also by those who have yet to become someone, to achieve something in the science and practice of administrative law and process.

Obviously, that a monograph of this scientific level of a recognized legal scholar is not conceivable without any judgments that may and even just should initiate a scientific discussion. A number of provisions of the author can incline the reader to discussion, and it attaches to the work of M. A. Lapina extra points.

Hardly we have any radical, polar incompatible differences in basic positions with the author of the monograph, but also we can hardly agree with all of her judgments, moreover – with a number of her judgments we can agree only conditionally.

In particular, it is difficult to fully take a broad interpretation of the author, according to which administrative process is an adjusted by administrative and procedural norms activity aimed at the resolution of individual cases in public administration by authorized bodies of executive authority of the Russian Federation, and in the cases provided by law also by other authorized entities of administrative and procedural relations (pages 19-20).

Still, it seems that using the term of “process” one should talk only about the activities of courts, directly related to the administration of justice applicable to the considered area of public relations.

However, most likely, this disagreement is due primarily to the professional legal consciousness of the author of this review, who for more than eight years as a judge of arbitration court has been considering cases arising from administrative and other public legal relations.

I admit that many hours were conducted in scientific discussions with M. A. Lapina, and all the discussed issues just cannot be put in here. However, Professor M. A. Lapin hardly demanded such a “compromising”.

“If I am not able to convince my opponents of the correctness of the principles protected by me, I would at least give them the necessary information in order to object to me. Only one this result is sufficient to justify my undertaken work” – wrote the Great Russian scientist and physician I. I. Mechnikov in his book “Insusceptibility in Infectious Diseases” [4].

Today, unfortunately, legal science for the most part is turned back into the past, or it follows hard after the state policy, achievements within the legislative

process, in the best case – something is criticized. But there are very, very few, deplorably little number of scientific papers challenging too long already entrenched and ossified dogmas. Works such as the monograph of M. A. Lapina are frankly rarely found.

But, as Roland Levinsky wrote, “higher schools should challenge conventional ideas and encourage debates in society” [3].

Perspective analysis is essential for any serious research in administrative law. At least, only because, as Charles Kettering used to say, “I’m interested in the future because I’m going to spend there the rest of my life” [2] ... The book of M. A. Lapina allows you to look “beyond the horizon”.

Scientific monograph of M. A. Lapina “Administrative Jurisdiction in the System of Administrative Process” has been prepared with a great creative inspiration and scientific enthusiasm, is a conceptually solid, completed fundamental work, which presents a comprehensive approach to the study of the claimed range of problems. The work is characterized by a great theoretical and practical significance, contains new for the science of administrative law and process conceptual structures, which provide substantial increment of scientific knowledge, systemization of ideas on the directions and priorities of development of the Russian administrative legislation.

The foregoing gives us not so much a hope, but more the firm belief that the book will take its rightful place in the treasury of the Russian administrative-legal scientific thought and will be demanded not only by already skilled lawyers and legal scholars. And for students, undergraduates and graduate students, who are just mastering this science, the monograph under review will be just a master class – both in part of what they should know in administrative law and administrative process, and in part of how exemplarily to write research papers within the framework of this science.

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