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## EFFECTIVENESS CRITERIA OF THE TYPES OF ADMINISTRATIVE-LEGAL MANAGEMENT: THE IMPACT OF A MISSED OUT FACTOR

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Noted that a literal interpretation of the norms of Russian legislation raises significant contradictions between the tasks of power, tasks of the State, public expectations and socio-economic needs of the population.

Four basic types of administrative-legal management are formed and disclosed in the article.

The author concludes that the quality of the effectiveness of administrative-legal management is significantly influenced by a "missed out factor" - the nature of the feedback of an authorized subject of management with obligated subject of this management.

**Keywords:** administrative-legal management, subject of management, object of management, types of administrative-legal management, effectiveness of management, effectiveness criteria of management.

Opinion that the theory of administrative-legal management and performance criteria for this type of management can be based not on a real management, but on some theoretical assumptions [23; 24]: the assumption of public, social and private interests, their mutual influence and incidence, is pretty controversial. In our opinion theoretical models must: (a) have such property as reality; b) have elements of performance. The basic criterion for any theory must be its adequacy [25; 26]. This raises a number of questions. Can a theory be at odds with reality [21: 22]? Must a theoretical model describe the reality? If yes, to what extent?

To answer these questions, it should be noted that the current state of public and especially of administrative-legal management in Russian society has formed a critical attitude both to the rules and criteria of administrative management. There has been formed a situation in modern Russia, which shows obvious inability of the authorities to implement effectively their functions in the field of public administration, because the authorities, having destroyed the old command-administrative system, has not established a corresponding alternative [1, 27-28]. That is why this raises a number of questions. What are the criteria of management efficiency and optimality? What is the mechanism of impact of public administration on socioeconomic processes in the society?

Assuming that power, management and socioeconomic processes in society are coordinated through the institute of national law. Consequently, the law is a systemic regulator and indicator of the efficiency of public administration, including in economic sphere. At that, it is generally accepted that the key element of the Russian law is the legislation. Critical society's condemnation of basic legal institutes and the lack of developed legal thinking in their entirety create obstacles in the formation of positive society's expectations concerning law as a social regulator. According to A. E. Leist, that is why there is a situation in which "in many wishes to adopt new laws their guarantor is seen not in the form of court with democratic procedure, with strict observance of human rights, with the guarantees of reaching objective truth on a case and inevitability law-enforcement process, but in something like the figure of a strong-willed and authoritative administrator with unrestricted freedom of discretion and the right derivative coercion" [6, 330]. These trends have formed a negative society's attitude to the normatively established management order that manifests in a negative attitude to the law in general and to administrative-legal management in particular.

Disadvantages of functioning of state and municipal authorities, shortcomings in the mechanisms of management of society and socio-political processes in it are manifested not so much in law, as in the institutional "shell" of the triad of

public authority, management, socio-economic state of society, as in the consequences of enforcement. This is manifested in the fact that a literal interpretation of Russian legislation norms raises significant contradictions between the tasks of authorities, the tasks of the State, public expectations and socio-economic needs of the population.

There is a well-grounded position of Yu. V. Romants that “if a literal interpretation of norms generates a morally flawed situation, it means that it does not reveal the actual content of the norm” [14, 228], prevents the achievement of positive justice, distorts the essence of law and destroys legal foundations, and, therefore, the law enforcer shall use other mechanisms of legal regulation and legal techniques and rulemaking concepts.

These circumstances, taken together, form a need for improvement the mechanisms of state-authoritative management and strengthening of their positive impact on society and the field of economy. However, as we have already determined, it cannot be without real and effective functioning of the State, without its legal system and, first of all, without high-quality public-legal management. The power and law are the creatures of the whole society and in their unity define the ideology of society development, however, the specificity of this development is determined by society mentality and culture [16, 72]. Society and the State develop, and in their development they influence each other. All this creates a need for exploring the dynamics of formation of administrative-legal management and, in particular, for the study of development evolution of public administration in the State and the nature of its impact on the economic sphere. Earlier, O. E. Leist drew attention to the fact that “in all its essential properties the law depends on the State, up to the fact that the credibility of law is predetermined by the credibility of the State, its attitude to created law, the degree of positivity of public services, strength (or weakness) of the very State” [6, 147]. This paper includes an attempt to study the development dynamics of public management within the framework of administrative-legal management. To analyze the nature and understand the systemic concepts we should consider administrative-legal management as a special kind of social system with properties of organization and systematization [9, 61-68]. At that, it should be borne in mind that this type of management has basic patterns identified by D. A. Pospelov [13], V. P. Shemetov [20] and P. Senge [11]. Analysis of these patterns allows us to generate four basic types of administrative-legal management, namely:

- 1) Direct administrative-legal management of mandative type.
- 2) Administrative-legal management with feedback elements.

3) Model system of administrative-legal management of adaptive type.

4) Administrative-legal management system of reflexive type.

At that, it should be noted that these types have their own structure, duration (time period) of dominant influence on the system of public administration and their place in dynamics and system of state public management of a corresponding rule of law.

Let's pay attention to the peculiarities and specific features of management types that we have distinguished.

1) *Direct administrative-legal management of mandative type*. Under this type of management we should understand the mechanism of imperative orders from the subject to the object of management as a core element of management actions. The object of management, its interests, motivations and reactions to the imperative orders of authoritative subject are outside the interests of the authoritative subject, are not taken into account by the latest in its authoritative-managerial activity. For managing subject of this type the dominant objectives may be: 1) obtrusion on management object of a certain type of conduct in an optimal manner, with minimal functional costs; 2) overcoming the critical point of life-sustaining activity of management subject through use the resources of management object; 3) search of strategy for management on the principle of "exploratory attack" with the admissible probability of cessation of functioning (destruction) of management object. The specified type of management system refers to systems with open type of management where an authoritative imperative decree has the nature of "hard" order for management object. In such type of management the legal system of the State is closed to perception of any information both from the managed object and from the society. Public power system in this type of management does not react on occurring changes resulting from such managerial impact. In a State, with the dominance of the specified type of management, cannot operate civil society with all its attributes (developed democracy; legal protection of citizens; social self-government; mechanisms for the protection of human rights and freedoms; pluralism of opinions; advanced civil culture; free competition). Elements of civil society in the specified hard system of direct management of mandative type, as a rule, have not been formed yet, either, for the interests of management subject, must be suppressed. With this type of management, the society, in order to compensate for the negative effects of management, is forced to gradually establish and develop its alternative system of relations regulation, which is independent from the formal legal system. In this case, one should agree with the opinion of P. A. Zelenskii that there is a possibility of emerging the processes "of forming the

so-called “shadow law”, by which the society, not relying on the State, is trying to meet their own needs” [3, 4]. Legal relations of this type of administrative-legal management are characterized by the following properties: lack of flexibility of the organizational structure of management; Caesarism in control system; absolute centralism in decision-making; rigid hierarchy of power. In this type of management the structure of public management is distinguished by the presence of functional versatility of the bureaucratic structure of three types: linear structure of administrative-legal management; functional structure of administrative-legal management; linear-functional structure of administrative-legal management.

*Linear structure of administrative-legal management* is characterized by the concentration of managerial powers in a single center (body), and management objects are subordinate to one managerial subject. The strong points of this management structure include one-man management, easiness of management, and absence of managerial functions duplication. Disadvantages of this management structure include centralism in decision-making and problem of managerial competence, as well as a significant increase in the volume of information and the adequacy of its perception by management subject.

*Functional structure of administrative-legal management* is characterized by the allocation of managerial powers in certain areas of activity; as a result the managerial powers are allocated among specially appointed (created) competent entities (bodies) of management. The strong points of this management structure include the formation of a team of specialists with skills and endowed with certain administrative jurisdictions within a strictly defined field, and subordination of these specialists to a single entity. A significant advantage of this management structure is the introduction of professionalism elements in decision-making. Disadvantages of this management structure include vague allocation of managerial functions and the possibility of contradictions in the realization of goals and objectives of “their” divisions to the detriment of management in other areas.

*Linear-functional structure of administrative-legal management* is characterized by the compound of linear management system and the separation in it of functional structure of managerial jurisdiction. This management structure preserves the principle of one-man management, but managerial decrees are received by management object from various managerial bodies, which have basic competencies and skills in certain fields of activity. Advantages of this management structure include the fact that the highest management body delegates part of its managerial jurisdictions to specially created competent authorities with the subsequent mechanism of monitoring over their implementation. In turn, the functional management

subjects by themselves exercise a part of their managerial competences, and other part is implemented through the mechanisms proposed to top management. Top management, while maintaining a rigid hierarchy of authority, regulates the tactics managerial impacts in separate fields of activity with a view to their coordination and adequacy to the strategic interests of the entire management system. Disadvantages of this management structure include the expansion of management apparatus, significant funding increases, complication of authoritarian management structure.

2) *Administrative-legal management with feedback elements.*

This type of administrative-legal management is introduced an entirely new element - *feedback*, which introduces correlation dependence of management on consequences of inconsistencies of managerial impact results with the previously specified parameters. At that, the mechanisms of administrative-legal management are adjusted by monitoring over the change of behavior of management object as a result of managerial impact. In this type of management the management structure is complicated through the separation of functions of management and functions of control and oversight. If in the direct administrative-legal management of mandative type the management absorbs control and oversight, and any management includes hard control and oversight over its execution with the right of instant administrative suppression of any deviations from the expected result, then *administrative-legal management with feedback* is introduced an additional subject - supervisory authority, which receives special control and supervisory powers. These powers are implemented in the possibility of supervisory authorities to monitor not only the conduct of management objects as a result of managerial activity, but, above all, to identify performance (usefulness) parameters [15, 233-238] and social indicators of management impact [18, 75-81]. When this type of public management, supervisory authorities form the so-called *feedback* that allows us to speak about the closed-loop management, due to which management subject receives feedback about the state of management object, about the implementation of managerial command. Feedbacks, according to A. A. Mamedov, are "indicator, allowing not only to capture the effect of managerial impact that has a place, but also to define new management tasks" [10, 4]. In the system of administrative-legal management with feedback elements the role of supervisory authorities is reduced primarily to oversight activity for actual identification of inconsistencies of management results with predetermined objectives and differentiation of this discrepancy into: significant discrepancy, which involves application of legal sanctions; insignificant discrepancy entailing linear adjustment of managerial decree. However, it should

be recognized that administrative-legal management with feedback elements (the second type of management) automatically switches to direct administrative-legal management of mandative type (the first type of management) unless specific final objectives of managerial impact are normatively established. In situations where such objectives are not established, and the management is implemented for the sake of process of management itself, feedback system as a closed loop management will not work.

### 3) *Model system of administrative-legal management of adaptive type.*

Structure of model system of management is used in this type of administrative-legal management [13]. This type of management systems is capable of responding to the objective and subjective impacts by objects and taking into account the socio-economic consequences of management on relevant public relations. In this type of management, relations arising from the results of managerial impact are considered as external environment of public management itself. The significant difference of this type of management from direct administrative-legal management of mandative type (the first type of management) is that this type of management refers to the management of the closed-loop system of impact, because, in addition to direct impact of subject on object of management, management process depends on the conduct of management subject and the nature of its response to managerial orders, which, in turn, depend on the methods of influence of management on the interests of all members of managerial relations. *A key difference of the model system of administrative-legal management of adaptive type from administrative-legal management with feedback elements (the second type of management) is the nature of feedback. So, if the second type of management has the mechanism of linear dependency of management on the consequences of managerial impact results discrepancy with previously specified parameters, then the model system of administrative-legal management fundamentally changes the nature of feedback, in which direct feedback is replaced by the multi-level connection of adaptive nature. At that the adaptive nature of feedback involves not just taking into account the conduct of management subject under the influence of authoritative imperative orders, but the study of management object in interrelation with its socio-economic indicators and legal environment of its functioning. In the process of public management of adaptive type they carefully study management object, the basic elements of its life, and the legal algorithms of functioning in economic turnover. The system of adaptive type provides in advance a list of essential algorithms of managerial actions aimed at analyzing the nature of socio-economic relations accompanying management mechanisms and varying*

according to the level of achievement of management objectives. Thus, in the adaptive type of administrative-legal management the essential elements of management are: management subjects; supervisory authorities, jurisdiction of which allows them to register the conduct of management subjects, as well as the usefulness and assessment of managerial impact; mechanisms for the study of management objects' conduct; system of monitoring bodies.

4) *Administrative-legal management system of reflexive type.*

In this type of management the entire system of normative regulation of public management is recognized as a kind of reflexive system that has the following properties: ability to legally identify itself; ability to variably define its management strategy; the possibility of self-regulation; self-monitoring elements; ability to put tactical managerial objectives and to assess its performance; ability to adjust the functions of management subject depending on the dynamic of changes in status and state of management object; ability to change management structure with taking into account changes of legal status, social and economic system. The main theoretical mechanisms of reflexive type of management and application of this type of management in law were formulated by V. A. Lefevr in his "Lectures on the Theory of Reflexive Games" [8, 160-163], and also were reflected in the works of a number of modern scholars [2, 160-163; 19, 44, 59, 64; 3, 2-4; 5, 13-15; 12, 49-50; 17, 21-22]. Unlike the system of administrative-legal management with feedback elements (the second type of management) and system of adaptive type of management (the third type of management), which should be attributed to a *complex self-regulating management systems*, the system of administrative-legal management of reflexive type refers to self-developing systems [35, 7]. The key factor of reflexive type of administrative-legal management, which influences assessment of managerial impact, is not so much the management process implemented in corresponding procedural form, not so much the results of law enforcement activity, but the perception of and response to the managerial impact of management object. That is why the managerial conflicts, including in the financial and economic sphere, are resolved by reflexion of participants to managerial relations through taking into account in these legal relations of the two basic postulates. First, the rule that the maximum benefits from managerial actions are obtained by the party to managerial legal relations who can anticipate the actions of other participants in the management system and therefore has the opportunity to build a tool for comprehensive assessment of its long-term prospects. Second, the rule that the main backbone management factor is not the management process, but the conduct of management subject, which exactly forms



the final results of all management system depending on its efficiency and effectiveness in achieving pre-set goals.

On the basis of the foregoing, we may make an assumption that the quality of the effectiveness of administrative-legal management is significantly influenced by an *earlier missed out factor*, namely: the nature of the feedback of an authorized subject of management with obligated subject of this management, as well as the system of interdependencies of impact of managed on conduct of obliged person through mechanisms for resolving corresponding conflict of interest of an authoritative subject over subordinated one.

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