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## JUDICIAL REFORM AND DEVELOPMENT PROSPECTS OF ADMINISTRATIVE JUSTICE IN RUSSIA<sup>1</sup>

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The article highlights the novelties of the legislation on administrative justice in the light of judicial reform in Russia related to creation of a unified Supreme Court of the Russian Federation.

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Reform of higher courts in Russia clearly shows that our country follows a kind of its own path that differs from Europe, the UK and the U.S. Let's try to figure out the originality of this path and novelties that are introduced by the legislator in the legal regulation of administrative justice.

First, we note the actual denial of the introduction in Russia of organizational segregated system of administrative courts. First, we note the actual refusal of the introduction in Russia of organizational segregated system of administrative courts. Of course, we can argue that the reform of arbitration courts could be held in another scenario - namely, to create on their basis administrative courts, transferring to the courts of general jurisdiction full judicial power concerning criminal and civil cases. But the country's top leaders decided that the widespread formation in the system of courts of general jurisdiction of the level of subjects of the Russian Federation of administrative boards is a sufficient measure to settle administrative-legal

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and some other public-law disputes (we note, that also until 2013 in some courts of general jurisdiction of the level of subjects of the Russian Federation, for example, in the Krasnodar regional court, administrative boards have already been created on a trial basis). The view of the representatives of the court arbitration system has gained its very limited effect.

What, in fact, does the judicial reform represent in relation to administrative justice? It is encouraging that in the RF Constitution after the amendments made by the Law of the Russian Federation on Amendment to the Constitution of the Russian Federation No. 2-FKL from February 05, 2014 "About the Supreme Court of the Russian Federation and the Prosecutor's Office of the Russian Federation" the provisions of part 2 article 118, which provides for administrative court procedure, remained immutable. The provisions of article 126, in accordance with which the powers of the Supreme Court of the Russian Federation are complemented by cases on the resolution of economic disputes along with administrative and other cases typical for the Supreme Court, have been changed. At that, the term of "economic dispute" is not explained. On the basis of the text of article 127 removed from the Constitution of the Russian Federation, it is assumed that economic disputes can be associated exclusively with civil legal relations.

Interestingly, that the FCL "On the Supreme Court of the Russian Federation" from February 05, 2014 [1] already in article 4 distinguishes categories of administrative cases under the jurisdiction of the RF Supreme Court in first instance, that, in our view, emphasizes the importance of this category of cases among other cases under the jurisdiction of the RF Supreme Court. It is important to note that the category of administrative cases, and not cases as indicated in the Code of Civil Procedure of the RF, arising from public legal relations, in addition to traditionally considered by the judicial panel on administrative cases of the Supreme Court of the Russian Federation, includes the following cases:

- contesting the acts of state corporations (with that, not all of state-owned corporations can implement state-managerial powers) [5];
- contesting the decisions of election commissions, which do not belong to any branch of government, and other disputes relating to the electoral legal relations, which essentially are not administrative;
- cases on disputes between federal bodies and public authorities of the subjects of the Russian Federation, as well as between public authorities of the subjects of the Russian Federation transferred by the RF President for consideration to the Supreme Court of the Russian Federation in accordance with article 85 of the Constitution of the Russian Federation.

Consideration of administrative-legal disputes under the jurisdiction of the Supreme Court of the Russian Federation is distributed between two boards: Judicial Board for Administrative Cases and Disciplinary Board of the Supreme Court of the Russian Federation. Comparative analysis of the provisions of paragraph 3 article 4 and article 11 of the analyzed FCL "On the Supreme Court of the Russian Federation" suggests that the powers of the Disciplinary Board also include consideration of administrative cases on contesting decisions of the Higher Qualification Board of the Judges of the Russian Federation and decisions of qualification boards of the judges of the Russian Federation on suspension or termination the powers of judges, either on suspension or termination of their resignation, as well as other decisions of qualification boards of judges, the contesting of which to the Supreme Court of the Russian Federation is provided for by federal law. Although, essentially, consideration of any disciplinary case of persons holding public positions is exactly an administrative case. However, in this connection, we may blame the perversity of the structure established in the legislation on civil service, which separates public servants from persons employed in public positions, but the nature of disciplinary legal relations [4] with the participation of persons employed in public positions remains administrative.

It appears that "overboard" of article 4 of the FCL "On the Supreme Court of the Russian Federation" remains such a category of administrative cases as cases on introduction of temporary financial administration, the provisions on which the legislator has found necessary to enshrine in article 168.2 of the Budget Code of the Russian Federation in edition of the Federal Law No. 25-FL from 12.03.2014 "On Amendments to the Budget Code of the Russian Federation" [2].

Organizationally all administrative cases against military personnel will be considered not by the Judicial Board on Administrative Cases of the Armed Forces of the RF, but by the Board of the Armed Forces of the RF on cases of military personnel.

Due to the fact that part 3 article 4 of the FCL "On the Judicial System" as amended on February 05, 2014 [7] leaves a mention about the system of arbitration courts of district level, appellate arbitration courts, arbitration courts of the subjects of the Russian Federation, then the question "hangs": What procedural legislation will these courts be guided by in consideration of cases, including administrative cases?

Yet the situation is at the level of draft laws. March 05, 2014 the President of the Russian Federation introduced another set of amendments mainly in arbitration procedural and administrative procedural legislation [6]. If you summarize

the content of the proposed amendments regarding the issues of administrative justice, they are reduced to the following:

1. Chapter 23 of the Code of Administrative Procedure of the RF (Consideration of Cases on Contesting Normative Acts) shall be abrogated.
2. It is proposed to make amendments to part 4.1 article 206 of the Code of Administrative Procedure of the RF on reconsideration of decisions on bringing to administrative responsibility taken by arbitration courts, Supreme Court of the Russian Federation;
3. It is proposed to supplement part 5.1 of article 211 of the Code of Administrative Procedure of the RF by provisions on reconsideration decisions on contesting decisions of an administrative body concerning bringing to administrative responsibility by the Supreme Court of the Russian Federation;
4. Article 30.13 CAO RF may be supplemented by the norm that the entered into force decisions of arbitration courts on cases of administrative offenses, decisions made by the results of consideration of complaints, protests, presentations shall be reviewed by the RF Supreme Court represented by the Chairman, its deputies or on behalf of the Chairman of the judges of the RF Supreme Court, if all the ways of their appeal in arbitration courts provided for by arbitration procedural legislation have been exhausted.

It is clear that this set of amendments is of transitional nature. In the prospect we will have a single Code of Civil Procedure and CAO that is essentially supplemented in procedural aspect. Perhaps, within the framework of this reform we will see also the Code of Administrative Court Procedure, thanks God, that the corresponding draft has been submitted to the State Duma of the Federal Assembly of the Russian Federation. The prospects for the adoption of the Code of Administrative Procedure remain murky, judging by the fact that the representatives of the Administration of the President of the Russian Federation negatively speak in this regard, despite the suggestions of a number of experts in the field of administrative and administrative-procedural law [3].

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