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The Code of Administrative Court Proceedings of the Russian Federation – the Appropriate Legal Basis for an Administrative process and Effective Legal Protection

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The article deals with controversial questions related to clarifying the procedural and legal potential and the legal significance of the Code of Administrative Court Proceedings of the Russian Federation (2015) in the structure of Russian procedural legislation, in the mechanism for implementing judicial power in the country, the creation of a system of adequate protection of rights, freedoms, legitimate interests of individuals and organizations.

Keywords: *administrative law, administrative procedural legislation, administrative court proceedings, the Code of Administrative Court Proceedings of the Russian Federation.*

The Code of Administrative Court Proceedings of the Russian Federation (hereinafter referred to as the CACP of the RF) entered into force on September 15, 2015 is assessed very positively by some scholars and lawyers, while others assess it extremely negative. Several articles have been published in which not only certain procedural legal provisions (norms, institutes) contained in the CACP of the RF but also the very fact of the adoption of

this administrative procedural legislative act are thoroughly criticized[62]. Both theoreticians of procedural law and practicing lawyers (judges, officials of administrative bodies and municipal employees) evaluate and characterize procedural norms of the CACP of the RF differently. The started discussion has not been finished yet; "irreconcilable" disputes on the designation of this procedural law, on the "natural" interrelation between the structure and content of the CACP of the RF with the CPC of the RF (Civil Procedure Code of the Russian Federation) and the APC of the RF (Arbitration Procedure Code of the Russian Federation) (civil process), on the legal significance of administrative procedural legal norms that ensure proper procedure for reviewing and resolving of administrative cases continue.

The well-known novelty of the legislation on administrative court procedure, the numerous (since the end of the last century) discussions about the designation, purpose and the sectorial procedural affiliation of administrative justice, the obvious (and, sometimes, extremely tough) criticism of the regulations contained in the CACP of the RF, the need to improve the order of administrative court proceedings – all this, undoubtedly, will help to attract the attention of the scientific community, lawyers, legislator to the topic of consideration by the courts of general jurisdiction of public-law disputes and the improvement of Russian administrative procedural legislation. If in the simplest way we generalize some critical statements of highly respected fellow critics of the CACP of the RF, then, from their point of view, we can even talk about the appropriateness and appropriate justification for repealing this procedural law.

This paper shows separate judgments that can be included in the discussion on the meaning of the administrative procedural legislation, the form of which has become the CACP of the RF.

From our already expressed and well-argued point of view[63] the CACP of the RF contains a potential that can exert a powerful influence on improving the quality of the judici-

[62] See, for example: *Bonner, A.T.* Administrative Court Proceedings in the Russian Federation: a Myth or Reality, or a Dispute between a Proceduralist and Administrative Legal Scholar. Journal "LAW", 2016. no. 7. pp. 24-51; *Bonner A.T.* Administrative Court Proceedings in the Russian Federation: a Myth or Reality (Or a Dispute between a Proceduralist and Administrative Legal Scholar). Bulletin of a Civil Process, 2016. No. 5. pp. 11-53; *Sakhnova T.V.* Administrative Court Proceedings: Problems of Self-identification. Arbitration and Civil Process, 2016. no. 9. pp. 35-40; no. 10. pp. 45-48.

[63] See, for example: *Starilov Yu.N.* Code of Administrative Court Proceedings of the Russian Federation: Importance for Judicial and Administrative Practices and the Problems in Arrangement of Teaching a Training Course. Administrative Law and Process, 2015. no. 7. pp. 9-14; *Starilov Yu.N.* Administrative Procedures, Administrative Court Proceedings, Administrative and Tort Law:

ary, strengthening the rule of law in the implementation of administrative actions and adoption of administrative acts and on establishing guarantees for the legal protection of citizens and organizations.

The adoption of the CACP of the RF is the most important stage in improving the structure of modern Russian justice, giving it the proper form and procedural order that meets the *standards* for ensuring the rights, freedoms, legitimate interests of individuals and organizations.

The CACP of the RF, of course, is aimed at ensuring the formation of a complete system of administrative and procedural regulation of relations related to challenging decision and actions (inaction) of public authorities and their officials in court. The system of judicial protection against illegal actions or decisions that violate the rights and freedoms of citizens that has been acting since 1993, a partial (very superficial) and recent regulation in the CPC of the RF and the APC of the RF of the relevant cases consideration order obviously could not be considered from the standpoint of *impeccability* and *proper legal formation* of the system ensuring effective protection of the rights, freedoms, legitimate interests of citizens and organizations. In our opinion, this procedural and legal system that was accidentally established in the Soviet practice could not be considered appropriate from the point of view of the unity of the subject matter, the logic of interaction of material and procedural legal regulation of the order for resolving administrative and legal disputes that arose in *the sphere of public legal relations*, that is *in the sphere of administrative law enforcement*.

The CACP of the RF is the final stage in the development of the Russian procedural legislation in which legal institutes and traditional for the judicial authority procedures for resolving administrative and other public-law disputes have emerged. Here we can once again focus on the formation of a new *administrative procedural form*, the elements and signs of which appeared with the entry into force of the procedural law that is being analyzed. A new type of court proceedings – administrative ones – is simultaneously a new

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the Three Main Directions of Modernization of the Russian legislation. Yearbook of Public Law 2015: Administrative Process. Moscow: Infotropic Media, 2015. pp. 299-331; *Starilov Yu.N.* The Code of Administrative Court Proceedings of the Russian Federation is an Appropriate Basis for the Development of an Administrative Procedural Form and the Formation of a New Administrative Procedural Law. Journal of Administrative Proceedings, 2016. no. 1. pp. 29-38; *Starilov Yu.N.* Legal Thinking on the Benefits of Administrative Justice. Administrative Court Proceedings in the Russian Federation: the Development of Theory and the Formation of Administrative Procedural Legislation. series: Anniversaries, Conferences and Forums. Issue 7, Editor in chief Yu.N. Starilov, Voronezh: Publishing House of Voronezh State University, 2013. pp. 9-24.

stage in the development of not only the administrative procedural legislation (administrative procedural law), but also the further adequate development of *general administrative law*. Totidem verbis, with the adoption of the CACP of the RF, the *specialized* procedural legal regulation (that is, in the particular procedural law) of the judicial order for resolving administrative and other public disputes actually took place.

The operation of the CACP of the RF and the application by the courts of general jurisdiction of procedural norms and principles contained in it provide an opportunity for the formation of both the latest scientific generalizations concerning administrative justice and, in general, the theoretical model of administrative process as *judicial*.

Undoubtedly, the CACP of the RF is a *progressive* legislative act that creates a proper procedural legal regulation of judicial settlement of disputable relations arising in the sphere of public law. We can recall the words of G.F. Shershenevich: "Often the same law will be backward in relation to the views of the advanced part of society and at the same time excessively progressive in relation to the views of the most retarded part of it"[64].It seems that the CACP of the RF is a modern procedural law that any part of the Russian society needs, because it meets the interests of the society and the entire population; the adoption of the CACP of the RF is a kind of "juridical" progress. It may only be assumed that a rigorous judicial evaluation of administrative acts adopted by the executive branch of public authority and, consequently, the need to strengthen the action of the principles of administrative procedures in administrative practice, the very improvement of administrative discipline among officials can to a certain extent form skeptical judgments and assessments in the first stages of action of the new procedural legislation among state and municipal employees, because the administrative court proceedings with the legislation on administrative procedures are dedicated to ensure the legality of administrative actions and proper law and order in *the sphere of administrative and other public relations*.

After the adoption of the CACP of the RF the Russian model of administrative justice received a correct, adequate and proper implementation of the mentioned codified administrative procedural law in procedural orders. From my point of view, the history of development of administrative justice and the very administrative court proceedings in Russia begin

[64] *Shershenevich G.F.* Selection. A Word Comes in. contributor P.V. Krasheninnikov. Moscow: Statute, 2016. p. 452.

on May 30, 1917, that is, from the moment when the Provisional Government approved *the Provision on Administrative Courts* which established that "the judicial power for administrative matters belongs to: administrative judges; district courts and the Governing Senate". At that it was determined that "the grounds for protests and complaints may be: 1) irregularities, consisting either in violation of a law or binding instructions of authorities, or in the exercise of powers in violation of the purpose for which they were granted; 2) evasion from execution of an action prescribed by law or binding instructions of authorities; 3) slowness. A complaint can be set by those persons, societies and institutions whose interests or rights have been violated by order, action or omittance".

Thus, the scientific ideas about the nature and purpose of administrative justice prevailing in the early XX century were embodied in a legal document which at that time was highly appreciated. What is different about it is that in the circumstances that were formed in that historical period *the Provision on Administrative Courts* did not actually prevail. It should be emphasized that *the first major scientific discussion* on administrative justice in Russia (late XIX - XX centuries) culminated in the adoption of this Provision. However, also the second discussion on the designation of administrative justice (late 90s of the XX century - the beginning of the XXI century), not less significant in its characteristics and acute in its nature, also received its positive culmination with the adoption by the State Duma of the CACP of the RF. Only with the appearance in the text of the Constitution of the Russian Federation of part 2 article 118 the attention to administrative court proceedings becomes completely different, and it becomes to be looked upon as one of the most important *types of Russian court proceedings* and as *a special form of realization of the judicial power* in the country. And further a question arises: within what procedural forms can administrative court proceedings be implemented: within the framework of the civil and arbitral procedural process that was in effect at the time, or can it be allocated to a separate branch of justice? The idea of adopting *the Code of Administrative Court Proceedings* won. Consequently, a new procedure for considering administrative cases in courts of general jurisdiction appeared[65]. Accordingly, a new procedure for considering administrative cases in the courts of

[65] About the History of Development of Administrative Justice and Administrative Court Proceedings in Russia, see,: Panova I.V. Development of Administrative Court Proceedings and Administrative Justice. *Law. Journal of Higher School of Economics*, 2016. no. 4. pp. 54-69; 2017. no. 1. pp. 32-41.

general jurisdiction appeared. Unfortunately, the development of administrative justice in Russia has not lead to the establishment of administrative courts, but, in spite of this, the very fact of accepting the CACP of the RF is an outstanding result of judicial reform at this historic stage of modernizing legal proceedings and procedural law. As Zorkin V.D. writes, "the whole world follows the path of specialization of courts: if not the judiciary, but the judges. We are still underestimating this trend" [66].

In the final stage of the formation of the current system of administrative court proceedings, a discussion arose about *a Unified*[67] *Civil Procedure Code of the Russian Federation*[68]. At its very beginning, the structure of the project under discussion included administrative court proceedings which seemed highly controversial for the country's administrative legal scholars. Such a decision would contradict the desired unification of the procedural legislation, first, from the point of view of the constitutional legal provisions for the organization of court proceedings and judicial power in the country, and secondly, from the position of delimitation between public-legal and private-legal disputes and determining the procedural forms for their resolution, and, thirdly, from the point of view of ensuring effective judicial protection of the subjective public rights of citizens.

The Concept of the Unified Civil Procedure Code of the Russian Federation developed before the adoption in February 2015 of the CACP of the RF excluded the need to adopt the Code of Administrative Court Procedure; it was suggested to take as a basis the norms of the two existing procedural codes (CPC of the RF two heads of the APC of the RF). In the opinion of the authors of this concept, such an approach should be supplemented by eliminating the gaps and contradictions revealed in judicial practice concerning cases arising from public legal relations, the proceedings on which the concept refers to a kind of

[66] *Zor'kin V.D.* The Constitutional Court of Russia in the Judiciary. *Journal of Constitutional Justice*, 2017. no. 2 (56). p. 3.

[67] See: The Concept of a Unified Civil Procedure Code of the Russian Federation. *Bulletin of the Civil Process*, 2015. no. 1. pp. 265-271.

[68] See: *Sakhnova T.V.* On the Concept of a Unified Civil Procedural Code of Russia (notes on). *Bulletin of the Civil Process*, 2015. no 1. pp. 9-27; *Yarkov V.V.* Problematic Issues of the Regulation of Competence in the Draft Code of Civil Procedure of the Russian Federation. *Ibidem*. pp. 28-45; *Latyev A. N.* The Concept of a Unified Civil Procedural Code of Russia: a view from another side. *Ibidem*. pp. 46-70; *Khisamov A.Kh., Shakiryanov R.V.* Some Issues of Systematization the Norms of Civil Procedural Legislation in the Context of its Unification. *Ibidem*. pp. 71-87; *Shamanova R.A.* Prospects for the Creation of a Unified Code of Civil Procedure. *Prospects for Reforming Civil Procedural Law*: collection of articles by the materials of International scientific-practical conference (Saratov, February 21, 2015) ed. by Isayenkova O.V. Saratov: Publishing house of FSBEI HPO Saratov State Law Academy, 2015. pp. 347-348; *Alekseeva N.V.* Reforming of Public Court Proceedings. *Ibidem*. pp. 20-24; Simonyan S.L. Administrative Court Proceedings as a Form of Protection the Rights and Freedoms of Citizens. *Ibidem*. pp. 273-276; *Storozhkova E.Ch.* On the Issue of Administrative Court Proceedings in the Russian Federation. *Ibidem*. pp. 287-290.

civil court proceedings[69]. It was supposed that "the future code of civil court proceedings will become a worthy successor to the current CPC of the RF and APC of the RF"[70]. At the same time, as it may seem, scientists, who sometimes justifiably criticized certain provisions of the draft of the CACP, do not at all deny the need for the existence and operation of the Code of Administrative Court Proceedings of the Russian Federation. We can agree with the opinion of colleagues that "the structure and content of the CACP of the Russian Federation have formed under the influence, first of all, of the norms of the Civil Procedure Code of the Russian Federation. At the same time, the CACP of the RF provided for many novelties unknown to civil procedural legislation"[71].

During the operation of the CACP of the RF the legislator has already adopted 9 federal laws that have introduced amendments and additions to it[72]. It can hardly be said that these laws radically changed the system and structure of administrative court proceedings, or contributed to a conceptual revision of its main provisions. As a rule, legislative novelties were more of a précising or detailing nature; they partly developed guaranties and principles for the organization and functioning of courts of general jurisdiction dealing with administrative matters. A brief review of the amendments made to the CACP of the RF is as follows: 1) the chapter of the CACP of the RF on the representation in court was added; article 55 of the CACP of the RF, which establishes that as representatives in an administrative court, other than lawyers, may also act other persons with full legal capacity, who are not under tutelage or guardianship and who have a higher legal education, has changed; 2) the use of the potential of the information and telecommunication network "Internet" has been strengthened in the administrative legal proceedings; the possibility of submitting administrative suits, applications, complaints, submissions and other documents to the court in electronic

[69] See: The Concept of a Unified Civil Procedure Code of the Russian Federation. *Bulletin of the Civil Process*, 2015. no. 1. pp. 265.

[70] Interview with Doctor of Law, Professor of the Department of Civil Procedure of the Faculty of Law of the Moscow State University of M.V. Lomonosov Kudryavtseva E.V. *Legislation*, 2015. no. 1. p. 9. See also: Kudryavtseva V.P, Malyushin K.A. Unification of Procedural Legislation. *Arbitration and Civil Procedure*, 2015. no. 1. pp. 52-59.

[71] *Civilistic Process of Modern Russia: Problems and Prospects: Monograph* / Bonner A.T., Gromoshina N.A., Dokuchaev T.B. [and others]; Editor Gromoshina N. A. Moscow: Prospekt, 2017. p. 121.

[72] Code of Administrative Court Proceedings of the Russian Federation: Federal Law No. 21-FL from March 8, 2015: as revised on June 29, 2015; No. 190-FL from December 30, 2015; No. 425-FL, No. 18-FL from February 15, 2016; No. 103-FL from April 5, 2016, No. 169-FL from June 2, 2016; No. 220-FL from June 23, 2016; No. 223-FL from June 28, 2016; No. 303-FL from July 3, 2016. *Collection of Legislative Acts of the Russian Federation*, 2015. no. 10. article 1391; no. 27. article 3981; 2016. no. 1 (Part 1). article 45; no. 7. article 906; no. 15. article 2065; no. 23. article 3293; no. 26 (Part 1). article 3889; no. 27 (Part 1). article 4156, 4236.

form has been provided; the procedure for the execution of judicial acts in the form of an electronic document has been determined, 3) judicial procedures for filing an administrative claim for awarding compensation for violating the right to criminal proceedings within a reasonable time or the right to execute a judicial act within a reasonable time have been specified; 4) the CACP of the RF is supplemented by a new chapter (31-1) containing rules establishing the judicial procedure for protecting the interests of a minor or incompetent person in the event of the refusal of the legal representative of medical intervention necessary to save life; 5) the list of administrative cases subordinate to the courts of general jurisdiction has been expanded by including in it cases on the challenging of acts containing explanations of the legislation and possessing regulatory features; in this connection, the title of chapter 21 of the CACP of the RF has been changed, and it has been supplemented by a new article (217-1) detailing the procedure for consideration of administrative cases on challenging acts containing explanations of the legislation and possessing regulatory features; 6) there has been established the jurisdiction of administrative cases to magistrates of the peace, and proceedings on administrative cases on the issuance of a court order (the new chapter 11-1 of the CACP of the RF) have been included into the system of administrative court proceedings.

Thus, the legal novelties of the CACP of the RF relate to that part of its norms that should have changed (or reappeared) in connection with the need to bring the text of the procedural law in line with the already established legal standards of judicial activity on cases arising in the field of implementation of administrative and other public relations. That is, it can not be said that the amendments and additions made to the CACP of the RF were dedicated to eliminate the “forgetfulness” of the legislator who adopted the CACP of the RF in 2015 or to overcome its “incompetence”. The novelties complementing the text of the CACP of the RF develop its administrative-procedural form, give the Code a modern look, a consistent structure, they form and strengthen the usefulness of its content. As is known, even now the Supreme Court of the Russian Federation is developing a draft law on the introduction of amendments and additions to the CACP of the RF on the basis of generalized judicial practice on the consideration of administrative cases.

The Supreme Court of the Russian Federation has prepared and adopted three decisions of the Plenum: Decision of the Plenum of the Supreme Court of the Russian Federation No. 36 from September 27, 2016 On Certain Issues of Application by the Courts of the Code of Administrative Court Proceedings of the Russian Federation[73]; Decision of the Plenum of the Supreme Court of the Russian Federation No. 15 from May 16, 2017 On Certain Issues Arising in the Consideration by the Courts of Cases on Administrative Supervision of Persons Released from Places of Deprivation of Liberty[74]; Decision of the Plenum of the Supreme Court of the Russian Federation No. 21 from June 13, 2017 On the Application by the Courts the Measures of Procedural Coercion in Consideration of Administrative Cases[75].

The most important legal target-oriented and substantive guideline for judicial practice in administrative cases was Decision No. 36 of the Plenum of the Supreme Court of the Russian Federation from September 27, 2016 On Certain Issues of Application by the Courts of the Code of Administrative Court Proceedings of the Russian Federation"[76]. As follows from the title of the decision, the Plenum of the Supreme Court of the Russian Federation explained only some of the most complex issues of implementation administrative court proceedings. Of course, from the point of view of the significance and relevance of the decision for courts, it is necessary to confirm the timeliness of this issue consideration, since the main purpose of the explanations contained therein is to ensure *the uniformity* of the practice of application by general jurisdiction courts of the legislation on administrative court proceedings. Many complex issues of judicial enforcement have been properly specified; the contradictory procedural and legal regulation has been explained from the standpoint of the procedural and legal standards of consideration administrative cases that have been developed in practice; legal accents have been made on the public law peculiarities of administrative and legal disputes considered by courts. Totidem verbis, this decision of the Plenum of the Supreme Court of the Russian Federation became timely and useful for the formation of a proper judicial practice in administrative cases.

[73] See: Bulletin of the Supreme Court of the Russian Federation, 2016. no. 11. pp. 2-15.
[74] URL: http://www.vsrf.ru/Show_pdf.php?Id=11398.
[75] URL: http://www.vsrf.ru/Show_pdf.php?Id=11442.
[76] See: Bulletin of the Supreme Court of the Russian Federation, 2016. no. 11. pp. 2-15.

However, this decision contains, in my opinion, certain controversial points. The decision of the Plenum of the Supreme Court of the Russian Federation gives an explanation of part 4 of article 1 of the CACP of the RF which determines that cases arising from public legal relations and referred by the federal law to the competence of the Constitutional Court of the Russian Federation, constitutional (statutory) courts of the constituent entities of the Russian Federation, arbitration courts or subject to consideration in another judicial (procedural) order in the Supreme Court of the Russian Federation and courts of general jurisdiction must not be considered under the procedure established by the CACP of the RF. Plenum of the Supreme Court of the Russian Federation excluded some *public-law disputes* from the practice of the CACP of the RF. For example, disputes on invalidating (adjudication illegal) acts of state bodies and local self-government bodies should not be considered under the procedure established by the CACP of the RF if their execution has led to the appearance, change or termination of civil rights and obligations (part 4, article 1 of the CACP of the RF; part 1, article 22 of the Civil Procedure Code of the Russian Federation; article 8 of the Civil Code of the Russian Federation). The Plenum of the Supreme Court of the Russian Federation placed *service disputes*, including cases related to the access and passage of various types of state and municipal service, to this group of disputes. Thus, courts are recommended not to consider disputes arising in the sphere of public law, namely legislation on public service, under the procedure provided by the CACP of the RF. The main problem here seems to be, as can be supposed, that the legal nature of public-service legal relations has been misunderstood. As is known, the recent 15 years in Russia have become the period of formation of public service law (legislation on public service), which in fact "ousted" from this sphere the operation of the norms of labor legislation. Thus, the public-legal characteristics of relations arising upon admission to and during the passage of public service, in principle, make it possible to include service disputes into jurisdiction of general jurisdiction courts. Otherwise, the logic of public-law regulation of relations in the public service is violated; while service-legal disputes arising from administrative relations are, for unknown reasons, recommended not to be considered according to the rules of the CACP of the RF.

The provision contained in the resolution of the Plenum of the Supreme Court of the Russian Federation on the exclusion of economic disputes from the practical application of

the CACP of the RF and the prohibition on considering other cases related to the performance of entrepreneurial and other economic activity (that are referred to the competence of arbitration courts in accordance with paragraph 1 of Chapter 4 of the Arbitration Procedure Code of the Russian Federation) are indisputable. There is also no doubt concerning the statement that cases (not related to the implementation of public powers) on internal corporate disputes arising between lawyers and lawyers' chambers, notaries and notary chambers, mediators and a permanent collegial governing body of a self-regulated organization of mediators, as well as between members and management bodies of other self-regulated organizations, which are subject to review by bringing an action, are not subject to consideration under the procedure provided for by the CACP of the RF.

If we return to the analysis of critical judgments of scientists about the modern legislation on administrative court procedure, then we can speak of two "types" of such criticism. On the one hand, the very fact of the adoption of the CACP RF raises criticism; on the other hand, some procedural and legal provisions or norms contained in the administrative court procedure system are subjected to criticism. Critical judgments on the CACP of the RF are expressed mainly by scientists – representatives of the science of civil and arbitration processes, that is, by experts in the field of civil and arbitration processes. However, one can also find a negative attitude towards this law on the part of processualists. Finally, some doubt about the high practical importance of the CACP of the RF is also expressed (albeit informally) by the judges. But the most critical judgments are, of course, expressed by representatives of the science of civil procedural law.

It is also difficult to understand the logic of opponents of the CACP RF, when they directly state the absence of any legal value of the CACP of the RF; it is virtually impossible to understand and accept the very fact that the colleagues do not recognize the uniqueness of the system, structure and special purpose of the administrative court procedure codified in the CACP of the RF, including from the constitutional legal point of view. After all, it can be assumed that the role of this code is extremely great both in the judicial system of the country and in the legal system in general. To some extent, I understand their "non-acceptance" of the CACP RF, if we take into account the "civil procedural nature" in the formation and development of administrative court procedure. And I have the deepest respect for the opin-

ion of my colleagues on this issue.[77] At the same time, I can assume that over time and with the increase in the array of judicial practice on administrative cases in courts of general jurisdiction, the "degree" of criticism will certainly decrease. A new idea on the purpose of the CACP RF in the judiciary and the judicial system of the country will be formed. Right now one can find the opinion that in the matters of legal regulation of the procedure for considering cases arising from public relations the CAS RF is not better than the CPC or the APC.[78] I think that setting of a global question of comparing the CACP with the CPC or the APC is, of course, possible, and maybe even useful. However, on the other hand, it is hardly possible to compare the first full and extensive codification of administrative procedural legislation with the procedural array of norms included in the CPC at a certain stage of the development of civil procedural legislation, but in connection with the adoption of the Law of the Russian Federation No. 4866-1 On Appealing to the Court of Actions and Decisions that Violate the Rights and Freedoms of Citizens from April 27, 1993. Thus, the CPC's "increment" with new procedural and legal material concerning the procedure for considering by the court of "a citizen's complaint against the actions of a state body, public organization or official" occurred due to the entrenched historical conditions in the early 90's of the last century. Consequently, the CPC of the RF, due to the excluding from its structure the chapter on the judicial procedure for examining administrative cases, will not become less significant; on the contrary, it will become more perfect, as it will become freed from institutions, concepts and norms that are extrinsical for the civil procedural form and non-traditional for it. That is, it is hardly possible to expect the effect of a simple comparison of different codes designed to resolve different types of legal disputes. CACP and CPC have obviously different purposes in the system of implementation of the judiciary. Nowadays it would be more useful and productive for the development of the theory and practice of administrative court procedure to talk about substantive implementation of the part 2 of article 118 of the RF Constitution in the procedural norms of the CACP RF.

[77] See: *Bonner A.T.* Administrative Court Procedure in the Russian Federation: a Myth or Reality, or a Dispute between a Processualists and an Administrativist // The magazine "LAW", 2016. no. 7. pp. 24-51; *Bonner A.T.* Administrative Court Procedure in the Russian Federation: a Myth or Reality, or a Dispute between a Processualists and an Administrativist // Herald of the Civil Process, 2016. no. 5. pp. 11-53; *Sakhnova T.V.* Administrative Court Procedure: Problems of Self-identification // Arbitration and Civil Process, 2016. no. 9. pp. 35-40; no. 10. pp. 45-48.

[78] See: Arbitration Practice for Lawyers, 2016. no. 12. p. 22.

Sometimes there is the opinion of administrative scientists who, from my point of view, substantiate the modern structure of the Russian administrative process from the wrong methodological positions. For example, already at the time of the CACP RF operation, it is possible to find a statement, according to which "the structure of administrative process is predetermined with article 10 of the Constitution of the RF that has established on the basis of the theory of separation of powers that the state power in Russia is a triunity of legislative, executive and judicial power. Each of them for its implementation requires a certain activity regulated by the relevant substantive and procedural rules of law".[79] Further, it is concluded that the administrative process includes numerous procedures and proceedings, which, in fact, predetermines the implementation of public administration, which is the designation of the executive power; here it is stated the "servicing" role of the administrative process in relation to the executive power.[80] As is very well known, this is how the structure of the administrative process was announced in the distant Soviet years. Administrative process is not created for the implementation of executive power and public administration; its essence is concluded in the legal mechanisms for solving by courts administrative cases, which arise in the sphere of organization and functioning of the executive power and public administration. The main difference in the approaches to the definition of administrative process, if we take into account the above-mentioned opinion of scientists, is that, in their opinion, administrative court procedure is *an independent type of administrative process*[81], and in our opinion, it is *one-of-a-kind administrative process* spread in the sphere of realization of the judicial power. All the rest, which have "procedural" characteristics in the field of executive power implementation, refer to "administrative procedures", "administrative proceedings" and other institutes that are in a certain legal "movement" and "legal change".

Despite these very simple statements, it is hardly necessary to simplify the situation with the understanding of administrative process, judicial process and process in public administration.[82] One can agree with I.V. Panova, who writes with regret that today "there are

[79] Administrative Process of the Russian Federation: Textbook / Editor in chief *L.L. Popov*. Moscow: Original-maket, 2017. pp. 26-27.
[80] See: Ibid. p. 27.
[81] See: Ibid. p. 332.
[82] See: *Ponkin I. V.* The Concept of "Process" in Law and in Public Administration // Herald of the Civil Process, 2017. no 2. pp. 11-30.

no legal definitions of the basic concepts: "administrative process", "administrative-jurisdictional case", "administrative dispute", "administrative justice", "administrative court procedure", etc."[83] Therewith, we can welcome the fact that at present administrative scientists are trying to uphold the idea long ago offered in the theory of administrative law that administrative process refers to the implementation of the judicial power through the establishment of a judicial procedure for the resolution of administrative cases.[84] If we recall briefly the theory of the administrative process created at the turn of the 19th century and the beginning of the 20th century, the administrative process was considered as a complex process with unclear legal nature ("much more complicated than both criminal and civil ones"[85]). At the same time, there was being stated the powerful influence of administrative process on the formation of advanced and corresponding to the principles of a rule-of-law state procedural forms, restating the usual vision of administrative law. M.D. Zagryatskov wrote that even "some eclecticism of administrative process does not prevent the ability of application procedural norms in the exploration of administrative acts to "ennoble" administrative law".

As a rule, experts in the field of civil process consider as the main arguments the following: "CACP of the RF is a copy of the CPC of the RF"; "CACP of the RF is somewhat edited text of the CPC of the RF and the APC of the RF. At that, almost all the basic principles, some of the most important institutes of static nature (competence, subjects, evidence, time limits, expenses, notices, interim measures, etc.), as well as dynamic institutes reflecting the process movement from stage to stage, have in this project a solution that is uniform with the CPC of the RF and the APC of the RF and are cross-sectorial in nature".

At some points, the question arises: did judicial jurisdiction lose its integrity, systemic nature and effectiveness after the exclusion from the Code of Civil Procedure of the Russian Federation of procedural rules establishing the procedure for resolving administrative and legal disputes? Have the civil process seen better days? Of course not. As before, civil court

[83] *Panova I.V.* Development of Administrative Court Procedure and Administrative Justice // Law. Journal of Higher School of Economics, 2017. no 1. p. 39.

[84] See: *Starostin S.A.* Administrative Process as a Branch of Public Law // Administrative Law and Process, 2017. no. 4. p. 20.

[85] *Zagryatskov M.D.* Administrative Justice and the Right of Complaint in Theory and Legislation // Administrative Justice: End of XIX – early XX century: Chrestomathy. Part 2 / Editor in chief Yu.N. Starilov. Voronezh: the publishing house of Voronezh State University, 2004. p. 293. .

procedure remains an incredibly complex and demanded procedural legal mechanism for resolving legal matters in accordance with the standard of civil procedural form that has developed over many decades. However, distinguished colleagues call the exclusion of proceedings on cases arising from public legal relations *the disintegration of the civil process*.[86] And further here it is concluded that "cases arising from public legal relations are considered under the civil court procedure, cannot be attributed to administrative court procedure".[87] But the legislator, having accepted the CACP of the RF, decided to do everything in this sphere conversely. Still, it can be assumed that he had grounds for adopting a special law establishing an appropriate procedural form of administrative cases. Surprisingly, but can all the efforts to create a special administrative procedural legislation aimed at justification of a special administrative procedural form and ended with the adoption of the CACP be regarded as some kind of technical innovations that do not mean anything for judicial practice!? As if the adoption of the CACP RF "strengthened" the civil and arbitration process, and at the same time, administrative law did not receive any significant result and factors of powerful development. And this despite the fact that there are two most important operating constitutional and legal norms on *administrative court procedure* as a special *form of exercising judicial power* and on *administrative procedural legislation*, the main form of which is *administrative justice*.

If we recall the history of the development of administrative justice in the country, then during the Soviet period administrative court procedure was denied for understandable reasons; the deterrent impact on the development of specialized justice of the then functioning political system also had an effect; there was a significant reluctance of the political elite to provide for citizens with legal means a procedure for judicial review of both individual administrative acts and normative legal acts taken by administrative bodies; finally, the goals and objectives of administrative court procedure contrasted with the purpose of the operating *administrative system* in those years. At the same time, it must be recognized that in fact in the Soviet era there were no developed (from the point of view of current views) *administrative law, administrative and administrative procedural legislation*. Consequently, in the absence of a full-fledged system of administrative law, the deepest gaps in administrative and

[86] See: *Sakhnova T.V.* The Course of Civil Process. The 2nd updated and revised edition, Moscow: Statute, 2014. p. 559.
[87] Ibid.

legal regulation were also explained by the fact of non-recognition of administrative justice (or administrative court procedure) in the legal system. Obviously, there was a "disparaging" attitude toward the development of administrative law and the administrative process in Soviet times; moreover, at that time administrative court procedure could not be effectively developed. In fact, throughout the entire Soviet period, the "bourgeois" idea of the formation of administrative justice in the USSR was being denied; the models of "bourgeois"[88] administrative justice that were operating in the world were critically assessed; there were written articles entitled "There can Be no Administrative Action in the Soviet Law".[89] I would not want the current "struggle" against the CACP of the RF to be a logical continuation of the critical analysis of the "bourgeois system" of administrative justice.

But at the same time, at some stage of the development of constitutional and administrative law, when relations in the field of judicial protection of the subjective public rights of citizens began to take shape, a question arose: what procedural form can be used to ensure the rights and legitimate interests of citizens entering administrative-legal relations with public authority and its representatives? It turned out that it was almost impossible to create quickly a new procedural form "from scratch". What was there left to do? Only to include in the system of civil procedural legislation the emerged norms on the court appeal of unlawful actions, decisions that violate the rights and freedoms of citizens. There was virtually no other way. Thus, here it is necessary to emphasize the fact that the legislator almost "accidentally" distributed the procedure for resolving administrative cases into the civil legal proceedings system. That is, the simplest administrative and legal conflicts and the disputes themselves had to be resolved in some way in court; that's why they were "embedded" into the structure of *the civil procedural form*, the role and significance of which for the sphere of public legal relations currently seem to be obviously *overestimated* by the scientists in the field of civil process. Here we can use the accurate expression of N.S. Bondar', according to which (though slightly changing its text), the legislator had to take a decision "proceeding from the fact that the absence of a necessary (legislatively established) mechanism cannot suspend the implementation of the rights and legitimate interests of citizens arising from the

[88] See, for example: *Bonner A.T.* Bourgeois Administrative Justice // Jurisprudence, 1969. no. 1. pp. 99-108.
[89] See: *Abramov S.N.* There can Be no Administrative Action In Soviet Law // Soc. Legality, 1947. no. 3. c. 8.

Constitution".[90] Thus, for the present discussion there are also historical roots that are in the underdevelopment of administrative and legal relations in the Soviet era. Consequently, the emergence of a special administrative procedural law (CACP of the RF) is in fact the only correct way out of the current rather vague situation concerning the identifying the location of the procedure for resolving administrative cases in *the structure of Russian procedural legislation*.

An attempt to reveal the roots of negative assessments of the very fact of adoption of the CACP of the RF leads to the conclusion that even before the adoption of this code some scientists in fact considered "consolidation the category "administrative court procedure" as a type of process in article 118 of the Constitution of the Russian Federation" erroneous.[91] In the opinion of colleagues, the adoption of CACP o the RF is "a barrenness of the idea of a conceptual

"rupture" of civil court procedure and administrative court procedure taken in the CACP o the RF".[92] Very serious claims are made to the very concept of legislative establishment of the order of administrative court procedure; the main reasons here are proposed to be considered, firstly, "the absence of its own legislative concept" and, secondly, the presence of "ontological errors of the legislator which, unfortunately, received a legal enshrining".[93] It is almost impossible to imagine that in modern conditions an absolutely new procedural code (CACP RF) may be developed, discussed and adopted by the legislator without a formed "own legislative concept". As a result, a general conclusion about "inefficiency of the CACP methodology" is made.[94] It is unlikely that a year after the entry into force of the CACP of the RF they may state the absence of the desired effect from the new procedural code without proper analysis of the judicial practice in administrative cases and conducting a large-scale study of the practical operation of administrative procedural rules. It is impossible to agree with judgments when the content of the "special legislative concept" is included

[90] *Bondar' N.S.* Legislative Gaps – the Category of Constitutional and Legal Defectology: the Methodology of Research and the Practice of Overcoming // Journal of Constitutional Justice, 2017. no. 3 (57). p. 6.
[91] See: *Sakhnova T.V.* The Course of Civil Process. The 2nd updated and revised edition, Moscow: Statute, 2014. p. 558.
[92] *Sakhnova T.V.* Administrative Court Procedure: Problems of Self-identification // Arbitration and Civil Process, 2016. no. 9. p. 36.
[93] Ibid. p. 37.
[94] *Sakhnova T.V.* Administrative Court Procedure: Problems of Self-identification // Arbitration and Civil Process, 2016. no. 10. p. 47.

"a change in the source of normative regulation, automatic transfer of procedures from one normative act to another".[95] Finally, the idea, according to which the CACP of the RF did not create a "new procedural form" in comparison with the CPC of the RF, is being questioned; "the categories of cases, and procedures for their consideration, and the basic provisions on the principles and other common institutions, and even the legislative algorithm itself"[96] have been also transferred to the CACP of the RF. A new procedural (administrative procedural) form, from our point of view, appears already when a codified procedural act regulating the procedure for resolving disputes (administrative cases) arising in the framework of special (public) legal relations enters into force. All the institutions and procedures of a new law, even though at some stage of the development of the legal system they were fixed in another procedural law, are "adjusted" to a single public legal regime of ensuring legality in the sphere of public administration. Of course, here one can speak about the achievements, omissions of the legislator in creating a new procedural form, the contradictions that have crept into its content (which, incidentally, constitute a sufficient number in procedural forms that have been used in practice for decades). It is impossible to imagine a new procedural law without any transfer (use) of traditional for litigation process terms, principles, and procedures. Finally, constitutional-legal provisions in the field of organization and functioning of the judiciary also have an impact on the legislator seeking to regulate the judicial procedure for the consideration of many categories of disputes (cases) arising from administrative and other public legal relations. In the literature, there is an opinion, according to which "the need for the existence in our country of effective methods of protection from unlawful normative legal acts arising from the Constitution of the Russian Federation requires a real reform of proceedings on contesting normative legal acts through the lens of the principles and achievements of civil procedural law".[97]

[95] *Sakhnova T.V.* Administrative Court Procedure: Problems of Self-identification // Arbitration and Civil Process, 2016. no. 9. p. 39.
[96] Ibid. p. 39.
[97] *Il'yin A.V.* The Constitutional Grounds for the Implementation of Compliance Check in the Civil Process and the Subject of Judicial Activity // Herald of the Civil Process, 2017. no. 2. p. 45.

Experts in the field of civil process are analyzing the problems of procedural legal regulation of certain provisions contained in the CACP of the RF or entire institutes.[98] Despite the assertion that the CACP of the RF contains today "the greatest number of contradictions and lacks of regulation"[99], the authors try to bring into it, from their point of view, useful amendments or additions. Such form of critical comprehension of the legislative constructions of the CACP of the RF will undoubtedly contribute to improving the administrative procedural form itself.

The representatives of the science of administrative law also give the most general criticism of the CACP of the RF. For example, there is an opinion that with the adoption of the CACP of the RF, the simplest "reformatting" of "a part of civil procedural norms into administrative procedural ones"[100] occurred. However, they do not offer any of their own ideas extracted from the theoretical depths of administrative legal science; at that they simply repeat the arguments or statements made by scientists known for their works in the field of civil or arbitration process. For example, "procedural forms of administering justice on "administrative cases" and nowadays respectively corresponding "to administrative and procedural activity" appeared after "the enhancement of the forms of legal proceedings borrowed from civil procedural legislation".[101] Unfortunately, such repetition in the argumentation criticism of the CACP of the RF, in fact, exactly the same as the claims of the procedural scientists, is unlikely to form the basis for the development of the administrative procedural form potential. Finally, one can ask the question: did the past enshrining in the CPC of the RF of a chapter on the procedure for judicial appeal against unlawful actions and decisions that violate the rights and freedoms of citizens become "a reformatting" of the relevant administrative and procedural norms into civil procedural ones?

If we take into account the *"procedural and legal"* factor in the system and the structure of administrative legislation and the sphere of relations in which administrative and legal norms operate, then here we are talking about *administrative procedures*, *administrative*

[98] See: *Tarasov I.N.* On Some Problems of Legislative Constructions of the Code of Administrative Court Procedure // Arbitration and Civil Process, 2016. no. 11. pp. 42-44.
[99] Ibid. p. 11.
[100] *Kaplunov A.I.* Legislation on Administrative Court Procedure and its Impact on the Further Development of the Theory of Administrative Process and the Formation of Administrative Procedural Law as a Branch of Law // State and Law, 2016. no. 10. p. 25.
[101] The Topical Issues of Administrative and Administrative Procedural Law // State and Law, 2016. no. 11. p. 121.

court procedure and *proceedings on cases of administrative offenses*. But the administrative process in the proper sense of the word is still one – this is an *administrative court procedure*. It is unlikely that the activity of public administration authorities in the sphere of executive power functioning should automatically be called "administrative process", proceeding only from the name of the field of legal relations, where this type of activity is carried out.

Administrative procedures and proceedings on administrative offenses cases, of course, have "*procedural"* content and *"procedural potential"*. But these types of state activity should be called differently, that is, as it is now established by the legislator in the Code of Administrative Offenses of the Russian Federation with reference to "proceedings on cases of administrative offences".[102] Unfortunately, administrative procedures in Russia have not received their legislative setting and normative regulation yet.[103] Actually, in practice of legal regulation in many countries these terms differ from administrative court procedure (administrative process). It is unlikely that the Russian Federation should be dominated by other terminology in relation to the theory and practice of administrative process, administrative procedures, administrative-tort legislation.

It is also appropriate to propose an addition to part 2 of article 118 of the RF Constitution. Unfortunately, in the text of the Constitution of the Russian Federation there was no place for establishing the most general legal regulation of *activity on the consideration of cases of administrative offences*. Surprisingly, but one of the most important codes of the country – the Code of Administrative Offenses of the Russian Federation – does not actually have its constitutional and legal "roots". The RF Constitution does not even mention "*proceedings on administrative offenses cases*". Consequently, there is no constitutional legal norm, according to which the location of this type of procedural activity would be determined in cases when administrative offenses cases are considered by judges, in the system of types of court proceedings. In short, consideration by judges of cases of administrative offences is a justice, and a judicial process that cannot be attributed to constitutional, civil, administrative or criminal proceedings in any way. Consequently, "proceedings on adminis-

[102] See: *Romanov A.A.* The Correlation of Proceedings on Cases of Administrative Offences and Administrative Court Procedure // Russian Juridical Journal, 2017. no. 1. pp. 131-136.
[103] See: *Starilov Yu.N.* Will the Code of Administrative Court Procedure of the Russian Federation Become the Basis for the Development of Legislation on Administrative Procedures? // Administrative Law and Process, 2015. no. 11. pp. 15-22

trative offenses cases" (when these cases are heard in the courts) is another form of judicial power. Therefore, part 2 of article 118 of the Constitution of the Russian Federation, in our opinion, should look like this: "The judicial power is exercised through constitutional, civil, administrative, criminal proceedings, *as well as proceedings on cases of administrative offences*"

The application of the legislation on administrative court procedure will create the basis for the creation of a federal law "On Administrative Court Procedures".[104] If we return to the search for "procedural fundamentals" in the sphere of administrative law, then, undoubtedly, it is necessary to pay attention to the sections entitled *"administrative procedures"* contained in each current Russian *administrative regulation of public functions implementation* and *administrative regulation of the provision of public services*. However, even a superficial interpretation of the term "administrative procedures" in this context is unlikely to lead to the conclusion on that the specified administrative regulations have resolved the task of establishing administrative procedural activity. Thus administrative regulations solve the simplest task of establishing through this term the procedure for carrying out of a specific state function or for the provision of a specific public service. It turned out that the consistency and staginess of the execution of public functions were equated in their purpose to administrative procedures and to tasks that they must solve in the public administration system. Globally, there is no talk about "real" administrative procedures in administrative regulations. It is hardly necessary to argue that the legislation on administrative regulations contributed to the formation of a modern theory of administrative procedures, and also actualized the idea of administrative practice's need for the law On Administrative Procedures, which would contained rules on general principles and procedures for the resolution of administrative cases, and on the adoption of administrative acts by the state and municipal administration. At the same time, one can confidently assume that the creation of legislation on administrative regulations will not fundamentally replace administrative and legal norms, which should be contained primarily in the law On Administrative Procedures.

[104] See: *Davydov K.V.* Current State and Prospects for the Development of Russian Legislation on Administrative Procedures. Draft Federal Law "On Administrative Court Procedures and Administrative Acts in the Russian Federation" // Journal of the Administrative Proceedings, 2017. no. 1. pp. 47-69.

And here a question arises on the need for *a constitutional and legal establishment of the basic principles of administrative procedures* laid down as the basis of public administrative activity for the adoption of administrative legal acts. Unfortunately, the Constitution of the Russian Federation does not contain legal bases on the grounds of which the activities of executive bodies of state power on compliance with, maintenance and protection of human and civil rights and freedoms, legitimate interests of organizations would be exercised. The norm, according to which decisions and actions (or inaction) of state authorities, local self-government bodies, public associations and officials can be appealed to a court (part 2, article 46 of the Constitution of the Russian Federation) is very important. However, the legal norm, which indicates the need for legal regulation of the procedure for the adoption of administrative legal acts, should not less significant. At the same time it is also expedient to establish in the text of the Constitution of the RF (in the second chapter) *the basic principles of administrative procedures*. At first glance, it may seem superfluous to include in the text of the Constitution of the RF the norms on observance by the state bodies and officials of the basic rules for the adoption of administrative legal acts, taking into account that in the future the law On Administrative Procedures will be adopted. It seems that exactly the constitutional legal norm on the need for legal regulation of administrative procedures would oblige the legislator to develop and adopt the law On Administrative Procedures.

Besides, the idea of adopting such a law is expressed by the highest officials of the country, legislators and scientists. Here it is appropriate to quote the opinion of the Chairman of the Government of the Russian Federation, D.A. Medvedev: "In recent years, administrative regulations have been adopted in various spheres of administration. We can say that a unified methodology for their preparation has been formed; common approaches to their structure and content have been consolidated. Hence – there is just one step to the creation of a model administrative regulation, and from it – to the adoption of the law about the basics of executive and administrative activity, which was discussed back in the 1960s".[105] It is easy to assume that the "law on the basics of executive and administrative activity (terminology from the middle of the last century) in accordance with modern ideas about the exec-

[105] *Medvedev D.A.* 20 Years: the Path to the Awareness of Law // Russian Gazette, 2013. Dec. 11

utive power and the order of its functioning today should be entitled as the "law on administrative procedures".

Thus, the development of administrative and administrative procedural legislation in Russia, which, in turn, was based and continues to be based on the main constitutional and legal principles, allows talking about making possible amendments to the Constitution of the RF. What is meant here are principled provisions concerning the forms of implementation of the judiciary, the fundamental principles of the functioning of the executive power in relation to the adoption of administrative legal acts, as well as the "procedural" bases for the application of administrative penalties by courts (in the form of proceedings on administrative offenses cases). Exactly in these spheres of constitutional and legal regulation the changes, proceeding from both the current administrative and administrative procedural legislation, the achieved level of legal regulation (administrative court procedure and proceedings on administrative offences cases) and from the need to establish new legal institutes (administrative procedures), became imminent.

The attention of scientists, legal practitioners, legislators, judges is, of course, visibly strengthened to practically all the main problems of the modern administrative court procedure. We can confidently assume that in the near future the specialized literature will give a more substantive study to both the conceptual problems of the CACP of the RF and certain issues of the procedure for examining administrative cases. Many scientific journals are published in the country, where scientific articles on the problems the CACP RF application are published. The scientific publication "Journal of the Administrative Proceedings"[106] has been established and it publishes materials on the theory of administrative court procedure, trends in the development of legislation on administrative proceedings, judicial control in the sphere of exercising public powers; it analyzes judicial practice on administrative cases and issues of proceedings on certain categories of administrative cases, foreign experience in the organization of administrative courts and administrative justice[107]. In the journal you can

[106] URL: http://www.law.vsu.ru/adm/index.html

[107] See: *Kononov P.I.* Administrative Court Procedure as a Judicial Procedural Form for the Resolution of Administrative Cases: Discussion Questions of Theory and Legislative Regulations // Journal of the Administrative Proceedings, 2016. no. 2. pp. 9-15; *Kurchevskaya S.V.* Application of the Code of Administrative Court Procedure of the Russian Federation in the Courts of General Jurisdiction: the First Experience, Problems, Contradictions // Journal of the Administrative Proceedings, 2016. no. 2. pp. 66-72; *Lamonov E.V.* Judicial Practice of Application of the Code of Administrative Court Procedure of the Russian Federation in the

find relevant comments, reviews and conclusions of both scientists and judges. Special workbooks have been developed for judges considering administrative cases in courts of general jurisdiction.[108] They provide recommendations on the application of administrative procedural legislation.

Despite the short period of application of the CACP of the RF, it is possible to analyze the judicial practice and the problems of application of its separate procedural norms. A full-fledged scientific analysis of the judicial practice on administrative cases, as well as a precise institutional study of the system, content and structure of administrative court procedure, which is one of the most important forms of implementation judicial power in the country, will obviously become possible later.

Courts of General Jurisdiction // Journal of the Administrative Proceedings, 20175. no. 1. pp. 13-17; *Mayorov V.I.* Genesis of Administrative Judicial Law: Theoretical and Methodological Problems // Journal of the Administrative Proceedings, 2017. no. 1. pp. 5-9; *Opalev R.O.* Possible Directions for the Development of Legislation in the Field of Justice on Administrative Cases / / Journal of the Administrative Proceedings, 2017. no. 1. pp. 13-17; *Rogacheva O.S.* Consideration by a Justice of the Peace of Administrative Cases on the Issuance of a Court Order under an Administrative Court Procedure // Journal of the Administrative Proceedings, 2017. no. 1. pp. 24-30; *Starilov M.Yu.* Measures of Preliminary Protection on an Administrative Claim as a New Procedural and Legal Institute: from the Civil Process to the Administrative One // Journal of the Administrative Proceedings, 2017. no. 1. pp. 70-80; *Taribo E.V.* Violation of Rights as a Criterion for the Acceptance of Administrative Lawsuits // Journal of the Administrative Proceedings, 2017. no. 1. pp. 10-12.

[108] See: *Bespalov Yu.F.*, *Egorova O.A.* Handbook of a Judge on Administrative Cases: Initiation, Preparation, and Trial: a Workbook / Editor in chief Yu.F. Bespalov. Moscow: Prospekt, 2017.