Universal Decimal
Classification 342.9 : 347

Kizilov V. V.

TERMINATION OF PROCEEDINGS CONCERNING THE CASE OF BRINGING TO ADMINISTRATIVE RESPONSIBILITY: REIMBURSEMENT OF COURT COSTS

Kizilov Viacheslav Vladimirovich,
c.j.s. (PhD in law), Editor in chief of the magazine "The topical Issues of Public Law", Omsk,
attorney1961@mail.ru

Here are noted different approaches of the Russian legislator to the definition of litigation costs in different types of proceedings, as well as the grounds for termination of proceedings.

The author criticizes normative regulation of the issues of litigation costs allocation in the Code on Administrative Offences of the RF. He proposes and justifies the unification of normative regulation of the issue of court costs allocation in administrative court procedure by analogy with arbitration court procedure.

Keywords: administrative court procedure, court costs, litigation costs, a case on administrative offence, a case on bringing to administrative responsibility, reimbursement of court costs, reimbursement of litigation costs.

In accordance with the Code on Administrative Offences of the RF (hereinafter – CAO RF) [4], in the courts of the Russian Federation may be pending the cases of bringing to administrative responsibility with compositions of administrative offenses relating both to the exclusive competence of judicial bodies to consider cases on administrative offenses (see part 1, 3 article 23.1 CAO RF) and alternative competence if the authority or official, which received a case on administrative offence, transfers it to the judge (see part 2 article 23.1 CAO RF). Moreover,

the procedure of administration of justice itself within the framework of initiated case on administrative offense is regulated, in addition to CAO RF, by "departmental" procedural laws of Civil Procedure Code of the RF (CPC RF) [3] and Arbitration Procedure Code of the RF (APC RF) [1].

Significant legal provisions of CAO RF affecting the administration of justice in the courts of general jurisdiction and arbitration courts, in our opinion, are enclosed in the norms of article 24.5. "Circumstances Precluding Proceedings on a Case Concerning an Administrative Offense", which contains the specific grounds for termination of proceedings (if the grounds specified in the CPC RF and APC RF are considered general).

These circumstances include:

1) absence of occurrence of an administrative offence;

2) absence of formal components of an administrative offence, including where a natural person has not attained, by the moment of committing unlawful actions (omissions), the age provided for by this Code for holding him administratively responsible, or where a natural person, who has committed unlawful actions, is insane;

3) actions of a person in a state of extreme necessity;

4) issue of an amnesty act where such act eliminates the imposition of an administrative penalty;

5) repeal of the law establishing administrative responsibility;

6) expiration of a limitation period for holding anyone administratively responsible;

7) presence in respect of one and the same fact of committing unlawful actions (omissions) by a person, who is put on trial in connection with an administrative offence, of a decision to impose an administrative penalty, or of a decision to terminate proceedings on a case concerning an administrative offence, or of a decision to initiate criminal proceedings against him;

8) death of a natural person who is put on trial in connection with an administrative offence.

9) classification of a person, who has committed an administrative offence, as a special subject that should be brought to disciplinary responsibility under part 1 article 2.5 CAO RF.

These circumstances, in our opinion, relate both to procedural aspects and to material ones, and, therefore, cannot be equated with the grounds for termination of proceedings on a case in an arbitration process and judicial process in the courts of general jurisdiction.

For example, APC RF links the termination of proceedings (see article 150 APC RF) in arbitration courts with the determination during a court hearing of the following circumstances:

1) the case is not subject to consideration by an arbitration court;

2) there exists a judicial act of an arbitration court, of a court of general jurisdiction or of a competent court of a foreign state, adopted on a dispute between the same persons, on the same subject matter and on the same grounds, with the exception of cases, where the arbitration court refuses to recognize and enforce the judgment of the foreign court;

3) there is decision of an arbitration tribunal made on the dispute between the same persons, on the same subject matter and on the same grounds, with the exception of cases, where the arbitration court refuses to issue a writ of execution for the compulsory execution of the arbitration tribunal decision;

4) the plaintiff has renounced the claim and the renunciation was accepted by arbitration court

court;

5) an organization, which is a party to the case, has been liquidated;

6) after the death of an individual, who has been a party to the case, the disputed legal relation does not allow legal succession;

7) If there is an effective arbitration court or general jurisdiction court decision on a previously considered case, in which the conformity of the disputed act to a normative legal act of greater legal force was checked on the same grounds (see part 7 article 194 APC RF).

Only when the given circumstances are identified, an arbitration court without considering a case on the merits shall issue a ruling to terminate the proceedings, with all the consequences that come with it.

Analysis of the norms of APC RF concerning other cases, which involve the possibility of terminating proceedings, did not reveal the presence of similar with CAO RF (article 25.4) grounds for termination of proceedings on a case executed by a court ruling.

Considering the provisions of part 6 article 205, part 2 article 206 APC RF, it can be concluded that in arbitration proceedings on case of an administrative offence the circumstances established by the court – *the lack of the fact of an administrative offense; no confirmation that it is committed by a person in respect of whom the protocol of administrative offense has been drawn up; absence of a ground for drawing up the protocol on administrative offense and powers of an administrative body that has prepared the protocol; absence of administrative responsibility for the commission*

of such offense; lack of grounds for bringing to administrative responsibility of a person against whom the protocol has been drawn up – lead to failure to meet the demand of an administrative body concerning bringing to administrative responsibility.

Thus, despite the fact that CAO RF operates with the concept of "termination of proceedings" in the above mentioned case, the outcome of the arbitration process will be the making of decision not to bring an accused of committing an administrative offence to administrative responsibility, but not the making a ruling to terminate the proceedings under article 151 APC RF. The resolutory and reasoning part of a judicial act in this case shall reflect the reason for the refusal of bringing to administrative responsibility, including grounds for termination of proceedings with reference to article 24.5 CAO RF

Existence of the decision of an arbitration court (or any other judicial act of superior instances of arbitration court that resolves the case on the merits) allows a person, who has not been brought to administrative responsibility, to claim for compensation the costs incurred on the basis of article 110 APC RF.

In absolutely another way the legislator has come to normative regulation of judicial process in the cases of bringing to administrative responsibility, considered in the courts of general jurisdiction. And the main difference is that arbitration court is not actually a body of administrative justice. In cases arising from public legal relations, including in cases of bringing to administrative responsibility, arbitration court is a judicial body that evaluates and accept the legal position of one of the parties participating in the process, while the court of general jurisdiction in cases of bringing to administrative responsibility acts as a body exercising administrative justice and pursuing the offender. The Courts of general jurisdiction (justices of the peace) are in ambivalent position. According to CPC RF, they should administer justice, according to CAO RF, they should prosecute the perpetrator while protecting the interests of the public party to judicial process at first instance.

We believe that this duality of the status of judges is the cause of insistent demands of the legal community in the formation of separate administrative courts, the purpose of which is not to administer justice, but administrative non-departmental judicial prosecution of offenders for administrative offenses. Development and adoption of the Code of Administrative Court Procedure without forming separate administrative courts (outside the structure of courts of general jurisdiction), in our opinion, will not solve the issue of conflict of court position dualism in cases relating to bringing to administrative responsibility.

At present, CPC RF provides the following general grounds for the cessation of proceedings:

- the case is not subject to consideration and resolving in court in civil proceedings on the grounds provided for in paragraph 1 part one article 134 of CPC RF (an application is not subject to review and resolving in civil proceedings, since the application is being considered and resolved in another judicial procedure; an application is filed to protect the rights, freedoms or legitimate interests of another person by state body, local self-government body, organization or citizen that is not granted such a right by CPC RF or by other federal laws; an application, filed in one's own name, contests acts, which do not affect the rights, freedoms or legitimate interests of the applicant);
- there is an entered into legal force and court decision taken on the dispute between the same parties, concerning the same subject matter and on the same grounds or a court ruling to terminate the proceedings in connection with a retraxit or settlement agreement of the parties;
- plaintiff has renounced the claim and the renunciation is accepted by court;
- parties enter into a settlement agreement and it is approved by court;
- there is a decision of arbitration tribunal, which has become binding on the parties, that has been adopted on the dispute between the same persons, on the same subject matter and on the same grounds, with the exception of cases, where court refuses to issue a writ of execution for the compulsory execution of the arbitration tribunal decision;
- after the death of an individual, who was a party to the case, the disputed legal relation does not allow legal succession or liquidation of an organization, which was one of the parties in a case, is completed (see article 220 CPC RF).

However, in respect of proceedings on cases arising from public legal relations, there is another rule of termination the proceedings – proceedings shall be terminated if there is a decision of court taken on an application concerning the same subject matter and entered into legal force (see article 248 CPC RF).

Similarly to arbitration process in the courts of general jurisdiction proceedings are terminated by the decision of court, which states that a repeated going to court concerning a dispute between the same parties, on the same subject matter and on the same grounds is not allowed (see article 221 CPC RF).

Despite the fact that the judgment of the court of first instance, which resolves a case on the merits, shall be taken by the Russian Federation in the form of a court decision (see article 194 CPC RF), CAO RF for cases concerning bringing to administrative responsibility provides for another form of judicial act – resolution

(see articles of CAO RF). And due to the fact that there is no such kind of dispute (case) as bringing to administrative responsibility in article 245 CPC RF in list of cases arising from public legal relations, the court of general jurisdiction (justice of the peace) considers the matter in accordance with the rules of CAO RF, and the norms of CPC RF it applies only in case of unsettlement any matter under the norms of CAO RF. I.e., for the court of general jurisdiction the basic procedural act in a case of bringing to administrative responsibility is CAO RF and in the missing part (subsidiary) – CPC RF.

This rule is enshrined by provisions of part 1 article 246 CPC RF.

"1. Cases arising from public legal relations are considered and resolved by a judge alone, and in cases stipulated by a federal law jointly under general rules of action proceedings with the peculiarities specified in the present chapter, chapters 24-26.2 of this Code and *other federal laws*".

Reference rule on "other federal laws" provides for the possibility to apply procedural norms of CAO RF in proceedings in the courts of general jurisdiction, including article 29.1 "Preparation for Hearing a Case Concerning an Administrative Offence":

"A judge, body, or official, when preparing for consideration of a case concerning an administrative offence, shall clarify the following issues:

1) whether consideration of this case is within the scope of their jurisdiction;

2) whether there are circumstances precluding the possibility of trying this case by the judge, member of the collegiate body, or official;

3) whether a record of an administrative offence and other records provided for by this Code, are drawn up correctly, as well as whether other materials of the case are formalized in the correct way;

4) ***whether there are circumstances precluding proceedings on the case****;*

5) whether the materials of the case are sufficient for considering it on its merits;

6) whether there are petitions and recusations".

And in the case of circumstances provided for in article 24.5 CAO RF, the court takes the decision to terminate proceedings on administrative offence (see part 2 article 29.4 CAO RF). This judicial act is not provided for by the norms of CPC RF, which govern the order for allocation of court costs, and CAO RF norms on the composition of judicial costs (article 24.7) are not identical with the relevant norms of CPC RF. List of expenditures attributable to judicial costs under CAO RF is short enough, and these costs do not include the cost of lawyer services or other person involved in the proceedings as a defense attorney. The Plenary Session of the Supreme Court of the RF focused attention on this fact [6]. However, the court

of last resort admits: "Since in the case of refusal to bring a person to administrative responsibility or meeting its appeal against the resolution of bringing to administrative responsibility this person is suffered due to the expenditures for the cost of services of a person who has provided legal assistance, these costs on the basis of articles 15, 1069, 1070 of the Civil Code of the RF may be recovered in favor of the person at the expense of the relevant treasury (treasury of the Russian Federation, the Treasury of a subject of the Russian Federation)" [6].

Thus, an acquittal on the case of bringing to administrative responsibility (including concerning termination of proceedings irrespective of termination grounds) issued by the court of general jurisdiction, provides this acquitted person the ability to state a claim for damages associated with the proceedings on bringing to administrative responsibility, but not included in judicial costs. But we should not forget that the possibility to recover is not the same to recovery itself.

The fact is that article 1069 of the Civil Code of the RF [2] provides for reimbursement for the harm inflicted to a citizen or legal person only as a result of illegal actions (inactivity) of state bodies, local self-government bodies or officials of these bodies. And part 1 article 1070 of the Civil Code of the RF provides for reimbursement for harm inflicted by special subjects of law (bodies of inquiry, preliminary investigation, prosecution and court) in special cases of administrative-legal disputes – unlawful bringing of an individual to administrative responsibility in the form of administrative arrest, as well as unlawful bringing of a legal person to administrative responsibility in the form of administrative suspension of activity. I.e., in the case of reimbursement for harm inflicted by bringing of plaintiff to administrative responsibility that has been voided in the process of administrative proceedings, the court must establish the illegality in actions of an administrative jurisdiction body or its official, who drew up the report of administrative offence, to make a positive decision on the claim.

Analysis of the circumstances that exclude proceedings on case of administrative offence (article 24.5 CAO RF) indicates that in the event of termination of proceedings on the case of bringing to administrative responsibility on such ground as expiry of the period of limitation for bringing to administrative responsibility, the court that hears the claim against administrative jurisdiction body concerning reimbursement of harm, in fact, will have to get into all the circumstances of the terminated case of bringing the plaintiff to administrative responsibility to determine the presence or absence of unlawful action in drawing up the protocol on administrative offence, the presence or absence of an event or composition of administrative offence.

Thus, a case of bringing to administrative responsibility that is terminated by the ground of expiry of the period of limitation for bringing to administrative responsibility in one court procedure (administrative) will begin (continue) its new life in other court procedure (civil). The above case on bringing to administrative responsibility, in our opinion, does not have prejudicial features due to the fact that the court ceases proceedings, without considering the presence of other, under article 24.5 CAO RF, circumstances, choosing the path of the least resistance – determination of one procedural circumstance (expiry of the period of limitation).

We believe that the introduction of norm, which obliges to reflect in judicial act the presence or lack of all the circumstances established by the norm of article 24.5 CAO RF, only would strengthen the judicial act and simplify the administration of justice on cases of reimbursement for damages demanded from administrative jurisdiction bodies, since already in the resolution to dismiss the case on bringing to administrative responsibility would contain the court's conclusions on legal facts significant for taking decision in action proceedings concerning recovery or refusal the sums of cost of services of a person who has provided legal assistance to the plaintiff in administrative court procedure.

There are cases of ignoring direct orders of a superior judicial body by the justices of peace, despite the fact that paragraph 13.1 of the Resolution of the Plenum of the Supreme Court of the RF No. 5 from March 24, 2005 indicates that in the resolution on termination the proceedings on the grounds of expiry of the period of limitation for bringing to administrative responsibility "should be mentioned all the circumstances identified on the case, and not only ones related to the expiry of the period of limitation for bringing to administrative responsibility" (based on the provisions laid down in paragraph 4 part 1 article 29.10 CAO RF), and the person, in respect of which a protocol on administrative offense has been drawn up, insisting on its innocence "in order to ensure judicial protection of the rights and freedoms of this person (part 3 article 30.6, part 3 article 30.9 CAO RF) cannot be denied in the testing and evaluation of arguments about the lack in its actions (inaction) of an administrative offense composition".

For example, in the case considered by the justice of the peace of Judicial District No. 11, city of Engels (Saratov region), in respect of LLC "Signal-Nedvizhimost'"concerning an administrative offense under article 19.7 CAO RF, initially was made a resolution from April 15, 2013 on the case No. 5-176/2013 [7], by which the justice of the peace brought LLC "Signal-Nedvizhimost'" to administrative responsibility through seeing it guilty of administrative offense incriminated by the Federal Service for Alcohol Market Regulation.

However, this resolution was canceled in appeals instance by Engels District Court on May 31, 2013 [8] under articles 1.6, 24.1 CAO RF on the following grounds:

- "there is no any evaluation of the mentioned in the protocol of administrative offence event of administrative offence, which is incriminated to LLC "Signal-Nedvizhimost'", in the resolution of the justice of the peace";
- "there are no conclusions of the Court, in which it has rejected the circumstances laid down in the protocol on the fact of failure of LLC "Signal-Nedvizhimost'" to submit within 24 hours electronic copy of the declaration under sub-paragraph 3 paragraph 4 article 14 of the Federal Law No. 171-FL from 22.11.1995 "On State Regulation of Production and Turnover of Ethyl Alcohol and Alcohol-containing Products and on Restriction of Consumption (Drinking) Alcohol Products" and has come to the conclusion that LLC "Signal-Nedvizhimost'" violated the terms for submitting declarations about the volume of production, turnover and (or) use of ethyl alcohol and alcohol-containing products, about the use of production capacity, as an organization implementing retail sale of beer and beer beverages, which has not been incriminated to LLC "Signal-Nedvizhimost'" by an official";
- "the justice of the peace has not adequately set out its arguments, on which it concluded on calculation of the terms of declaration submission (period calculated in working days or calendar ones). At that, it has not taken into account that at calculation of time terms, calculated either in working days or in calendar ones, weekends and public holidays are not counted";
- "the justice of the peace has admitted a substantial violation of procedural norms of CAO RF, which has not allowed complete, objective and comprehensive consideration of the present case".

The case of administrative offence of LLC "Signal-Nedvizhimost'" that was transferred to the justice of the peace for a retrial was ceased by the proceedings on the case of June 19, 2013 on the ground of the expiry of the period of limitation with reference to the unconditionality of this circumstance:

"In accordance with clause 14 of the Resolution of the Plenary Session of the Supreme Court of the Russian Federation No. 5 from March 24, 2005 "On some Issues that Arise in Courts when applying the Code on Administrative Offences of the RF" expiration of the established by article 4.5 CAO RF periods of limitation for bringing to administrative responsibility is unconditional basis that excludes proceedings on a case of administrative offence (paragraph 6 part 1 article 24.5 CAO RF)" [9].

In our example the justice of the peace having received the abolition of its wrongful judicial act, avoided a retrial in order not to "give a leathering" to itself, although in objection to the protocol on administrative offence and in subsequent court documents LLC "Signal-Nedvizhimost'" with stubborn persistence insisted on termination of proceedings on the basis of part 1 article 24.5 CAO RF (exonerative ground).

The presence of reference to paragraph 14 of the Resolution the Plenary Session of the Supreme Court of the Russian Federation No. 5 from March 24, 2005 in the judicial act of the justice of the peace, in our opinion, indicates that the judge is also aware of the content of paragraph 13.1 of the mentioned Resolution. However, the justice of the peace evaded from determination of a legal fact "that the actions of the person, in respect of whom a report on administrative offence has been drawn up, do not contain the composition of administrative offence or the very event of administrative offence, and did not issued a decision on the termination of proceedings pursuant to paragraph 1 or paragraph 2 of article 24.5 CAO RF.

It seems to us, that the absence in CAO RF of norms of direct actions contributes to the subjective perception, interpretation and application by justices of the peace of not only law norms, but also mandatory for application the higher judiciary's acts reflecting the legal position regarding the enforcement of federal laws.

Therefore, in our view, article 24.5 CAO RF should be amended through inclusion in it part 3 as follows:

"3. Proceedings on a case of administrative offense shall be terminated in connection with the circumstance provided for in paragraph 6) of part 1 of this article only in the absence of other circumstances specified in part 1 of this article. In all other cases, the case proceedings are to be terminated on the basis of identified circumstances from the list of paragraphs 1)-5), 7) and 8) of part 1 of this article".

As for judicial costs, it should be noted that the legislator differently approached the issue of their determination in various legal proceedings. Allowing identical rules in the arbitration and civil court procedure, the list of types of costs, included in judicial costs, has been significantly shortened in administrative court procedure (although in CAO RF consider costs of any proceedings on case of administrative offence).

In our view, the exclusion from judicial costs the expenditures on payment the services of a person providing legal assistance to an accused in committing an administrative offence is hardly justified, and creates an additional burden on the judicial system (courts of general jurisdiction).

In the comparison of court proceedings on a case of bringing to administrative responsibility, which takes place in arbitration courts and case of administrative offence in the courts of general jurisdiction, in our view, the logical simplicity and rationality of process's upbuilding in arbitration courts is in better position than process in the courts of general jurisdiction.

The issue of distribution of court costs in arbitration courts is resolved by that court (judge), who was considering the case of bringing to administrative responsibility, while the court of general jurisdiction, which considered the case of administrative offense, determines the fate of the costs on the case only within the scope of: 1) sums payable to witnesses, victims, their legal representatives, attesting witnesses, experts, specialists, interpreters, including payments to cover the cost of travel, the rent of residential premises and additional costs associated with living outside the place of residence (per diem); 2) sums spent on storage, transportation (shipping) and the study of material evidence, instrument of crime or subject of an administrative offense. Amounts expended for salaries of a person who provides legal assistance to accused of committing an administrative offence shall be compensated in another judicial process – civil one considered within adversary proceedings. And in this case, one more general jurisdiction court must go into all the niceties of a case of administrative offence to resolve the issue of compensation to a person previously accused of committing an administrative offence.

We believe, that the legislator, not including into judicial costs in a case of administrative offense the expenditures on salary of a person providing legal assistance to the accused of committing an administrative offence, was guided by good intentions – to prevent the financial burden on the treasury, which is possible due to weak legal training of administrative jurisdiction representatives and as a result a large number of lost judicial processes in cases of administrative offences of persons whose interests are protected by professional advocates, lawyers and law firms. However, winning in another proceedings (arising from administrative court procedure) a lawsuit with property claims, a person previously accused of administrative offence is entitled to represent judicial costs incurred already in this civil court procedure under norms of CPC RF.

It is expedient on the basis of the provisions of APC RF to bring to unification the norms on court costs and their allocation in all types of court procedure. In our view, it is possible to remove the conflict of various procedural laws' norms through making the following addition to article 24.7 CAO RF:

"5. In the case of proceedings on case of administrative offence in the courts of general jurisdiction and arbitration courts, the costs on the case of administrative

offence and the order of their distribution are determined by the relevant norms of CPC RF and APC RF on the composition and allocation of judicial costs".

Until then, let's hope that the courts of general jurisdiction would strictly follow the legal position of the Constitutional Court of the Russian Federation in terms of reimbursement set out in paragraph 6 of the Resolution No. 9-P from June 16, 2009:

«…waiver of administrative prosecution in connection with the expiration of the statute of limitations for bringing to administrative responsibility cannot impede the realization of the right to reparation for harm inflicted by the unlawful actions of officials, committed in proceedings on a case of administrative offence. Dismissal of a case is not an obstacle for the establishment in other procedures of neither a person's guilt as a basis for bringing it to civil responsibility or its innocence, nor illegality of administrative prosecution that has taken place in respect of a person in case if harm has been inflicted to it: the controversy concerning reimbursement of harm inflicted by administrative prosecution and concerning reimbursement for moral damage or, on the contrary, concerning recovery of property and moral damage in favor of the victim of an administrative offense are settled in court in civil proceedings (article 4.7 CAO RF).

A person, who has been brought to administrative responsibility, is involved in such a dispute not as a subject of public law, but as a subject of private law and can prove its innocence and suffered damages in the procedure of civil proceedings. Thus, the presentation of relevant demands not in administrative proceedings, but in other judicial procedure can lead to the recognition of illegal the actions of bodies that carried out the administrative prosecution, including the application by them of measures to ensure the proceedings on a case of administrative offense, and to a decision on compensation for damages.

In any case, the termination of proceedings on a case of administrative offence because the statute of limitation of bringing to administrative responsibility has expired cannot prevent the use of the materials of the case as evidence in any other proceedings. However, since the decision to terminate the proceedings on a case of administrative offence specifies circumstances, which have been determined during consideration of the case (paragraph 4 part 1 article 29.10 CAO RF), then, as follows from part 2 article 30.7 CAO RF that applies this rule to resolutions concerning complaints against decisions on cases of administrative offences, these circumstances also have to be verified in the prescribed manner when dealing with complaints about the decision to terminate proceedings on a case of administrative offence.

Denial of the assessment of these circumstances to a person complaining against the relevant decision, including the circumstances proving unfounded conclusions of

jurisdictional body on the presence in actions of these person of an administrative offence composition, would be, in essence, a denial of the right to judicial protection, at that, the Law expressly obliges a judge, a superior official in dealing with complaints against the decision on a case of administrative offence to check it in full, just as in the case of subsequent revision of decision made on the complaint against the judgment on a case of administrative offence (part 3 article 30.6 and part 3 article 30.9 CAO RF).

Thus, by reason of its constitutional and legal sense in the system of the current legislation the provision of paragraph 6 part 1 of article 24.5 CAO RF suggests that when the proceedings on a case concerning an administrative offense have been terminated due to the expiration of the statute of limitations for bringing to administrative responsibility, the validation and evaluation of the findings of a jurisdictional body about the presence in actions of a particular person of administrative offence composition are not excluded. Otherwise would obstacle judicial protection of rights and freedoms of citizens, making illusory the mechanism of reimbursement for damages inflicted by abuse of power, and, consequently, it would be contrary with articles 19, 45, 46, 52 and 53 of the Constitution of the Russian Federation" [5].

References:

1. Arbitration Procedural Code of the Russian Federation from July 24, 2002, No. 95-FL [Arbitrazhnyi protsessual'nyi kodeks Rossiiskoi Federatsii ot 24 iyulya 2002 g. № 95-FZ]. *System GARANT* [Electronic resource], Moscow: 2014.

2. Civil Code of the Russian Federation from January 26, 1996, No.14-FL. Part two [Grazhdanskii kodeks Rossiiskoi Federatsii ot 26 yanvarya 1996 g. № 14-FZ. Chast' vtoraya]. *System GARANT* [Electronic resource], Moscow: 2014.

3. Civil Procedure Code of the Russian Federation from November 14, 2002, No. 138-FL [Grazhdanskii protsessual'nyi kodeks Rossiiskoi Federatsii ot 14 noyabrya 2002 g. № 138-FZ]. *System GARANT* [Electronic resource], Moscow: 2014.

4. Code on Administrative Offences of the Russian Federation from December 30, 2001, No. 195-FL [Kodeks Rossiiskoi Federatsii ob administrativnykh pravonarusheniyakh ot 30 dekabrya 2001 g. № 195-FZ]. *System GARANT* [Electronic resource], Moscow: 2014.

5. Resolution of the Constitutional Court of the RF No. 9-R from June 16, 2009 "On the Case on Verification the Constitutionality of a Number of Provisions of Articles 24.5, 27.1, 27.3, 27.5 and 30.7 of the 2 Code on Administrative Offenses of the RF, clause 1 article 1070 and paragraph 3 article 1100 of the Civil

Code of the RF and article 60 Civil Procedural Code of the RF in Connection to Claims of the Citizens M. Yu. Karelin, V. K. Rogozhkin and M. V. Filandrov" [Postanovlenie Konstitutsionnogo Suda Rossiiskoi Federatsii ot 16 iyunya 2009 g. № 9-P «Po delu o proverke konstitutsionnosti ryada polozhenii statei 24.5, 27.1, 27.3, 27.5 i 30.7 Kodeksa Rossiiskoi Federatsii ob administrativnykh pravonarusheniyakh, punkta 1 stat'i 1070 i abzatsa tret'ego stat'i 1100 Grazhdanskogo kodeksa Rossiiskoi Federatsii i stat'i 60 Grazhdanskogo protsessual'nogo kodeksa Rossiiskoi Federatsii v svyazi s zhalobami grazhdan M. Yu. Karelina, V. K. Rogozhkina i M. V. Filandrova»]. *System GARANT* [Electronic resource], Moscow: 2014.

6. Decision of the Plenary Session of the Supreme Court of the Russian Federation No. 5 from March 24, 2005 "On some issues that arise in courts when applying the Code on Administrative Offences of the RF" [Postanovlenie Plenuma Verkhovnogo Suda Rossiiskoi Federatsii ot 24.03.2005 № 5 «O nekotorykh voprosakh, voznikayushchikh u sudov pri primenenii Kodeksa Rossiiskoi Federatsii ob administrativnykh pravonarusheniyakh»]. *System GARANT* [Electronic resource], Moscow: 2014.

7. Available at: *http://133.sar.msudrf.ru/modules.php?name=sud_delo&op=sd&number=1204793&delo_id=1500001* (accessed: 24.02.2014).

8. Available at: *http.//engelsky.sar.sudrf.ru/modules.php?name=sud_delo&srv_num=1&name_op=doc&number=403900&delo_id=1502001&new=&text_number=1* (accessed: 24.02.2014).

9. Available at: *http://133.sar.msudrf.ru/modules.php?name=sud_delo&op=sd&number=1204852&delo_id=1500001* (accessed: 24.02.2014).