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THE SAFEGUARDS OF ENSURING EQUAL ACCESS OF CITIZENS TO THE FILLING OF JUNIOR POSTS IN PUBLIC SERVICE

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Some of the problematic aspects of exercising the constitutional right of Russian citizens to equal access to public service are considered in the article. The authors analyze the situations precluding for applicants an equal opportunity in the filling of junior posts in civil service.

Keywords: public civil service, public civil service posts, junior public civil service posts, filling of a post in civil service.

Article 32 of the Constitution of the Russian Federation [1] establishes the right of citizens of the Russian Federation to participate in the management of state affairs and the right to equal access to public service.

Federal Law of the RF No. 79-FL from July 27, 2004 "On the Public Civil Service of the Russian Federation" [2] (hereinafter – Federal Law "On the Public Civil Service of the Russian Federation") in general normatively regulates fundamental issues related to entering and passage of the public civil service in the Russian Federation.

However, there is a lack of adequate attention and normative regulation of some problem situations that question the right of a Russian citizen to have equal access to the filling of certain groups of posts in the public service.

Article 22 of the Federal Law "On the Public Civil Service of the Russian Federation" concretizes the right of citizens to equal access through the indication that "the entering of a citizen to the civil service to fill a post of civil service is carried out on the basis of a competition, unless otherwise is provided in this article".

Thus, the competition for the filling of a vacant post of public service is the primary means of ensuring such right for citizens.

It is the decision of the competition commission determines the appointment to a certain post of public service or refusal of such appointment.

But how should the right of citizens to equal access to public service be ensured in "the other" cases?

According to article 4 of the Federal Law "On the Public Civil Service of the Russian Federation", the public service in the Russian Federation is based on a principle of equal access for the citizens in accordance with their professional abilities.

The text of the Decree of the President of the Russian Federation No. 112 from February 1, 2005 [3] and the Provision on the filling of a vacant position of the public civil service of the Russian Federation, which is approved by the Decree, also explicitly emphasizes that "the contest for the filling of a vacant position of the civil service provides the constitutional right of citizens of the Russian Federation to equal access to public service".

In our view, it follows that in all "other" cases, i.e. when the contest may not be carried out, there must be also provided legal and other guarantees of ensuring the constitutionally declared right of citizens on equal access to public service. Moreover, the priority of the rights and freedoms of man and citizen is an undeniable constitutional principle.

However, the practical implementation of these fundamental rules for the so called "other" cases of filling civil service posts is not provided with appropriate guarantees, and may lead to violations of citizens' rights to equal access to public service.

An example is the lack of clarity in the regulation of issues relating to the filling of vacancies and formation of personnel reserves for the junior group of posts in the civil service.

Legislation stipulates that all the posts of public civil service are classified into five groups: top, main, leading, senior and junior. Posts of the junior group of

posts in the civil service belong to the category "ensuring specialists". Part 4 article 22 of the Federal Law "On the Public Civil Service of the Russian Federation" establishes that under the decision of employer's representative the contest may not be carried out in case of appointment to civil service posts that relate to the junior group of posts in the civil service. By the decision of the Constitutional Court of the Russian Federation No. 2-P from 03.02.2009 [4] this norm of the law is recognized complying with the Constitution of the Russian Federation.

It seems that the provision of the Federal Law and the position of the Constitutional Court yet do not entirely conform with the Constitution of the Russian Federation, because they express unfair attitude to those Russian citizens, who have the desire to do public service, but under the subjective discretion of the so-called "representatives of employers" may be deprived of this possibility.

The problem is that when there are vacancies in the junior group of post in the civil service, the right to declare or not declare contests on their filling without any reservations belongs only to the representatives of employer – the heads of state bodies.

However, there are not any legal mechanisms to guarantee the avoidance of prejudice, partiality and even abuse this right in making the final decision.

Thus, the principle of equal access to public service enshrined in the Federal Law "On the Public Civil Service of the Russian Federation" becomes a mere formality.

In practice, these decisions are not always documented in legal acts. Announcements about each vacant post are not made, what allows the representative of employer to appoint on a vacant junior post of public service any person in its sole discretion.

In our opinion, it is not acceptable to allow the possibility of taking managerial decisions in the formation of public service personnel just on the basis of subjective interest of one official.

The significance of the raised problem is not overblown.

The mentioned legal "outgoings" can be attributed to the so-called corruption factors that allow "representatives of employers" to act at their discretion. At that, the "mindset" of the representatives of employers is not adjusted. Thus, there still remains one more legislatively enshrined loophole for potential corrupt officials.

Particularly, we must bear in mind that the true employer to the public civil service by law is, first of all, the State represented by the Russian Federation or its constituent entities.

However, the right of the choice "carry out or not carry out the contest for the vacant junior post in civil service" belongs not to the employer, but to its representative, what is not the same.

Representatives of the employer – the heads of many public authorities in the constituent entities of the Russian Federation are public servants, which also concluded service contracts with other officials that act on their own behalf, and not on behalf of a corresponding constituent entity of the Russian Federation. A similar situation exists at the federal level in relation to the representatives of employer of federal territorial bodies of executive power. All of this shows the mediated nature of such representation.

We believe that the announcement of carrying out or not carrying out of contests for the vacant junior civil service posts should be made mandatory, thus, it will guarantee the realization of the right of citizens to equal access to public service.

The duty of obligatory informing of the population about the availability of vacant positions relating to junior group, even if the representatives of employers have taken preliminary decisions about not holding the contests, should be reflected in part 4 article 22 of the Federal Law "On the Public Civil Service of the Russian Federation".

A decision of the representative of employer about not holding the contest should be taken only in exceptional cases and must be confirmed by the legal act of the public authority specifically adopted on each such case, what should also be enshrined in part 4 article 22 of the mentioned Federal Law.

The legal act must mandatory reflect the reason for impossibility of the contest, at that, the exclusiveness of such reasons should be obvious.

Of course, the proposed procedure does not solve the whole problem, but there is a sufficient guarantee of citizens' right to equal access to public service in case of its normative consolidation.

Unfortunately, there is still no a legislative guarantee of equal entering the public service through the inclusion of citizens in personnel reserve for the filling of junior group posts.

According to part 1 article 64 of the mentioned Federal Law a personnel reserve for filling civil service posts is formed only on a competitive basis, with taking into account a written application by a citizen.

In accordance with part 1 article 22 of the Federal Law "On the Public Civil Service of the Russian Federation", competition is an assessment of the professional level of candidates for filling of a certain civil service post, their conformity to the qualification requirements of the post.

It is obvious that the competition involves the assessment of conformity of a candidate to the requirements for a certain post in civil service. By virtue of this, the formation of personnel reserve for the junior group posts also requires announcement of the contest in generally established and mandatory procedure.

The very way of the official announcement about the formation of personnel reserve for the junior group posts will indicate its public nature and the fact that it is addressed to everyone who meets the professional requirements to mentioned public civil service posts.

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PROTECTION OF HUMAN RIGHTS: DOMESTIC AND INTERNATIONAL MECHANISMS TO ENSURE

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In the article, on the basis of study of international-legal acts and the domestic legislation of the Russian Federation, the authors consider organizational-legal structure, the topical issues of interaction of domestic and international mechanism for the protection of human rights, describe its components, offer ways to improve.

Keywords: human rights, guarantees, international standards of human rights, domestic legislation, international law, legal protection, legal activity, guarantees of human rights, international cooperation.

One of the most important functions of a State is the establishment of an effective mechanism to protect human rights. At the same time, in today's world, the protection of human rights has ceased to be subject to the jurisdiction only of a State of which he or she is a national or under the jurisdiction of which he or she is. So, there is a relevant issue of the correlation of domestic legislation and law-enforcement practice with international standards for legal protection of human.

Human and civil rights enunciated in chapter 2 of the Constitution of the Russian Federation can be effectively guaranteed only when national law enshrines both international and domestic guarantees of their realization and possibilities of application various statutory ways to recover and protect infringed rights. In this connection, the possibility of citizens to apply for protection of their rights in the inter-state bodies is not only a way to stop a specific violation of human rights in a state, but also allows an individual to revive confidence in its own strength, the reality of recovery of fair legal status and adequate reparation for the damage caused by the violation of the rights.

Right of recourse to inter-state bodies for the protection of human rights and freedoms is a completely new phenomenon in domestic legislation. The Constitution of the Russian Federation establishes this provision in part 3 article 46, by this we mean exactly inter-state bodies, since international non-governmental organizations can be accessed without special conditions, but also without legal consequences.

Legal protection of a man is a complex, multifaceted, polystructural formation. Legal protection of a man is not a simple addition of rights protection and rights defense. It goes beyond the both phenomena and has its own unique properties that may by shown through the differences between the legal defense of a man, on the one hand, and defense and protection, on the other. These differences are as follows:

- firstly, if the protection and defense of human rights is only a law-enforcement activity, then the legal protection is both law-enforcement and lawmaking activity. At that, the first is a specific, real legal protection, and the second is an abstract legal protection;
- secondly, legal protection is not only the protection and defense of rights, but, additionally, is a legal assistance to a man provided by the Bar, notaries, public associations, government organizations and agencies;
- thirdly, if legal protection is effective at all stages of the manifestation of a right – general status, possession and use (direct implementation), then the protection of rights is valid only at the stage of the use of the right;

- fourthly, legal protection and the protection of rights have different objectives: the first – to ensure human legal security in general, the second – to protect from violation or restore a specific subjective right;

- fifthly, the legal protection of a man and the protection of rights are different in the types of activity by which they are carried out. The first is implemented through juridical-legal activity, and the second – only through juridical activity;

- sixthly, the legal protection, as opposed to the protection and defense of rights, covers also other elements of the legal status of a man, including his duties;

- seventhly, if the protection and defense of rights apply only to a subjective right, then the legal protection – to law norms (objective right) [13, 14].

Legal protection, as well as any legal activity, is carried out in various forms, including: a) legal activity; b) legal conduct; c) legal practice); d) legal activity; e) legal work; f) legal relation; g) legal regulation.

One of the most important forms of existence of legal protection is a legal activity. It is understood as a mediated by law managerial, state-authoritative activity of competent bodies, which is aimed at creation of laws, administration of justice, specification of law and satisfaction of group and individual rights and interests [5, 8].

Forms of legal activity primarily differ in their aims [9, 14]. A distinctive feature of legal protection as a legal activity is that its goal is the prevention of human rights violations, the provision of legal aid and restoration of rights in case of their violation. Legal result shall be the consequence of legal protection as legal activity. So, its subjects can only be specially authorized by law authorities, institutions, public associations or officials acting on their behalf.

The main value of legal protection as law-enforcement activity is its property to remove existing obstacles in the implementation of human rights and in their restoration in case of violation.

The duty of human rights bodies is to provide legal protection. These include court and law enforcement bodies. The process of human rights law-enforcement activity creates a right neither in objective nor subjective sense.

According to the form of implementation, legal protection is always a legal process, both in the broadest and in narrow sense. As a legal process in the broadest sense, legal protection is a system of interrelated legal forms of activity of state bodies and public associations. As a legal process in the narrow sense, it is a system of interrelated, specially ordered, sequential operations subordinated to a common goal and leading with help of appropriate techniques and tools to a specific outcome.

Legal protection is a legal activity of a particular kind. Activity is itself an activity for human rights protection, and at the same time, the measure of this activity.

Legal activity – this is an activity which is inherent to the respect of law, genuinely free, voluntary and creative actions on the use of subjective rights and exercising of legal duties [15, 8].

Therefore, legal protection is a part of the legal work of the subjects of state power and local self-government, public servants and officials, as well as public associations, which is directly or indirectly aimed at the protection, legal aid and protection of human rights with a view to create a high level of legal security [12, 316].

Legal protection as a legal activity in any of its forms is realized only through legal relations. Thus, it can be said that legal protection is a special kind of legal relations. The legal relation is defined as a specific form of social relations, the participants of which are binded by mutual legal rights and duties. Legal protection is such a kind of social and legal relations, called as human rights protective, in which one (authorized) party is entitled to demand the avoidance of encroachments on its rights, freedoms and lawful interests, that is, their protection, and in case of such to demand their restoration (protection), and the other (obliged) must prevent violations of a right or restore it if it has been violated.

An important element of human rights' protection relations is the right to a remedy. It is neither more nor less than a statutory possibility for an entitled person to require obliged, including a perpetrator, person to avoid violation of subjective right or its restoration it in case of violation.

The human right to protect rights encompasses a number of powers: right of recourse to the courts, right to judicial protection, right to international protection, right to have his or her case in the court and by the judge, under jurisdiction of which it is referred by law, right of an accused to a trial in court with participation of jurors in the cases provided for by law, right of victims of a crime and abuse of power, right of access to justice and compensation for damage inflicted and many others.

The specificity of the powers of the right to protection in rights' protection relations is characterized: firstly, by the opportunity to claim a particular conduct from the other party; secondly, the implementation of power, usually through actions of the obligated party, that is, an legal duty is of an active nature, while a power is of passive one; thirdly, the possibility of coercion of the obliged party to actions demanded by the authorized party or the State [14, 28].

International legal protection of a man is a result of implementation in practice by the international community of states of one of the basic principles of international law – the principle of universal respect for human rights and fundamental freedoms for everybody. Its emergence in international law took place

in the modern period, and adoption – after the defeat of fascism in 1945 [11, 148]. The issue of fundamental rights turned to become international, as a result, constitutional law gradually began to fall under the influence of international standards.

By the time of the end of the Second World War, the international legal practice knew only separate cases of conclusion by a limited number of states of treaties and agreements, which, to varying degrees, dealt with the protection of certain human rights. These include treaties and conventions containing provisions on the suppression of slavery and slave trade, on the protection of the rights of prisoners of war, religious and national minorities. These agreements played a positive role in the protection of human rights, and the experience of their development and adoption was taken into account during the drafting of the Charter of the United Nations, which became the first international document declaring the need to promote universal respect for human rights. The proclaimed in the Charter of the United Nations (preamble) readiness of the peoples of the United Nations "again to reaffirm faith in fundamental human rights, in the dignity and worth of a human person, in the equal rights of men and women and of large and small nations..." and "to promote social progress and better standards of life in larger freedom..." was explained, first of all, by the demand of people to restore fundamental human rights and freedoms violated by the fascism and protect them from possible attempts of violation in the future" [1, 16].

This is why already paragraph 3 article 1 states that the purpose of the United Nations is an international cooperation "… in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion". Thus, the implementation by the UN of international cooperation to facilitate universal respect for human rights is both a goal and duty of this organization.

During the implementation of the objectives and duties of the United Nations in the field of respect for and observance of human rights, for a short period there was formed an effective mechanism for international legal protection of basic human rights in the world. The beginning of its establishment was in 1946, when the establishment of the United Nations Commission on human rights. It responsibilities included the preparation of a Charter of human rights, defining the rights and freedoms proclaimed in the Charter of the United Nations. The Charter had to consist of such instruments as the Declaration of human rights, the Convention on human rights and act containing a mechanism for the implementation of the Convention.

The first part of the Charter of human rights was introduced December 10, 1948, when the General Assembly of the UN adopted the Universal Declaration of human rights. The Universal Declaration was widely supported and applied in all countries of the world. When discussing human rights issues, it is accepted to make reference to the Declaration. Excerpts from the Declaration are contained in the texts of the constitutions of many states, including Russia, they are also included in many international instruments, including regional treaties and conventions, as well as numerous United Nations resolutions, agreed by the member states.

In the course of development of the second and third documents it was decided to replace the second – take two separate documents on human rights. That is why the second and third part of the Charter of human rights include, respectively, two covenants adopted by the General Assembly of the United Nations on December 16, 1966 – International Covenant on Economic, Social and Cultural Rights [3, 24] and International Covenant on Civil and Political Rights [4, 31] that includes the first and second Optional protocols.

Long before the adoption of global universal acts establishing mechanism of international legal protection of human rights, a regional act had been adopted on November 4, 1950 – European Convention for the protection of human rights and fundamental freedoms [2, 54]. This document established the European Commission of human rights and the European Court of human rights (article 19). The Commission's competence was to consider complaints submitted by any state-participant through the Secretary-General of the Council of Europe concerning an alleged breach of the provisions of the Convention by another state (article 24), to receive and consider petitions addressed to the Secretary-General of the Council of Europe from any person, non-governmental organization or group of individuals who claimed they had become a victim of a violation by one of the parties of the rights enshrined in the Convention (article 25). The Court's jurisdiction included all cases relating to the interpretation and application of the Convention, that contracting parties or the Commission filed to the Court (article 45).

Thus, by the end of the 1960's – early 1970's, a mechanism of international legal protection of human rights had formed, which covered the majority of sovereign States and which had been preserved up to the present time with some innovations at the regional level.

The term of "international protection of rights" in regional documents has been used since November 4, 1950, since the signature by the members of the Council of Europe of the European Convention for the protection of human rights and

fundamental freedoms (article 26), and in global documents – since November 19, 1966, since the adoption by the UN General Assembly the Resolution 2200A (XXI) approving the Covenant on Civil and Political Rights (article 2). However, in the domestic scientific literature, the term of "international legal protection of a man" had become to be used most recently, since the mid-1980's, when the democratization and the deideologization of international relations started , and in the last 15 years it has been widely used [6, 34].

For example, A. P. Movchan wrote that "the international protection of human rights" was put in the scientific literature and media from spoken language as a concise synonym of the activity of the UN and states in the field of observance human rights. That is, under the short formula "the international protection of human rights", he believed, they had become to recognize "international cooperation of states, the UN efforts and measures to promote "universal respect for and observance of human rights and fundamental freedoms for everybody..." (paragraph "q" article 55 of the UN Charter) [1, 17].

In fact, the same, only more extensive definition is given by the authors of one of textbooks. "The international protection of human rights, they write, is a set of international concerted measures aimed at the establishing of a universal minimum of basic democratic rights and freedoms, at the prohibiting illegal encroachments on the rights and freedoms including discriminatory policy and actions recognized criminal in terms of contemporary international law. The scope of international protection of fundamental human rights includes development of international agreements and other instruments on human rights, as well as their promoting" [10, 20].

A. P. Movchan distinguishes three basic elements in the international protection of rights. They are: a) creation of recommendations addressed to all member states about what human rights and fundamental freedoms for everybody should be subject to universal respect and observance; b) elaboration of international human rights treaties (covenants, conventions, etc.), which impose legal obligations on states to recognize, provide and ensure effective protection, in accordance with their legislation, of the rights and freedoms of an individual, which are listed in such international agreements; c) establishment of a special international mechanism to verify compliance by states with their international human rights obligations [10, 23].

V. A. Kartashkin inputs in the international legal protection of human right such components as the purpose, principles, international agreements containing norms and principles concerning fundamental human rights, social, economic,

political, civil and cultural rights of a man, as well as the control mechanism of the UN [7, 81].

Yu. A. Reshetov, in his turn, notes in international legal protection such elements as obligations of states to respect human rights; states' responsibility for gross violations of human rights; legal remedies [13, 162]. V. M. Chhikvadze singled out as such: human rights protection mechanism; standards for the protection of human rights; transformation of inter-state agreements into national legislation; legal personality of individuals; mechanism for ensuring human rights at the international level [16, 117]. The scientists especially highlight in the system of international legal protection of human such its element as implementation (practical exercising) [5, 115].

The foregoing leads to the conclusion that the domestic mechanism for the protection of human rights is based on international legal standards in this field. The contemporary mechanism of international legal protection of human rights includes the following interrelated and interdependent elements: 1) goal; 2) principles; 3) international legal treaties governing the international legal protection of a man; 4) international standards of fundamental human rights; 5) implementation of the international legal protection of a man.

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PROFESSIONAL CAREER OF A PUBLIC SERVANT: CONCEPT AND TYPES

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The issues of career advancement of a public servant are studied in the article. The author notes gaps in the legislation on public service in the considered part, for example, the absence of provisions strictly governing official promotion of servants, as well as their legal protection in the event of a change of top leadership of a public authority.

Keywords: public service, professional development, the principle of equal access to public service, contest for vacancy, personnel reserve, appointment to office, performance assessment.

The changes that have occurred in Russia over the past ten years made relevant the problem of strengthening the statehood and improving the efficiency of public service. The dependence of results of socio-economic transformations on the state of management mechanism and the quality of staff performing public functions is getting increasingly obvious. The activity of public servants is substantially influenced by their status stability (stability of employment, guaranteed wages), as well as by opportunities for career advancement as they gain experience and professional knowledge.

Historically, the interpretation of the concept of career has stood many changes, which ironically at odds with each other, or, on the contrary, to a certain extent complement each other.

The term of "career" has many meanings. It comes from the Latin word *carrus* – cart; from the Italian *carrier* – jogging, life path, life arena; from the French *cariere* – promotion in any sphere of activity, achieving notoriety, fame, benefits [20, 267]. In the 19th century the notion of career was defined as "a way, life arena, service, success and its achievement, success in society, rapid achievement of ranks and orders" [5, 69].

In Russia during the Soviet era the definition of career was considered with more negative tint. Career was understood as a way to promote someone to external success, benefits, fame, respect, as well as achieve personal well-being, which was inextricably linked to a social activity. It was believed that only a man of bourgeois-aristocratic environment could build career.

To date, there is still no definitive definition of career, the authors focus on the different characteristics of career process. Let's look at the most popular approaches to the definition of the concept of career.

First of all, you need to divide such seemingly similar, even in sound, concepts like career and careerism. Until recently, the concepts of "career" and "careerism" belonged to the same moral base that was recognized socially negative. This attitude formed due to the domination of official propaganda of the ideas of social equality. "To build career" meant conscious aspiration to elevate itself above other people, with the sole purpose of obtaining personal advantages in the process of distribution of material benefits. This interpretation of career really identified it with the ideas about careerism. However, nowadays we have already got the distinction of these similar in sound concepts. Careerism is defined as "career aggression", i.e. invasion of career space, its intensive development at high-status levels with the suppression of normal career processes, deformation of staff policy and the system of social management [3, 97].

The term of "career" is quite often met in the works of foreign researchers, an extended definition of career defines it as "a life path divided into certain intervals associated with his work" [9, 160].

In our country, a detailed study of the concept of career has begun relatively recently. A fairly broad definition of the notion of the word career can be seen, for example, in "The Dictionary of Russian Synonyms", where career is considered as a future, destiny. From the point of view of philosophical knowledge the concept of career is dynamic, and is defined as "a process, passing, sequence of states of systems" [21, 391]. On the other hand, often in the first place there is the concept of career as "advancement in any field of activity". The second meaning of the word career is defined as "achieving notoriety, fame, benefits". In third place there is such explanation of career as "designation of a type of occupation, profession" [3]. If you specify the concept of career from the perspective of sociology, career is closer related to service activity: "career is the result of professional or official promotion in the life of an individual" [2, 277]. On the other hand, career is defined as the social advancement experienced by a person in the course of a lifetime, although it is usually associated with the professional activity of an individual [9, 160].

In the politological interpretation career is considered from two perspectives:

1. Career – individually-conscious attitude and behavior of a man related to his labor, experience and activities throughout his life.

2. Career – an actual sequence of occupied stages (posts, jobs, positions) in a team.

In a general sense, career is a promotion of a human by steps of production, property and social scale.

You can also clarify that the nature, type of career, its tempo is defined both by the objective possibilities, presented by the society for its implementation and by the specific circumstances of an individual's life, his personal abilities, ambitions, will, family situation, state of health and various other factors [28, 262].

The essential component of the above definitions of career is advancing, that is moving forward. In this regard, career is as a process that is passing the sequence of system states.

In view of the ambiguity of the definition of career concept, you will notice that many explanations career relates to the notion of an individual's success. This semantic component is inherent to the concept of career even at lexical level. So, in the Ozhegov's dictionary the career is defined as "the path to success, prominent position in society, at service, as well as the achievement of such provision" [14, 273]. On the other hand, in the dictionary of foreign words the career is interpreted

as a successful promotion in public, service, scientific, etc. activity or as an occupation, profession [18].

Scientific directions for the study of the phenomenon were formed in the mid-1990s. Career is implemented in the course of human activities. Activity approach to understanding the concept of "career" is based on the perceptions of the ways and forms of promotion of an individual in the various areas of its activity and it is considered in the works of many scientists investigating the scope of human resource management. The domestic school has formed the approach to the definition of "career" in broad and narrow sense.

In the broad sense, career is defined as a general sequence of stages of human development in key areas of its life (family, labor, leisure). At that, the career is represented through dynamics of socio-economic status, status-role characteristics and forms of social activity of personality.

In a narrow sense, the concept of "career" is associated with the dynamics of status and activity of an individual in labor activity [22, 67].

A. K. Markova also distinguishes between the broad and narrow understanding of career, but gives them a somewhat different sound. In the first case, the career is considered as a professional advancement, professional growth, the transition from one stage of professionalism to others. In the second case, the career is considered as advancement in office, where the achievement of a certain social status, occupation of a certain post is on the first place [10, 65].

This idea is supported by A. I. Turchinov, who considers career as an individual labor path of a man [19, 162]. The concept of "staff career" in his view reflects the unity of two career processes – professional career and official career. S. V. Shekshnya gives only a very compressed "narrow" definition, considering career as a "sequence of positions held by an employee in the same organization" [26, 149].

O. P. Fillipov interprets career as a "human progress at the stages of production, social, administrative or other hierarchy" [25, 182]. The author distinguishes criteria that determine the nature of the career:

- personally psychological (personal abilities of an individual, its ambitions, will);
- macro-economic (the dominant type of socio-economic relations);
- social factors (opportunities for career that are objectively represented by the society).

G. B. Mikhailova states that in today's environment the concept of "career" is treated as an individual's movement in professional growth that corresponds to its value orientations, and at the same time fully satisfies the interests of society [11].

This understanding of career stems from the recognition of the interests of an individual and the society. This approach provides an opportunity to consider career as a universal indicator of social and professional development of the representatives of all social stratums [15, 85-92]

The authors dealing with the study of career process have suggested that the problem of career has attracted increasing attention of researchers of various scientific directions. This process has two fundamental determinants – individual one and social-managerial one. The first relates to the actualization of human needs in ensuring its own safety and well-being. The second relates to the increase of significance in all the managerial processes of the so-called human factor, which is based on individual career potencies mobilized and organized for the benefit of the system [7, 45].

Analysis of the approaches of different authors to the issue of typology of career development leads to the conclusion that the promotion of an entity in social environment is not a simple linear process, being a complex phenomenon expressed through the dynamics of ups and downs, crises and recoveries.

The diversity and complexity of the phenomenon of career is reflected in the diversity of its types, as well as the diversity of approaches to the distinguishing of career typology. There are a variety of grounds, signs and criteria for classification of career types [4, 233-235]. For a deeper analysis of career you need to consider this diversity of types.

As for the field of consideration, career is traditionally divided into professional and intraorganizational.

Professional career is characterized by the fact that a specific employee in the course of his professional activity goes through different stages of development: training, recruitment, professional development, support of individual abilities, retirement.

Intraorganizational (official) career covers a consistent change of development stages of an employee within an organization. Intraorganizational career relates to the trajectory of human move in an organization. Intraorganizational career is implemented in three main directions (vertical, horizontal, centripetal). Vertical direction is often associated with the very concept of career because it implies rising to a higher level of structural hierarchy [8, 40].

As for the time of passing stages, official career can be divided into normal, fast, “landing” [17, 257].

Normal career – gradual progression of a man to the top of job hierarchy in accordance with constantly evolving professional experience. The limit of this

official development is connected to the level of his professional competence. The duration of this career is equal to the duration of the active labor activity of a man.

Fast career – rapid, but still consecutive, official vertical movement in organizational structure.

"Landing" career – spontaneous filling, as a rule, of head positions in organizational structure. The very fact of filling positions is essential for representatives of such a career.

As for the content of changes occurring in the course of career movement, scientists distinguish such types of career as overbearing, qualification, status and monetary one.

The overbearing career relates either to a formal growth of influence in an organization through the vertical movement in management hierarchy, either with the growth of informal authority of an employee of the organization.

The qualification one involves professional growth, career movement per grade of tariff scale of one or another profession.

Status career – this is an increase in employee's status in an organization, expressed either by assigning the next rank for seniority, or honorary title for distinguished contribution to the development of the company.

Monetary career is an increasing the level of remuneration of a worker, namely: wages, the amount and quality of provided social benefits [23, 310-314].

As for the nature of dynamics, career is divided into the following types:

- ordinary career – as a professional development with the passing of the main stages of professional life;

- stable career – as a direct promotion from professional growth to the only permanent type of work;

- unstable career – one, in which the phases of trials and consolidation are followed by new trials. These new trials can be compelled (in the event of loss of employment, health), voluntary (change of interests) or be caused by the reorientation in interests. New trials can be multiple;

- combined career – when short periods of professional life and employment are followed by phases of involuntary unemployment or change of profession, reorientation, retraining [10, 154-155].

P. Shtompki offers a career typology based on the nature of "climbing". He suggests the following types of career process:

- progressive type – the development in upward direction;

- regressive type – downs in career process, different by duration (occur when

there is a mismatch between the skills or human activity and his status, structural reorganization, etc.) [27, 31-37].

The processes of the mentioned directions can develop with a continuous sequence, representing a linear type.

Also an irregular development or breakthroughs may occur after lengthy periods of quantitative growth – this type is called a non-linear. If career process experiences repeated exposures, it may take the form of a sine wave – then this is a cycle type. If there is a similarity of processes, but they differ in the level of complexity, it's safe to say that the process is moving in a spiral. It happens that changes do not happen in the state of system over a period of time, it is defined as career stagnation.

By the status of the head, career is divided as follows:

1. Lower management link (technical level). This is the level of management that is directly over the workers and performers. These workers are responsible for resources, raw materials, equipment. Half of the work time of the managers of such rank is spent in communication, in the main with the direct performers, some time with masters and the least of all with their superiors.

2. Middle management link (managerial level). Middle management is like a buffer between lower and higher links of management. Middle management representatives spend almost 90% of their work time in interaction with people.

3. Higher management link (institutional level). This is the smallest layer of managers. Exactly higher management representatives are responsible for making the most important decisions. Work week of the managers of such rank is 60-80 hours, almost 70% of the time is spent on sessions and meetings, about 20% to work with papers.

Some authors indicate that, depending on the objective conditions, intraorganizational career of an employee can be perspective or deadlock. Career line can be either long or very short.

Career promotion is determined not only by the personal qualities of an employee (education, skills, attitude to work, system of internal motivations), but also by objective ones, such as:

- the highest point of a career – the highest post existing in a particular organization;
- career length – the number of positions on the way from the first position of an individual in an organization up to the highest point;
- indicator of the level of position – the ratio of the number of persons working at the next hierarchical level to the number of persons employed at the hierarchical level, where there is a person at the moment of his career;

- indicator of potential mobility – the ratio (at some specific time period) of the number of vacancies at the next hierarchical level to the number of persons employed at a level, where there is a person [6, 158].

Career development refers to the actions that are taken by an employee to implement its plan and professional advancement. An employee's career development is a long process, which can include a number of periods. These should include:

- professional development (retraining, internships) in the system of continuous education;
- enrollment in personnel reserve for promotion to senior positions when an employee must receive training in the system of continuous education according to individual plans;
- appointment to a higher position (based on the results of training in the reserve, the decision of contest, certification commission, the decision of organization's leadership);
- employee rotation within his department [14, 95-100].

In thinking about career V. L. Romanov shows an interesting thought that the "keys" of career belong to two owners – servant and the State in the person of appropriate officials. The first should organize himself in achieving career goals, the latter should ensure equal career conditions for all employees, encourage career aspirations and implement an objective selection of candidates for qualification and official advancement [16, 60].

Recent times, the issues relating to career development have been increasingly discussed. Career development requires joint efforts of an employee, his direct supervisor and HR professionals, and can have a positive impact on the organization by optimizing the use of personnel, increasing its motivation, imparting targeted nature to vocational training [26, 198].

Successful career requires a continuous process, but it seems quite obvious that career development is not possible without human self-development.

As for the criteria of successful career – these are life satisfaction (subjective criterion) and social success (objective criterion). That is, the objective, the outer side of career is a series of professional positions occupied by an individual, and the subjective, the inner side is how a person perceives his career, his way of professional life and his own role in it.

Thus, career is seems to be a result of conscious attitude and human behavior in the field of labor activity associated with official or professional growth [23, 409], forward movement through the ranks of career ladder, change of skills, abilities,

qualification opportunities and remuneration associated with employee activity [24, 298].

Career advancement is defined not only and not so much by movement forward career ladder of organizational hierarchy as the process of exercising of the man's opportunities in conditions of professional activity [12, 24].

Significant gaps of legislation on public service are: the absence of provisions expressly governing official promotion of employees, as well as their legal protection in the event of a change of top leadership of a public authority.

To solve this problem, we need:

- firstly, explicit enshrining of provisions governing official promotion of employees, as well as their legal protection in the event of a change of top leadership of a public authority;
- Secondly, explicit enshrining of provisions that in case of successful completion of performance assessment of a public servants he is guaranteed to be given the opportunity to further career progression through career promotion. Of course, in this case, we must respect and some other conditions, in particular, the scope of work performed by an employee, as well as other merits, for which the servant is assessed: not just "corresponds to the contest post", but "corresponds to with the obligatory career promotion";
- Thirdly, the introduction of a procedure for employee's career advancement (similar to the qualification exam, it can be a "career exam" or "position exam"). The main difficulty in this case is the lack of a sufficient number of vacant posts, which are required for the regular conduct of the procedure, otherwise it runs the risk of turning into a procedure carried out from time to time, only when there is a vacant position, this will fundamentally change its essence and sense.

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THE TOPICAL ISSUES OF IMPROVEMENT THE FEDERAL LAW "ON THE POLICE"

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The authors substantiate the necessity of legislative consolidation of the notion of "police", suggest author's edition of article 1 and part 1 of article 4 of the Federal Law "On the Police".

Keywords: police, Russian police, the notion of "police", legislative consolidation of the notion of "police".

The Federal Law No. 3-FL "On the Police" from February 7, 2011, which entered into force on March 1, 2011 (as restated by the Federal Law No. 15-FZ from February 12, 2015) [1] (hereinafter referred to as the Law on the Police), is one of the most resonant and widely discussed laws of recent times, creates normative-legal grounds of organization and activity of the Russian police, serves as the basis for the development of normative legal acts of the so-called "police focus". It is based on the conceptual ideas, which correspond to contemporary realities, and enshrines, including, law enforcement function of the police [4, 5-8].

The notion of "police" in this normative legal act is indirectly disclosed through the prism of its social role in Russian society. So, according to part 1, article 1 "The Purpose of the Police", it is intended for protecting the life, health, rights and freedoms of citizens of the Russian Federation, foreign citizens and stateless persons, countering crime, protection of public order, property and ensuring public safety. At that, the police shall immediately come to rescue everyone who is in need of its protection against criminal and other wrongful encroachments.

At the same time, it should be noted that the Law on Police does not contain the legislative definition of the notion of "police", and is limited to the category of "police is intended for", that, in our view, requires amendments in the current legislation and the introduction of the definitions in legislative and scientific turnover.

The word "police" is derived from the Greek "politeia" (polis – a city), exactly so Aristotle called urban (at that time the idea of statehood was associated solely with a city) and in general public administration. At that time the main sense of efforts of state power was limited to ensuring external security [9, 9].

As noted out by F. Engels, "in regard to citizens, public authority originally existed only as a police force, which is as old as the State" [12, 105]. However, this statement cannot be taken literally because "for many centuries, the term of "police" was denoting not a specific body of the state, but state activity encompassing all internal public administration and called as police activity" [4, 122].

The term of "police" borrowed by the Romans was subsequently consolidated in the legal lexicon of the European states. Peter the Great took this term in Russian language from the German [6, 9].

Since the XVIII century the most common content of the notion of "police" has become the system of administrative bodies intended to combat offences.

The second half of the XVIII century in the Russian Empire is marked by the development of a new system of state bodies. A significant sign of this change in the composition and structure of the state apparatus is the establishment of regular police.

In the process of historical development in the Russian Empire, as in Western European countries, the scope of the term of "police" had a tendency to shrink.

At the turn of the nineteenth and twentieth centuries the powers of police in the Russian Empire were very indefinitely, "very widely and approximately" regulated by the legislation of that time [7, 18], that often led to the possibility of abuse, often as part of exercising the discretionary powers of the police. Enormous power, which the police possessed, turned back against itself [9, 18; 4, 171-172]. Domestic scientists pointed out that police "as if has lost self-esteem in the minds of its uselessness... "Police officer" was a swear-word [11, 5].

Decree of All-Russian Central Executive Committee and Council of People's Commissars of the RSFSR from July 10, 1920 approved the Provision on Workers' and Peasants' Militia [8], which summed up the creation of police for previous years, enshrined its structure, duties and competence. The Militia, "initially created from people's militias, all these decades performed traditional police functions of a specialized professional body for the protection of public order and fight against crime".

Currently, in most countries of the world, police is a specialized law enforcement body designed to protect life, health, property, public order and public safety" [7, 17]. Today it is time to return to the name that is traditional for this key body of law enforcement system [4, 7].

Political and legal prerequisites of renaming the Russian militia into the police are linked to the implementation of the Decree of the President of the Russian Federation No. 1468 from December 24, 2009 (as restated by the Decree No. 254 from March 1, 2011) "On the Measures to Improve the Activity of Internal Affairs Bodies of the Russian Federation" [2], which stresses the need for modernization of the existing structure of the internal affairs bodies, arrangement of their activity, personnel, financial and logistics supply of militia.

The adoption of the Decree of the President of the Russian Federation No. 208 from February 18, 2010 (as restated by the Decree No. 202 from April 4, 2014) "On some Measures to Reform the Ministry of Internal Affairs of the Russian Federation" [3] became the starting point in the development of the Law "On the Police". Preparation of the law took place with the participation of wide public layers, the involvement of leading scientists, representatives of the Public Chamber, practitioners of structural subdivisions of the Russian Interior Ministry, prominent human rights defenders.

Talking about the renaming militia into police, Yu. P. Solovey rightly noted that "the verbal form is now fully in line with the content of the denoted institute" [10, 18].

In any state police activity involves the possibility to apply measures of state coercion, in strict compliance with current legislation. At the same time, according to the shared by us opinion, S. P. Bulavin describing the applicability of these measures by police officers does not consider their application as a major attributive sign of police [10, 14]. A similar position is taken by V. V. Chernikov, who notes that "the mention of application coercion measures as an attributive sign of police is excluded from the definition of police" [5, 10]. According to the scientist, "police work is not only law-coercive, but also, and above all, law enforcement activity, since either applying the law or ensuring its compliance or restoration the police protect the law and appropriate public relations" [5, 10].

The absence in the law of indication to the coercive nature of police work, in our view, is an evidence of consolidation, first of all, of law enforcement purpose of police, which pushes coercion out of the primary roles.

The Law on Police contains an exhaustive list of rights and duties of a police officer, makes the work of the police more transparent and controlled by society, stipulates that the police activity is based, inter alia, on the universally recognized principles and norms of international law and international treaties of the Russian Federation, what seems very important in the protection of human and civil rights and freedoms in accordance with international standards.

The adoption of the Law on Police marked the beginning of a new phase in the history of Russian law enforcement bodies. At the same time, the lack of definition of the notion of "police" is a failure of the legislator, what proves the need to consolidate this definition in the legislation. Without claiming to be the truth in the last instance, in order to draw the attention of the scientific community to the existing gap in the legislation, we offer:

1. To state article 1 of the Federal Law "On the Police" in the following version:

"Article 1. The Notion and Purpose of Police

1. Police is a system of armed specialized law enforcement bodies, which is a part of a single centralized system of the federal body of executive power in the sphere of internal affairs, intended to protect the life and health of an individual, its rights and freedoms, property, interests of the society and the state against criminal and other unlawful encroachments.

2. Police is intended for protecting the life, health, rights and freedoms of citizens of the Russian Federation, foreign citizens and stateless persons (hereinafter – citizens, persons), countering crime, protection of public order, property and ensuring public safety.

3. Police shall immediately come to rescue everyone who is in need of its protection against criminal and other unlawful encroachments.

4. Within the scope of its powers police shall render assistance to federal governmental bodies, governmental bodies of the subjects of the Russian Federation and other state bodies (hereinafter – state bodies), local self-government bodies, other municipal bodies (hereinafter – municipal bodies), public associations, as well as organizations irrespective of forms of ownership (hereinafter – organizations), officials of these bodies and organizations (hereinafter – officials) in the protection of their rights".

2. To state part 1 article 4 of the Federal Law "On the Police" in the following version:

"Article 4. Organization of the Police

1. Police is a part of the system of the Ministry of Internal Affairs of the Russian Federation".

Currently, the system of normative legal acts governing the police activities continues its formation with taking into account international legal standards for the protection of the rights of man and citizen. The Russian "police" legislation is in conformity with the standards accepted in the most developed countries of the world community. At the same time, in order to improve the legal basis for police activity in the Russian Federation it is necessary to enshrine the notion of "police" in the current legislation.

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THE NEW REALITIES OF PARTICIPATION OF LAW ENFORCEMENT PUBLIC ASSOCIATIONS AND CITIZENS IN PUBLIC ORDER PROTECTION

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The article deals with the issues of participation of law enforcement public associations and citizens in the protection of public order in connection with the adoption of the Federal Law "On the Participation of Citizens in Public Order Protection", identifies the problems of legal regulation in the considered sphere of public relations.

Keywords: public order, public associations, citizens, interaction, physical strength, law enforcement orientation.

The fight against breaches of public order has historically existed not only as a sole function of law enforcement bodies, but also as a result of the activities of citizens determined by their spirit, awareness of themselves as a self-organized community.

As a result of the reform of the Ministry of Internal Affairs of Russia, which ended in the year 2011, the number of staff, including those performing functions of public order protection, has been seriously reduced (as a result of the reform of the Ministry of Internal Affairs of Russia and the renaming of the militia into the police there were reduced approximately 22% of employees who have not passed recertification).

Nowadays, there is a pressing question: is it possible to replace a police officer by a citizen performing functions of public order protection, and what powers will he have?

In our view, the answer must be clearly negative. Public order protection should be performed by professionals that have an adequate level of training.

At the same time, it should be noted that without public support and wide involvement of citizens, as well as their associations, in the protection of public order the achievement of the desired goal seems very problematic.

Today reliance on public trust and support of citizens presupposes the recognition and assessment of public opinion on police activities in general, including concerning the protection of public order. In this connection, the direct involvement of citizens and public associations in the implementation of law-enforcement functions, of course, is critical for increasing the level of credibility to the police activity.

Participation of law enforcement public associations and citizens in public order protection involves providing assistance by citizens to internal affairs bodies (police) and other law enforcement agencies in order to protect the life, health, honor and dignity of an individual, property, interests of the society and the state against criminal and other unlawful infringements committed in public places.

The current legislation contains a number of constraints associated with the participation of citizens in the protection of public order, they are:

a) citizens must not impersonate employees of internal affairs agencies (police) and other law enforcement agencies, as well as to exercise activity referred by the legislation of the Russian Federation to the exclusive competence of these bodies;

b) citizens must not engage in activities for the protection of public order, which obviously involve threat to their life and health.

Activity of citizens and public associations in the field of public order protection had been significantly reduced by 1989. By this time, the traditional Soviet organizational forms of public participation in the fight against offences had become ineffective due to the social and economic changes in society. Since the early 90's, there were also noted negative trends in the field: transfer to commercial entities the premises of public order protection posts, privatization and closure of large enterprises, lack of funding and others. Despite this, some forms of participation of citizens in the protection of public order remained, and some were converted in accordance with the requirement of modern times.

Until recently, the participation of citizens in public order protection in the Russian Federation has been regulated by a large number of disparate normative acts. So, only at the regional level, there were more than 60 normative legal acts at various levels [1; 5; 6; 7]. Due to the absence of a universal mechanism of legal regulation there was variety of forms for the participation of citizens and their associations in ensuring public order: voluntary Cossack squad (Astrakhan); squads of public security under patrol-guard service (Irkutsk); municipal voluntary people's squads for public order protection (Irkutsk); youth squads (Severodvinsk); "Municipal Law Enforcement Squad" (Severodvinsk); students' squad for public order protection (Tomsk); self-defense groups, operational youth squads, operational squads of hostels (Altai Republic); students' squad (Novosibirsk, Omsk); voluntary people's squad (Moscow, Dubna), etc.

Nowadays, there is a unified Federal normative legal act governing the involvement of citizens and law enforcement public associations in law enforcement activities [2]. In addition, in the constituent entities of the Russian Federation adopt normative legal acts regulating the corresponding public relations [4].

There are various forms of joint activity of the police and citizens, members of the public, aimed at the protecting of public order, in the Russian Federation today. These include voluntary people's and Cossack squads, operational squads and police assistance squads, including youth ones, freelance units of road patrol service, etc. For example, there are public order protection squads, specialized squads of people's guard (for assistance to road traffic police), Cossack squads ("the Cossacks Police"), student squads of public order protection in Sverdlovsk, Tyumen, Kurgan, Kirov regions; in Kostroma, Arkhangelsk and Penza regions – public councils, voluntary people's squads, youth operational (searching) detachments, freelance police employees; in Samara, Tomsk, Belgorod, Voronezh and Pskov regions – voluntary people's squads, students' operational detachments, 24-hour patrol groups at mass public places, public points for public order protection, councils (groups) for crime

prevention; in Krasnoyarsk Territory, Novosibirsk, Tula and Ulyanovsk regions – voluntary youth squads. With their help, tens of thousands of crimes are solved, hundreds of thousands of administrative offences are revealed each year [9, 350].

Actually, law enforcement public associations have been long operating in many regions of the country. Totally in the territory of the Russian Federation there are more than 34 thousand law enforcement public associations, which have more than 363 thousand people, including nearly 46 thousand people in the 872 Cossack squads.

According to statistics, in 2013 people's guard and other associations of law enforcement orientation helped to arrest almost 357 thousand offenders, solve more than 32 thousand crimes, reveal some 460 thousand administrative offences [8].

The Federal Law No. 44-FL from April 2, 2014 "On the Participation of Citizens in Public Order Protection" does not provide a clear list of forms of activity in the field of protection of public order, but the analysis of its provisions allows the following forms:

1) citizens' participation in the protection of public order;

2) citizens' participation in the search for missing persons;

3) participation in the activity of law enforcement public associations, the purpose of which is the protection of public order;

3) activity of people's squads;

5) freelance police officer activity.

Some of these forms require mandatory registration, for example, a people's squad must be registered in the Register of people's squads and public associations of law enforcement orientation in a particular constituent entity of the Russian Federation.

Public order protection activity includes, firstly, informing the police and other law enforcement agencies about crimes and threats to public order; secondly, participation in the protection of public order at the invitation of internal affairs bodies and other law enforcement agencies; thirdly, participation in the protection of public order during mass events at the invitation of the organizers, in cases of emergency; fourthly, participation in the prevention and suppression of offences; fifthly, the dissemination of legal knowledge, clarification of standards of conduct in public places; sixthly, participation in the work of coordination, consultative, expert and advisory bodies for the protection of public order, created in law enforcement agencies, at their invitation.

In a number of foreign countries citizens are given a wider range of powers in maintaining law and order. So, in the Republic of Belarus, in accordance with

the Law "On Citizens' Participation in the Protection of the Rule of Law" and "Exemplary Provision on a Voluntary Squad", approved by the Decree of the Council of Ministers, voluntary squads take part in the protection and defense of the state border. Another approach is used in the legislation of the Kyrgyz Republic. Besides the directions of activities of law enforcement public associations contained in the Russian legislation, we can note the following: traffic safety; public control over the observance of legality by law-enforcement bodies, including human rights in places of detention; prevention of drug and alcohol abuse, abandonment and neglect of minors; environmental protection, land use and wildlife, environmental and fire safety; protection of monuments of history and culture.

The novelty of the Russian legislation is the provision of such an independent direction as citizens' participation in the search for missing persons. The implementation of this activity has become widespread in the last time and, of course, was in need of legislative regulation.

In addition, the position of the legislator that has provided possibility of administrative responsibility for actions aimed at hindering the legitimate activities of people's guard or freelance police officer seems to be correct [3].

However, there is a number of problems, which have not been solved yet. First of all, it is the use by citizens involved in public order protection of physical force and special means. Thus, under article 19 of the Federal Law "On the Participation of Citizens in Public Order Protection" people's guard in the participation in public order protection may use physical force only:

1) to eliminate the danger directly threatening them or other persons;

2) in self-defense;

3) in case of emergence, within the limits defined by the legislation of the Russian Federation.

In all other cases it is prohibited to use physical force to prevent offences. A citizen in the implementation of these activities does not have any special powers.

The above stated allows us to make a conclusion that nowadays in the Russian Federation, both at the federal level and at the level of the subjects, there are processes of formation of a legislation governing the participation of law enforcement public associations and citizens in the protection of public order. Analysis of the effective normative legal acts leads to the conclusion about the need to improve them. In particular, it is necessary to provide for the possibility of use of special means of individual protection; regulate the prohibition of disclosure of information that is an official secret and which has become known to a citizen in connection with his implementation of law enforcement activity.

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HUMAN RIGHTS AND FREEDOMS: THE TOPICAL ISSUES OF PROTECTION AND LIMITATIONS IN THE INTERNATIONAL LAW AND DOMESTIC LEGISLATION OF THE RUSSIAN FEDERATION

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The article deals with the topical issues of protection and restriction of human and civil rights and freedoms in terms of domestic legislation of the Russian Federation and norms of international law.

Keywords: human rights and freedoms, the principle of respect for human rights, international treaties, constitutional state, limitations on human rights and freedoms, ensuring of national security, territorial integrity, public order, international monitoring of human rights.

Human rights and freedoms is one of the highest cultural values of civilization, because they put a personality at the center of all the processes of historical social development, determine the degree of its freedom and equality. Human rights and freedoms perceived by the civilization for two and a half thousand years have gained a modern form and understanding, and the principle of respect for human rights has become one of the fundamental principles of international law.

Human rights represent a system; it is proven by the adoption at the World Conference on human rights in 1993 of the Vienna Declaration and Programme of Action, which defined: "All human rights are universal, indivisible, interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis. While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms" [4, 22].

Positive significance of human rights for both international and domestic relations is emphasized in the preamble of the Universal Declaration of human rights: "... recognition of the dignity inherent of all members of the human family and of their equal and inalienable rights is the foundation of freedom, justice and peace in the world" [9, 11].

The universal nature of human rights and freedoms is manifested in the facts that:

a) all persons, without any discrimination, have the fundamental rights and freedoms (the norms of international law and domestic legislation of truly democratic states guarantee equal rights and freedoms of individuals, regardless of sex, race, nationality, language, origin, material and official status, place of residence, attitude to religion, convictions, membership of public associations and etc., while prohibiting any form of discrimination on the specified signs);

b) human rights and freedoms are in the focus of all democratic states (the problem of ensuring human rights and freedoms is an internal affair of not just for a separate state, but also for the international community as a whole);

c) in terms of content, human rights and freedoms are generally recognized (for example, the right to life; the equality of all before the law; the right to free movement and choice of the place of stay or residence; the right to nationality; the right to freedom of opinion; freedom of religion, etc. are common to all individuals, regardless of nationality, cultural and religious peculiarities, political regime, form of government and state structure, etc.).

d) the universality of human rights and freedoms extends beyond national boundaries (wherever a man, he has got generally recognized natural rights and freedoms).

Domestic legislation and practice of legal protection of human rights and freedoms in a state as a result of implementing international-legal protection should be assessed in terms of how effectively the state provides the implementation of

international-legal standards for the protection of human rights and the principle of compulsory and faithful compliance by the state with international treaties that are relevant in this field.

International law and domestic laws allow limitations on the most of the fundamental human rights and freedoms, linking the existence of such restrictions with the need both for separate states and for the world community as a whole. The existence of such limitations is an increasingly apparent need, both for separate states and for the world community as a whole, which is particularly important, for example, in the face of increasing threat of international terrorism [6, 15].

Russian criminal legislation contains limitations, provided for in articles 275, 276, 283, 283.1 of the Criminal Code of the RF, in respect of the right to freedom of expression, which includes freedom to hold opinions and freedom to receive and disseminate information and ideas without any interference by public authorities and regardless of state boundaries. These limitations are necessary, they are aimed at ensuring national security, territorial integrity or public safety, for the prevention of disorder and crime, for the protection of health and morals, for the protection of the reputation or rights of other persons, etc. Limitations of this right are provided for in the Universal Declaration of Human Rights, 1948 [1], the provisions of which became universally recognized norms of international law, in the International Covenant on Civil and Political Rights, 1966 [2] and the International Covenant on Economic, Social and Cultural Rights, 1966 [3] adopted under the auspices of the UN, and in other international treaties of the Russian Federation.

Unlawful going of a state beyond the legal framework of established restrictions is not allowable. According to article 55 of the Constitution of the Russian Federation, laws that abolish or infringe human rights and freedoms should not be adopted in our state. In this regard, there are just words of M. V. Balgai, who believes that "a constitutional state must be based on scientifically sound theory of limitation of freedom" [5, 285], but "with the mind and sense of proportion" [5, 290].

It should be noted that at present public international law does not contain legal acts that would indicate clear criteria for restricting fundamental human rights and freedoms, international instruments contain only general provisions.

It should be born in mind that the most important natural rights (to life, to physical integrity (prohibition of torture and other forms of unlawful physical impact), inviolability of private life, etc.) must not be violated. In the practice of states (including democratic ones) this issue does not always correspond to the concept

of priority of "natural rights", as evidenced by the preserving in national legislation of some countries of the capital punishment – death penalty. The main problem in here, in our view, is the risk of "irreversible judicial errors", which may be repeatedly met in practice of many states.

The practice of human rights and freedoms protection at the international level shows that it is carried out through a system of standards, tools, mechanisms and procedural-legal regulations and is based on the principles of constitutional-legal and international-legal duty of a state.

The international-legal mechanism for the protection of human rights is represented by certain organizational structures (international courts of human rights, international organizations, committees, commissions, working groups, special speakers), often it implies collective bodies (committees, panels, etc.), although the institute of individual special speakers is very often found in the practice of the United Nations and the Council of Europe [8, 34].

The experience of contemporary international relations shows that the problem of international cooperation in the field of promotion and protection of human rights and freedoms is the most complex and contradictory. An example is the organization of activities of the UN Commission on human rights, which is an intergovernmental body of the United Nations system designed to contribute international cooperation in the field of promotion and protection of human rights and freedoms. In the course of the annual ordinary sessions, held at Geneva and ongoing 6 weeks, there are traditionally adopted more than 100 resolutions and decisions, of which only a part is related to the protection of human and civil rights and freedoms. For example, transportation of toxic wastes, disarmament, access to small arms and light weapons, international trade, etc. [6, 7], that, in our opinion, adversely affects the effectiveness of work of this body.

According to the shared by us opinion of V. V. Svinarev, the monitoring system over the compliance of the UN with agreements in the field of human and civil rights and freedoms is in critical condition because of the following problems: the failure of many states-participants to observe the deadlines for the submission of reports; insufficient financial resources for the effective functioning of treaty bodies; lack of staff of the Office of the High Commissioner for human rights; inadequate levels of awareness of people about the work of the treaty bodies [9, 14].

Currently, none of the international treaties in the field of human rights is truly universal in terms of the number of participating states, what, in turn, reflects a lack of universality of control mechanisms created in accordance with such treaties.

In addition, according to the majority of international treaties in this area, individual control functions of relevant mechanisms are optional. In particular, under the International Covenant on Civil and Political Rights, the powers of the Human Rights Committee to receive and consider individual petitions are regulated by the provisions of an Optional Protocol to the Covenant.

The main task of international monitoring in the field of human rights is to elaborate unified standards on the content of treaty norms in the field of human rights and freedoms. At the same time, at the current phase, it is rather hard to get commitment of all the states to general rights' protective values in the field of human rights. This is especially difficult to achieve this task in the context of multilateral relations.

Summing up, it should be noted that the content of the norm-setting activity of international organizations in the field of human rights and freedoms protection should be determined by the availability of the whole world community's really urgent needs in the management of corresponding public relations at the present stage of development of human civilization. Norms of domestic legislation of the civilized countries of the world community should conform to international standards in the field of human rights and freedoms.

Human rights and freedoms are not absolute category, their limitation is provided for both by the norms of international law and domestic legislation:

a) in conditions of the establishment of the state of emergency (only by a constitutional law of a state);

b) for a strictly certain period prescribed by national legislation;

c) taking into account the proportional nature of threats to the security of a state and society;

d) only for certain purposes (to ensure the security of citizens; protection of the foundations of the constitutional system, morality, health, rights and lawful interests of other persons; to ensure the defence of a country and the security of a state).

Nowadays, a number of problems in the field of international-legal protection of human rights and freedoms continues to be, the most important of them are: shortcomings of international monitoring (both at the global and regional levels) in the promotion and protection of human rights and freedoms; inadequate accounting for the views of all interested parties at the stage of development of appropriate protection mechanisms. These problems indicate that the improvement and strengthening of the international-legal mechanism for the protection of human rights are the most urgent task at the present stage.

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PARTICIPANTS AND SPEECHES' TOPICS OF THE 1ST INTERNATIONAL SCIENTIFIC-PRACTICAL CONFERENCE "ADMINISTRATIVE PROCEDURES: WORLD AND REGIONAL TRENDS (COMPARATIVE-LEGAL ASPECTS)", HELD AT NOVOSIBIRSK LAW INSTITUTE, THE BRANCH OF THE NATIONAL RESEARCH STATE UNIVERSITY OF TOMSK, 7-8 APRIL, 2015.

1. Yuri Starilov, Doctor of Law, Professor, Honoured Scientist of the Russian Federation, Head of Administrative and Municipal Law Department of Voronezh State University (Russia): «Legal significance of administrative procedures to ensure the legality of state administration and effective legal protection»
2. Konstantin Davydov, Candidate of Law, Associate Professor of Novosibirsk Law Institute (branch) of Tomsk State University (Russia): «Principles of administrative procedures: comparative law research»
3. Lyudmila Mitckevich, Candidate of Law, Professor of Constitution, Administrative and Municipal Law Department of Siberian Federal University (Russia): «Administrative procedures as a type of governance procedures»
4. Shigeru Kodama, Doctor of Law, Member of Education and Research Council of Mie University (Japan): «Administrative reform and reform of administrative law of Japan»
5. Andrey Vinnitskiy, Doctor of Law, Professor of Administrative Law Department of Ural State Law University (Russia): «Competitive administrative procedures and their role in the modernization of state governance»
6. Matthias Hartwig, Doctor of Law, Max Planck Institute for Comparative Public Law and International Law (Germany): «Administrative procedures of Germany: basic problems»
7. Yorg Pudelka, Judge of the Administrative Court of Berlin, Director of the regional GIZ program «Promotion of the Rule of Law in Central Asia» (Germany): «Pre-trial review of administrative acts»
8. Nguyen Van Quang, Doctor of Law, Hanoi Law University (Vietnam): «Procedural requirements under Vietnamese administrative law and the application in judicial practice»
9. Nikolay Savanovich, Candidate of Law, Deputy Chief of Constitutional and International Law Department – Chief of Constitutional Law Department, National Center of Legislative and Legal Research of the Republic of Belarus (Belarus): «Administrative procedures of the Republic of Belarus»
10. Peter Chvosta, Doctor of Law, Judge of the Federal Administrative Court of Austria (Austria): «The Rule of Law and Administrative Jurisdiction»

11. Yuri Solovey, Doctor of Law, Professor, Honoured Lawyer of the Russian Federation, President of Omsk Law Academia (Russia): «Principle of proportionality in police activities in the Russian Federation»

12. Leonid Hvan, Candidate of Law, Associate Professor, Head of the analytical department of the law firm «Azizov & Partners» (Uzbekistan): «Social and legal suitability (affordability) of administrative procedures in the Republic of Uzbekistan: system evaluation»

13. Andreas Korbmacher, Doctor of Law, Judge of the Federal Administrative Court of Germany (Germany): «Planning approval of infrastructure projects in German administrative procedure law»

14. Olga Rogacheva, Doctor of Law, Associate Professor of Administrative and Municipal Law Department of Voronezh State University (Russia): «Administrative procedures of control and supervision in the Russian Federation: the definition, types, implementation problems»

15. Roman Podoprigora, Doctor of Law, Professor of Caspian University (Kazakhstan): «Administrative procedures: Kazakhstan experience»

16. Oleg Sherstoboev, Candidate of Law, Associate Professor of Novosibirsk Law Institute (branch) of Tomsk State University (Russia): «Administrative procedures: some problems of the state governance of immigration sphere»

17. Ekaterina Kudryashova, Candidate of Law, Associate Professor, Lawyer, member of the Bar Association of the Moscow Region (Russia): «Assessment of planning decisions in administrative procedures»

18. Anna Vasilyeva, Candidate of Law, Associate Professor of Constitution, Administrative and Municipal Law Department of Siberian Federal University (Russia): «Administrative procedures of execution of administrative acts in Russia and Germany»

19. Rustam Madaliev, national coordinator of the GIZ regional program «Promoting the rule of law for sustainable development in Central Asia countries» (Kyrgyzstan): «The administrative procedures law development of the Republic of Kyrgyzstan»

20. Igor Frolov, Candidate of Law, Associate Professor of Novosibirsk Law Institute (branch) of Tomsk State University (Russia): «Mechanisms and criteria for implementation effectiveness of administrative procedures in Russian transitional economy»

21. Maksim Starilov, graduate of Law Department of Voronezh State University (Russia): «Proper quality of administrative procedure legislation as basic for full-value system of interim relief measures regarding administrative claim»

22. Elina Andryuhina, Candidate of Law, Associate Professor of Administrative Law and Administrative Process Department of Kutafin Moscow State Law University (Russia): «Administrative process and administrative procedures: interrelation and different approaches to these legal categories»

23. Yuri Garmaev, Doctor of Law, Professor (Russia): «Achievements of criminology in theory and practice of administrative procedures»

ANNOUNCEMENT
OF THE VIII ALL-RUSSIAN SCIENTIFIC-PRACTICAL CONFERENCE "THE TOPICAL ISSUES OF ADMINISTRATIVE RESPONSIBILITY", HELD ON MAY 29, 2015 IN OMSK LAW ACADEMY WITH THE SUPPORT OF THE OMSK REGIONAL BRANCH OF THE ALL-RUSSIAN PUBLIC ORGANIZATION "ASSOCIATION OF LAWYERS OF RUSSIA"

Dear colleagues!

We invite you to take part in the VIII All-Russian scientific-practical conference "The Topical Issues of Administrative Responsibility", held on May 29, 2015 in Omsk Law Academy with the support of the Omsk regional branch of the All-Russian public organization "Association of Lawyers of Russia".

The Conference will be attended by higher-education teaching personnel of law schools, employees of legal research institutions, law enforcement agencies and members of the judiciary.

Reports and speeches of the conference participants will be published as a separate collection of scientific works and will be included in the database of the Russian Science Citation Index (RSCI).

Texts of reports and speeches may be submitted till May 5, 2015, in electronic form in *Win Word* format, *Times New Roman* font (font size 14), line spacing – 1.5.

E-mail: kositsin.ia@omua.ru (with the subject "The Conference").

Start of the Conference at 10 a.m., the registration of participants at 9: 30.

Conference venue: 644010, Omsk, Korolenko street, 12.

For getting information on the organization and holding of the Conference please call: (3812) 31-45-92 – Department of the administrative and financial law,

8-962-058-51-36 – Kositsin Igor Alekseevich – the Associate professor of the Department of the administrative and financial law.