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**LEGISLATION ON THE PLANNING OF PUBLIC MANAGERIAL ACTIVITY  
IN THE RUSSIAN FEDERATION: CONDITION, MAJOR TRENDS  
AND DEVELOPMENT PROBLEMS**

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The author distinguishes main groups of forward looking and planned acts at the federal level, as well as the key points of the modern mechanism of administrative-legal regulation of forecast-planning activity.

He notes that in the present the procedure for development and approval of long-term predictions still has not received legal regulation, and that there is no an officially approved as a single document and really functioning concept of long-term socio-economic development of the country.

The lack of expediency in the formalization of long-term program planned documents of the comprehensive development of the Russian Federation is alleged in the article.

**Keywords:** legislation on planning, public managerial activity, predicting and planning, planned activity, strategic planning.

Proper organization and implementation of management (and especially - public management) is impossible without predicting and planning. However, according to justified remark of E. V. Kudryashova, it seems that in the post-Soviet period among researchers, including - specialists in jurisprudence, on this issue was imposed a taboo [17, 3]. Theme of planning is multifaceted and very voluminous. Therefore, this article focuses only on one of its aspects - analysis of the state of modern Russian administrative legislation on this issue. At once we offer to define the terminology. There are a lot of approaches to the definition of categories of "predicting" and "planning". In order to avoid uncertainty and ambiguity we note: further in the present work under predicting will be understood such a function (method, step, way) of management, which is associated with the formation of a vision of the future state of the controlled object on the basis of extrapolation of existing at the time of prediction trends (patterns) of its development without their changes. The fundamental difference in planning from predicting seems to us in the formulation of the goal, objectives and ways to bring the object into the desired by the subject condition through changing the patterns of its development.

If state planning acted as the constitutional principle of social order, then in the text of the Constitution of the Russian Federation from 1993 we will not see the terms of "plan", "prediction". So, according to article 16 of the Constitution of the USSR of 1977, economic management was based on national plans of social and economic development (for more details on this subject matter see Kutafin O. E. *Planned Activity of the Soviet State: State-legal Aspect* [13, 19]). The current Fundamental law only mentions the RF President Messages (article 84) and federal programs in the area of public, economic, environmental, social, cultural and national development of the Russian Federation (articles 41, 71). Therefore, the Constitution of the Russian Federation of 1993 can be considered as the legal basis for predicting and planning activity of the State only with a very high degree of conventionally. The legal framework for territorial planning at present is formed from the provisions of chapter 3 (articles 9-28) the Town Planning Code of the Russian Federation [2], as well as of some other Federal Laws [5]. Financial planning is based primarily on the Budget Code of the Russian Federation (hereinafter - BC RF) [1].

The situation with sectorial (cross-sectorial) and multi-objective administrative planning of socio-economic development is more complicated. Federal Law No. 115-FL from July 20, 1995 "On State Predicting and Programs for Socio-economic Development in the Russian Federation" (hereinafter - the Law of 1995) [4] was designed to play the role of the legislative foundation of such planning. This legal act "legalized" predictions of socio-economic development for long-term,

medium-term and short term prospects, the concept of socio-economic development of the Russian Federation, as well as the program of socio-economic development of Russia for medium-term prospect. However, the law of 1995 has not managed to provide complete foundations of planned activity. Among its conceptual disadvantages are: the obvious emphasis on prediction beginning (the word “plan” is not even mentioned in the text of the law), as well as the stubborn refusal not only to develop a unified system of predictive-planning acts of all kinds and levels with the mechanism of realization, but even to determine their legal nature. Expectedly and symptomatically that even the subordinate act of the very 1995, which established the procedure for the development and implementation of federal targeted programs and intergovernmental targeted programs, was adopted pursuant not to the Law of 1995, but then-effective legislation on the supply for the federal government needs [8]. Regulatory weakness of the Law of 1995 has led to an expansion of the financial law sector, which (especially – as we moved to the target-oriented budgeting model) “caught” the falling banner from administrative legislation in the field of predicting-planning issues. As noted by L. V. Andreeva, this step of the legislator was due primarily to the fact that the Law of 1995 did not enshrine in the planning documents long-term targeted programs in the system of medium-term planning. Institute of long-term programs has originated and still exists as part of BC RF [14].

It is noteworthy that May 12, 2009 the President of the Russian Federation approved the Decree No. 536 “On the Foundations of Strategic Planning in the Russian Federation”. According to some authors, it is “the most important current strategic document in the sphere of socio-economic development, which has comprehensive nature and defines the main directions of state policy at the federal level for the long term prospect” [24, 19]. It appears that we cannot agree with this opinion. First, the mentioned decree is marked as “for official use only” and has not been officially published, and, therefore, by reason of that fact, it cannot claim to be a legal foundation for the planning of public administration. Secondly, the subject of its regulation is focused mostly on national security. Finally, thirdly, the content of the Decree No. 536 absolutely does not comply with the regulative minimum of planned activity [22, 421-422]. The newest stage in the development of planning legislation relates to the taking by the President of the Russian Federation in May, 2012 a series of decrees containing the conceptual provisions of strategic planning of development the Russian state and the various spheres of public life.

So, currently, at the federal level, we can distinguish the following main groups of predictive and planning acts.

1. The Concept of long-term socio-economic development of the Russian Federation.

This predictive act is mentioned in the Law of 1995 and defined as “a system of ideas about the strategic objectives and priorities of socio-economic policy of the state, the most important directions and means of implementing these objectives” (article 1 of the Law). RF Government Decree No. 1662-r from 17.11.2008 approved the Concept of long-term socio-economic development of the Russian Federation for the period up to 2020 [13] (the so-called “Strategy-2020”). However, as is known, the latter has become out of date before its adoption, as it was developed in conditions prior to the started in summer 2008 global financial and economic crisis. The need for a new concept was also due to the exceptional declarative nature of the content of the approved in 2008 document, absence of at least an approximate system of measures to achieve the set goals. During 2011 more than 1000 experts led by State University – Higher School of Economics and Russian Presidential Academy of National Economy and Public Administration were developing a new strategic document. Which, however, has not been approved by any legal act. And, therefore, has remained an analytical material of non-legal nature, expert report (on 864 pages). Thus, at the time of writing this work there is no an officially approved as a single document and really operating concept of long-term socio-economic development in the Russian Federation.

2. Predictions of socio-economic development.

The Law of 1995 refers to all kinds of predictions for time of action: long-term, medium- and short-term ones. An example of a long-term prediction is the developed in 2013 by the Ministry of Economic Development “Prediction of long-term socio-economic development of the Russian Federation for the period up to 2030”. It should be noted that the mentioned prediction was not approved by a legal act and was not officially published. BC RF (art. 173) enshrines predictions only for the current fiscal year and period of not less than three years (that is, short-term and medium-term). As a result, the procedure for the elaboration and approval of only the latter kinds of acts is more or less formalized (see: RF Government Decision No. 596 from July 22, 2009 “On the Procedure for Elaboration of the Prediction of Socio-economic Development of the Russian Federation” [10]). But the procedure for development and approval of long-term predictions today still has not received legal regulation.

3. Programs of socio-economic development.

According to article 1 of the Law of 1995, these are “complex systems of targets of socio-economic development of the Russian Federation and planned by the State



effective ways and means to achieve these targets". It is noteworthy that the Law says only about the programs of medium-term development. It seems that the lack of long-term programs of development of the entire state in principle is justified: with increasing duration of a planning act the probability of hypothetical nature of its content increases. That makes it rather a predictive document. And niche of long-term predicting is already occupied by the document discussed above. Therefore, formalization of long-term planning documents on complex development of the Russian Federation is hardly advisable. Here you may recall that in the USSR "first fiddle" in the system of planning was played exactly by short-term (one year) and medium-term (five years) acts.

It is worth noting that the last program of socio-economic development of the Russian Federation for the medium-term prospect was approved by the RF Government Order No. 38-r from January 19, 2006 [12] and ceased operation in 2008. Since then medium-term programs have not been taken. Probably, their model has showed lack of effectiveness.

4. The main directions of activities of the Government of the Russian Federation (ONDP in Russian).

Legal nature, the order of elaboration and adoption of this act is also not formalized (there is only mention of ONDP in article 24 of the FCL "On the Government of the Russian Federation" [3]). Currently operate the approved January 31, 2013 Main directions of activity of the Government of the Russian Federation for the period up to 2018. This document has been approved not by a legal act of a body of executive power (Government of the Russian Federation), but by an official – the Chairman of the Government of the Russian Federation. Therefore, probably, it should be of local nature. However, in view of the level of competence of the Government of the Russian Federation, such intradepartmentality in this case is hardly possible. It is also noteworthy that the ONDP up to 2018 also have not been published. The functional role of this document is designated in its preamble – focus on the implementation of the Presidential Decree No. 596-606 from May 07, 2012 and the RF President's Message to the Federal Assembly of the Russian Federation of 2012. However, the analysis of its content allows us to draw a conclusion: if the named task was really set, then it has not been achieved at all; the content of ONDP is purely declarative and does not enshrine even approximate events for achieving the goals provided for by the decrees of the President of the Russian Federation. It appears that if the existing model of ONDP does not undergo significant evolution, they will wait for the fate of many other predictive-planning acts (including the concept of long-term development, medium-term programs, etc.). That is, not only

de facto but also de jure dying away. As federal public servants say in interview with correspondent, the biggest victory in the development of ONDP is that have managed to defend a more compact version of the document: "30 pages better than 200. They will take less space in a trash can" [23, 20].

#### 5. State programs, federal targeted and departmental programs.

As has already been mentioned above, the institute of long-term programs originated in the bowels of the budget legislation (article 179 BC RF) and was due, including, to the need to consolidate program documents. In the future the phenomenon of state programs is formalized within the framework of administrative legislation. Under which, according to the legal definition, recognize "systems of measures (interconnected by tasks, timing of implementation and resources) and public policy tools that provide within the framework of implementation the key government functions the achievement of priorities and goals of public policy in the field of socio-economic development and security" (see: paragraph 2 of the Procedure for the elaboration, implementation and effectiveness evaluation of the government programs of the Russian Federation, approved by the RF Government Decision No. 588 from August 02, 2010 [11]). With the development of programmed foundation of budget the state programs have become a major tool for socio-economic planning that is designed to tie together its administrative and financial foundations (on this issue, see: *Program Budget: Study Guide*, under edition of Professor M. P. Afanas'ev [21]).

According to the legal definition, federal target programs (FTP ) and interstate target programs represent a linked by tasks, resources and timing of implementation set of research, design and experimental, production, socio-economic, organizationally-economic and other measures to ensure the effective solution of system problems in the field of state, economic, environmental, social and cultural development of the Russian Federation, as well as innovative economic development (see paragraph 1 of the Procedure for development and implementation of federal target programs and interstate target programs, in the implementation of which the Russian Federation participates: approved by the RF Government Decision No. 594 from June 26, 1995 [8]). Departmental target program is a document containing a set of coordinated activities aimed at solving a particular task of state program subprogram, as well as measured target indicators. Departmental target program is an independent document, its separate provisions and parameters can be included in the report on the results and on the main directions of activity of a federal body of executive power (see paragraph 4 of the Provision on elaboration, approval and implementation of departmental target programs: approve by the RF

Government Decision No. 239 from April 19, 2005 [9]). If for some time FTP played a major role in program-planned activity of the State, then today they are being increasingly included in state programs as their elements (along with the subprograms and departmental target programs).

It is also worth noting that within state federal target and departmental programs implement both sectorial (state security, development of pension system, etc.) and territorial comprehensive planning (e.g., the development of the Kuril Islands, Far East, etc.). That is, today programs are being considered by the legislator as a universal tool for all kinds of planning.

6. An independent place in the administrative and financial planning is taken by so-called priority national projects. For the first time they have been enshrined in the Program of socio-economic development of the Russian Federation for the medium-term prospect (2006-2008). As rightly pointed out in the scientific literature, so far there is no specific normative legal act, which contains the concept of a national project, the requirements for its elaboration, approval and maintenance, monitoring of its implementation [14]. However, some of the above-mentioned issues (in particular the monitoring of implementation of national projects) are governed by local acts approved by the Presidium of the RF Presidential Council for the exercising of priority national projects and demographic policy. By their legal nature national projects are not uniform legal acts, but complexes of interconnected documents having different legal nature [20]. The strong points of this method of planning were that national projects allowed focusing significant resources on the most important directions (health, education, provision of housing, development of agro-industrial complex), giving them priority financing and presidential control over their implementation [14]. It is noteworthy that the national projects formally-legally remain in effect within the framework of taken today state and federal target programs on the relevant issues. However, it is not difficult to notice that the shortcomings of this tool come from its merits and lay, again, in its weak legal regulation. Besides, we cannot forget about the economic and political context: national projects were implemented in situations of active and successful economic development, accumulation by the State of significant financial resources. Since then, the situation has changed significantly and the time will show the effectiveness of national projects in conditions of economic stagnation and inevitable cuts in funding of social spheres.

7. Absolutely especial role is played by the RF Presidential Decrees on strategic planning.

Predictive-planning acts like messages of the President of the Russian Federation to the Parliament are well known to domestic legislation and managerial practice (suffice it to recall the article 84 of the Constitution of the Russian Federation of 1993). However, decrees No. 596-606 adopted in May 2012 – new political and legal phenomenon. From a legal point of view, here are all the issues that, in principle, are inherent to the institute of presidential rule-making. For example, it will not be an exaggeration to say that the role of the head of state exactly in administrative planning of socio-economic and political development is not reflected not only in the Law of 1995, but in principle in Russian law. On the other hand, the problem of “anticipatory decree rulemaking” of the President of the Russian Federation has been repeatedly analyzed by the Constitutional Court of the Russian Federation, which acknowledged such practice appropriate to the Constitution on condition of adjustment of such decrees after subsequently adopted federal laws. We think that the scope of authority of the President of the Russian Federation in the field of planning requires certain formalization. At least in order to elaborate and consolidate the legal mechanism of implementation of his strategic planning acts. Meanwhile, the mentioned decrees will probably play the role that has had to be executed by the factually abolished Concept of long-term development of the country. With the significant difference that the strategic benchmarks of planning acts of the President of the Russian Federation, it seems, are of legally-binding nature (if there is no, we repeat, a specific mechanism for their implementation).

Concluding this brief review of the array of predictive-planning normative material, it should be noted that the relevant norms are currently “scattered” in many other federal normative acts of administrative-legal nature, including – in the Federal Law No. 44-FL from April 05, 2013 “On the Contract System in the Procurement of Goods, Works and Services to Meet State and Municipal Needs” [7], Federal Law No. 275-FL from December 29, 2012 “On State Defense Order” [6] and etc.

What are the main features and trends of the modern mechanism of administrative-legal regulation of predictive and planning activity? In our view, the following key points should be emphasized.

1. Clear predominance of predictive foundation with all the consequences (in the first place – purely recommendatory nature of relevant provisions).

Planned mandatory acts preserve only in the financial sector (normative acts on the budget) and in territorial planning (e.g. housing scheme). In administrative-legal planning prevail indicative acts (which are essentially the same predictions) and, according to the German terminology, “affecting plans” [22, 422] (presented in



Russian law by the institute of long-term target programs, federal target programs and departmental target programs) .

2. Fragmentation and the lack of development of administrative legislation concerning the issues of planning.

Hardly advisable (or even possible) to join in a single act of the highest legal force legal bases of all major subject types of managerial planned activity. Financial and territorial direction of planning, as well as planning in the field of defense and security must evolve relatively independently, in accordance with its nature. Another pair of shoes is administrative planning (both sectorial, cross-sectoral and integrated). Here are necessary unified legal standards, requirements, unified concept of regulation of relations on the formation, approval, implementation, monitoring over implementation of plans and responsibility for relevant violations. With the necessary "draughtsmanship" of constituent elements. Today, as has been mentioned above, whole directions of predictive-planning activity are completely not regulated by the legislation. It is clear that the Law of 1995, not only does not cope with its role, but more than that - it was originally not suitable for it.

3. Increasing of the role of budget planning legislation.

Such occurs both due to objective reasons (in terms of market economy planned activity is implemented primarily through the implementation of state procurement), and due to the described above subjective reasons - weakness, fragmentation and inadequacy of administrative planning legislation to the needs of society. And if the first group of factors cannot be changed, the "dilapidated state" of administrative law should be eliminated.

4. Gradual increase in the planning horizon.

If predictive acts in principle can be oriented on arbitrarily long periods of time, the planning imposes special demands to public management - its resource provision and consistency. At the initial stage of forming the post-Soviet model of public management the planning virtually died out, actually remaining only within the framework of one year oriented law on budget. That is, it was presented in a very narrow segment - short-term financial planning (here we deliberately keep silent about those of legal, economic and organizational problems that occurred during the formation and execution of such plans). Over time, however, the time frames of planning begin to increase. So, in the same financial planning it is manifested in moving to three-year budgets, and in administrative one - in adoption of medium- and long-term program acts. This should be noted as a serious step forward.

5. The lack of systematicity, administrative-legal mechanism for predictive-planning activity of the subjects of public law.

Such phenomenon, not least due to the lack of a clear understanding of the legislator of the legal nature of planning in general and acts of planning in particular, is manifested in many aspects. Some of the provided by the legislation predictive (planning) acts are not accepted at all (remember the medium-term programs of social and economic development of the Russian Federation), some of the adopted have virtually become inoperative (as, for example, the Concept of long-term development of the Russian Federation up to 2020). We think that “dying away” of entire branches reflects not only the ineffectiveness of the latter, but also the lack of the system of designated elements. As the other contradiction can be considered the above mentioned situations of adoption of predictive-planning acts, the procedure for development and approval of which has not been normatively regulated.

We cannot say that the state makes no attempt to restore some semblance of order in these matters. It seems that as an important way to increase the unity should be recognized the steps for consolidation of planning acts, for example, through the inclusion of federal target programs into state programs. It is necessary to recollect the phenomenon of national projects that are both the “core” and the “top floor” of program documents (a kind of “programs into programs”). However, the steps taken are not sufficient to overcome the negative trends.

Planning system disbalance manifests itself not only “horizontally”, but also “vertically”: in the interrelations of the federal center, the subjects of the Russian Federation and municipal formations. As rightly and surprisingly frankly stated A. G. Khloponin at a meeting of the State Council of the Russian Federation, held July 21, 2006, which was dedicated to the theme of the mechanism of interaction between federal and regional bodies of executive authority in the elaboration programs of comprehensive socio-economic development of the regions: “Russia is not provided with the most important – the legal basis for the formation of a unified system of regional planning and the linkages between federal and regional aspects. Of course, it is a paradox for such a big country like Russia. That is, the being implemented regional policy is exercised not according to a plan, but as it will turn out. Let’s call a spade a spade. Actually the implemented regional policy in Russia is not a result of conscious planning, but, rather, a sum of the random consequences of realization of the most different documents predominantly of sectorial orientation. This, of course, must not continue” [15]. Unfortunately, the comments that have been made some years ago sound more than relevant.

Finally, the most important aspect and at the same time the result of such incoherence of legal means of planning is if not a complete lack of mechanism for their implementation, then, at least, reduced effectiveness of the latter. The adoption of the decrees of the President of the Russian Federation in May, 2012, seems, among other things, was a kind of desperate attempt to “spur” management system that has drowned in the known contradictions and statics. However, they by themselves brightly revealed as never before the problem of lack of systematization in planning and effective mechanism for the implementation of planning acts.

A detailed analysis of all these problems and formulating possible solutions go beyond the scope of this article. However, in conclusion let us make one comment. Currently, some researchers make efforts to form a coherent scientific concept of planning. Among the newest papers on the subject matter, the palm of victory undoubtedly belongs to the following scientific work: Kudryashova E. V. *Modern Mechanism of the Legal Regulation of State Planning (through the example of the state financial planning)* [18]. Of course, the further development of the planning activity of the State cannot be without a scientific basis. However, one of the main shortcomings of existing approaches, in our opinion, is their explicit orientation on the West. It seems that the Russian model of legal regulation of planning activity should be based not only on the European and North-American experience, but also on the experience of dynamically socio-economically developing countries of Asia (which, in turn, is often based on the creative adaptation of experience of predictive-planning activity of the USSR). As a rare (and, unfortunately, a rather lapidary) exception from the named West-oriented vector can be called the following scientific publication – *Foreign Experience of State Predicting, Strategic Planning and Programming* [16].

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