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Unique Features of Russia's Administrative Penalties System and Its Enforcement Procedures

Lyubov Satushieva[1], Aslan Isakov[1], Ruzana Maremkulova[1], Marina Tekueva[2*], Leila Zalikhanova[3]

[1]Department of Constitutional and Administrative Law, Kabardino-Balkarian State University named after H.M. Berbekov, Nalchik, Russia.
[2]College of Information Technology and Economics, Kabardino-Balkarian State University named after H.M. Berbekov, Nalchik, Russia.
[3]Department of Criminal Law and Criminology, Kabardino-Balkarian State University named after H.M. Berbekov, Nalchik, Russia.

***E-mail** ✉ tekueva.m@mail.ru

Abstract

This article addresses a significant and timely issue within modern Russian administrative law: the system of administrative punishments and the procedures for their enforcement. It also highlights the legal challenges that emerge during the imposition of administrative penalties. The importance of this topic stems from issues faced by officials in the process of holding individuals administratively accountable, determining appropriate sanctions, and enforcing them—challenges often caused by legislative gaps, which may result in procedural violations and, consequently, the infringement of the rights and freedoms of those subject to administrative responsibility. Examining the experience of foreign countries in regulating various public relations and deriving insights from it can be effectively applied to similar areas of activity within the Russian Federation. Generally, the administrative law of other countries is defined as the set of legal norms governing public administration (administrative activity) and oversight of such activity, with key institutions forming the core of their systems. Countries with established administrative law can be classified into two main categories: 1) France and nations that have adopted its legal system; 2) states where German legal influence predominates. These groups contrast with countries that do not recognize administrative law as a distinct legal branch, such as the United States, Britain, and other nations following Anglo-Saxon legal traditions.

Keywords: Legal liability, Administrative law, Administrative penalties, Administrative offenses

Introduction

Relevance of the research topic. The maintenance of law and order, alongside the enforcement of the rule of law, remains a central responsibility of any modern state, particularly those that define themselves as law-governed. The concept of a "rule-of-law state" is inherently complex and multidimensional. The Russian Federation formally affirms this status in its Constitution [1]. Within this framework, the rule of law constitutes a fundamental principle for the proper functioning of the state and the execution of public administration. Closely connected to this principle is the institute of legal responsibility-especially administrative responsibility-which plays a vital role in supporting lawful governance. This subject has drawn our attention due to its heightened relevance today. The effective operation of the state, the quality of governance, and the protection of citizens' rights and freedoms are directly dependent on the lawful conduct and discipline of both individuals and legal entities, as well as officials and state authorities. Administrative punishment, as a tool of administrative

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responsibility, serves as a key mechanism regulating public relations, ensuring compliance with the rule of law and safeguarding the rights and interests of citizens nationwide. The extensive range of public relations governed by administrative-legal norms further emphasizes the significance of this area. Accordingly, the object of this research is the overall system of administrative penalties, while the subject concerns the specific aspects, challenges, and issues that arise in their imposition.

The purpose of this article is to clarify the notions of administrative responsibility, administrative offence, and administrative punishment; to outline the structure and types of administrative punishment; and to analyze the rules and procedures of their imposition, with attention to the most significant challenges [2].

To achieve this, we have set the following tasks: define administrative offence and its characteristics, examine the nature and classification of administrative punishment measures, describe the system and types of administrative punishments, explain the general rules and procedures for imposing administrative punishment, clarify the timelines and terms associated with imposition, identify key problems in implementing administrative punishment, and explore potential solutions to these issues.

Materials and Methods

To achieve the objectives of this study, we relied on the research and analyses of legal scholars including Khachaturov, Lipinsky, Malko, Bakhrakh, among others. Additionally, we examined key normative-legal documents, such as the Constitution of the Russian Federation, the Code on Administrative Offences of the Russian Federation, and other relevant legislative acts. The study also applied a variety of methodological approaches, including comparative, legal, historical, formal-legal, technical-legal methods, and others.

This article aims to comprehensively address the important aspects of the topic, draw informed conclusions from the analyzed materials, and propose potential solutions to existing challenges in law enforcement.

Administrative coercion, as a common instrument of state influence, encompasses various measures. However, its classification within the doctrinal literature remains a subject of debate. Traditionally, three primary groups are distinguished: preventive measures, preventive measures (repetition noted in original), and measures of responsibility [3, 4]. Administrative-preventive measures refer to coercive actions designed to prevent administrative offences and maintain public safety-for example, document checks of citizens, inspection of hand luggage, or stopping and examining vehicles. Administrative suppression measures, by contrast, involve coercive interventions aimed at halting unlawful acts and mitigating their harmful consequences-for instance, requiring a citizen to cease illegal actions or removing a driver from operating a vehicle when there are valid grounds to suspect intoxication or lack of proper documentation.

Alternative classifications exist as well. For example, Osintsev [5] proposes a system based on the stages of threat development to security: measures for detecting threats (gathering information on illegal acts and involved persons), measures of administrative-legal suppression (promptly stopping unlawful acts and preventing further consequences), measures of administrative-legal restoration (addressing the outcomes of unlawful acts), measures of administrative responsibility (applying administrative punishment for wrongful conduct), and measures of administrative-legal deterrence (denying additional benefits, rights, or privileges for violations of administrative rules or offences). Regardless of the classification system, most scholars agree that measures of administrative responsibility—manifested as administrative penalties—hold a central role.

Administrative responsibility itself is a specific form of legal responsibility. According to Khachaturov and Lipinsky, legal responsibility is a normative obligation, secured and guaranteed by the state, which combines coercion, persuasion, and encouragement. It requires compliance with legal norms and ensures that, in cases of violation, the offender is subject to penalties, restrictions on rights, or other consequences affecting property or personal non-property interests [26]. Legal responsibility represents a subset of social responsibility, distinguishing itself from other forms such as moral, religious, family, or corporate responsibility. Khachaturov and Lipinsky outline several key features of legal responsibility: (1) it is grounded in legal norms, defined clearly, formally, and bindingly; (2) it is guaranteed by the state; (3) it is enforced through both state coercion and persuasion; (4) its outcomes may involve state approval, encouragement, condemnation, or punishment; and (5) it is implemented through a procedural framework.

A central issue in administrative law scholarship remains the analysis of public administration and its relationship to the concept of executive power as enshrined in the Constitution of the Russian Federation [7, 8].

It is important to emphasize that the concept of "conviction," as understood in criminal law, does not exist within the framework of administrative responsibility. Instead, the scientific literature refers to a condition known as "administrative punishment," which lasts for a term of one year. This concept is based on Article 4.6 of the Code on Administrative Offences of the Russian Federation (hereinafter CAO RF) (Code on Administrative Offences of the Russian Federation: Federal Law dated 30.12.2001 N195-FZ, 2001). According to this provision, a person who has been subjected to an administrative penalty for committing an administrative offence is considered under administrative punishment from the date the decision becomes legally effective until one year after the conclusion of the decision. The state of "administrative punishment" reflects a particular legal stance regarding the imposition of penalties on an offender. For instance, a person in this condition cannot be issued a warning, as it represents the mildest form of administrative punishment. Once the one-year period expires, the individual is no longer regarded as being under administrative punishment.

Although the system of administrative penalties is structured, it still presents certain challenges and difficulties in practical implementation, most notably during the process of imposing administrative punishment. This issue is highly significant because state authorities and other competent bodies must ensure the proper functioning of the system. Furthermore, this topic remains contentious in doctrinal discussions, as scholars often adopt differing interpretations of specific problems. Difficulties are particularly notable with administrative punishments such as "deprivation of a special right." For example, Askerov [9] notes that the CAO RF does not provide for this type of sanction to be applied to legal entities; Article 3.8 only refers to physical persons. However, other federal legislation allows such measures. For instance, Article 26 of the Federal Law "On Weapons" [10] permits a court, upon the request of the issuing authority, to revoke a license or permit granted to a legal entity if violations during an administrative suspension of activities are not corrected. In practice, this creates a contradiction: the CAO RF does not allow "deprivation of a special right" for legal entities, whereas other federal laws do. One potential solution is to amend Article 3.8 of the CAO RF to include legal entities among those who may be deprived of special rights. Alternatively, Article 1.1 of the CAO RF could be expanded to explicitly include federal laws alongside the CAO RF and other laws on administrative offences, and Article 3.8 could list special rights applicable to both individuals and legal entities.

Additional complications exist with this form of administrative punishment. Article 3.8 CAO RF prohibits deprivation of the right to drive for persons with disabilities; however, exceptions exist in cases such as driving while intoxicated, allowing a vehicle to be used by an intoxicated person, repeated violations, evading medical examinations for intoxication, or abandoning driving privileges while intoxicated. Similarly, deprivation of hunting rights cannot be applied to those for whom hunting constitutes a primary legal source of livelihood. Exceptions are limited to violations of hunting season limits or the use of prohibited tools and methods. The legislation does not account for repeated violations of other hunting rules by these individuals, which creates opportunities for potential abuse within this category.

Challenges also exist in the imposition of the administrative punishment known as "expulsion of foreign citizens or stateless persons from the RF." As Osokina [11] notes, courts often fail to consider that such individuals may have minor children who are not citizens of the Russian Federation. Although this circumstance does not prevent the application of forced expulsion, Article 3.10 of the CAO RF does not explicitly address it, leading to errors and inconsistencies in practice. Osokina emphasizes that the operative part of the administrative decision should explicitly state that the foreign citizen is subject to expulsion along with their minor children, including their names. The situation could be clarified by amending Article 3.10 of the CAO RF to explicitly indicate that a foreign national must be deported together with minor children who do not hold Russian citizenship. It is noteworthy that the draft of the new CAO RF already considers this issue, suggesting that it may be resolved in the near future. Currently, however, the legislator has adopted a different approach. Specifically, paragraph 3 of Article 4.14 of the draft CAO RF [12, 13] states that "administrative expulsion cannot be applied to foreign citizens permanently or temporarily residing in the RF, foreign military personnel, foreign minors or stateless persons, as well as foreign citizens and stateless persons who are married or in de facto

marital relations with a citizen of the RF, and/or have minor children, disabled children, or disabled parents who are RF citizens." This demonstrates a legislative tendency to liberalize the application of expulsion, particularly by exempting persons who have either formal or de facto marital ties to Russian citizens. Nonetheless, this matter remains unresolved, and further adjustments to the draft law are possible.

Additional difficulties arise in the imposition of administrative arrest. Dolgikh and Suponina [14-16] point out that, according to part one of Article 32.8 of the CAO RF, decisions to impose administrative detention must be executed by internal affairs bodies immediately after issuance. The term "immediately," frequently used throughout the CAO RF, is not defined, allowing for varying interpretations by law enforcement depending on subjective judgment and situational factors. Under part one of Article 31.1 of the CAO RF, an administrative decision generally comes into legal force after the expiration of the appeal period established in Article 30.3—typically ten days. However, Article 30.5 stipulates that complaints against rulings on administrative arrest must be reviewed within one day if the individual is already serving the arrest. The CAO RF does not provide that filing a protest suspends the execution of the arrest. Consequently, internal affairs bodies may enforce administrative detention before the decision enters into legal force, depriving the individual of the constitutional right to protect their rights and freedoms.

Given these circumstances, the legislator should refine the CAO RF provisions concerning the execution of administrative detention to resolve this contradiction. While immediate enforcement may be justified due to the specific nature of this punishment, its intersection with fundamental human rights requires that the legal norms governing its imposition and execution be carefully considered to ensure consistency with the Constitution of the Russian Federation.

Contradictions and challenges also emerge in the imposition of administrative punishment in the form of disqualification. Lipinski [17-19] highlights a discrepancy between the duration of administrative penalties and that of analogous criminal-legal sanctions. Article 47 of the Criminal Code of the RF [20] establishes that deprivation of the right to hold certain positions or engage in specific activities is applied as a principal punishment for one to five years, and as an additional punishment for six months to three years. Administrative disqualification, serving as the administrative equivalent of this criminal sanction, is imposed for six months to three years. Consequently, the upper limits of administrative punishment can, in theory, match or even exceed the duration of criminal-legal sanctions for more socially dangerous acts classified as crimes. This suggests that the legislator may need to address and resolve this inconsistency regarding the correlation between criminal and administrative penalties of the same type.

Additional difficulties arise with administrative punishment in the form of compulsory works. Gaidareva and Poddubny [21] observe that, in many municipalities, the list of available compulsory works is very limited. Furthermore, voluntary community service is often conflated with publicly paid work. The authors also note frequent overlap between lists of compulsory works and correctional works, which is unacceptable due to their fundamentally different purposes. In some cases, municipal authorities include private or commercial enterprises in the list of objects for compulsory works, despite this being prohibited under Russian law. Complications are particularly acute in rural areas, where underdeveloped infrastructure and insufficient material resources limit the options for compulsory works. A practical solution to these issues would involve improving regulatory frameworks, ensuring a clear distinction between compulsory and correctional works, and providing precise guidance on the permissible types and locations of compulsory service.

In summary, we have examined several key challenges that arise during the imposition of administrative penalties and suggested potential approaches for resolving them.

Results and Discussion

After a detailed examination of the topic, several conclusions can be drawn. We have clarified the concept and principal characteristics of administrative responsibility and administrative offence. Administrative responsibility is understood as a form of legal responsibility that comprises two dimensions. First, it encompasses the compliance of subjects with administrative-legal norms, reflected in lawful behavior that is either approved or encouraged by the state (the positive or prospective aspect of administrative responsibility). Second, it involves the obligation of a subject who has committed an administrative offence to

endure deprivations imposed by state authority (the negative or retrospective aspect of administrative responsibility).

Regarding retrospective administrative responsibility, it is important to highlight the role of the administrative offence, which forms its factual basis. According to part one of Article 2.1 of the CAO RF, an administrative offence is a wrongful and culpable action or inaction by an individual or legal entity for which the Code or other laws on administrative offences of the Russian Federation establish administrative liability. Each administrative offence has a defined composition, and the absence of any of its elements precludes the fact of an offence and, consequently, the imposition of administrative responsibility. The elements of an administrative offence include the object, objective side, subject, and subjective side.

Conclusion

We have also examined the general rules and procedures for imposing administrative penalties. Administrative punishment must not be intended to humiliate human dignity or inflict physical suffering on the offender. Penalties must be applied within the limits prescribed by law for specific offences. When determining the nature of the penalty, authorities consider both the characteristics of the offence and the offender's personality and property status. Mitigating factors (e.g., remorse, severe emotional disturbance, or concurrence of exceptional circumstances) and aggravating factors (e.g., commission by a group, during a natural disaster, or under the influence of alcohol) are also critical in shaping the administrative punishment.

Additionally, we have identified key problems in the imposition of administrative penalties and suggested potential solutions. First, legal scholars note that the CAO RF does not provide for "deprivation of a special right" for legal entities, even though similar measures exist in other federal laws. Second, gaps exist concerning the "expulsion from the RF of foreign citizens or stateless persons," as judges often overlook whether the individual has underage children who are not Russian citizens. Challenges also arise regarding the timing of administrative detention enforcement, as well as in administrative disqualification, where the duration of administrative punitive measures may conflict with the duration of comparable criminal-law penalties. Furthermore, there are inaccuracies in the regulation of compulsory works.

In summary, the study has addressed all significant aspects of the topic, and the research objectives have been successfully accomplished.

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