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The role and importance of public services in the effectiveness of public administration in Russian Federation

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Abstract: The article deals with issues related to the provision of state and municipal services in the Russian Federation. The relationship between the terms «public service» and «state service» is explored, while it is noted that the legal science has not developed a unified approach to this issue at present. The article outlines the basic features of state and municipal services. It is emphasized that public services can be provided only if there is an appropriate infrastructure consisting of software and information tools with the help of which both interagency interaction and communication of state authorities with applicants can be carried out. The authors note that administrative procedures are the necessary tool to render public services and mediate the interaction of state authorities with the population in a normative form. The authors argue that administrative procedures ensure the legality in conducting public administration. The article also examines the role and importance of administrative regulations in the effectiveness of state and municipal management. It is noted that the administrative regulations are still a relatively new legal phenomenon for Russia.

Keywords: state service, municipal service, management efficiency, administrative procedure, administrative regulations

РОЛЬ И ЗНАЧЕНИЕ ГОСУДАРСТВЕННЫХ УСЛУГ В ЭФФЕКТИВНОСТИ УПРАВЛЕНИЯ В РОССИЙСКОЙ ФЕДЕРАЦИИ

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Аннотация: В статье рассматриваются вопросы, связанные с предоставлением государственных и муниципальных услуг в Российской Федерации. Исследуется соотношение понятий «публичная услуга» и «государственная услуга», при этом отмечается, что юридическая наука в настоящее время не выработала единого подхода к данному вопросу. В статье сформулированы базовые признаки государственных и муниципальных услуг. Подчеркивается, что государственные услуги могут быть оказаны только при наличии соответствующей инфраструктуры, состоящей из программно-информационных средств, с помощью которых может осуществляться как межведомственное взаимодействие, так и общение органов государственной власти с заявителями. Авторы отмечают, что необходимым инструментом для оказания государственных услуг являются административные процедуры, которые в нормативной форме опосредуют взаимодействие органов государственной власти с населением. Авторы утверждают, что административные процедуры выступают гарантией законности при осуществлении публичного управления. В статье также исследованы роль и значение административных регламентов в эффективности государственного и муниципального управления. Отмечено, что административные регламенты по-прежнему являются сравнительно новым правовым явлением для России.

Ключевые слова: государственная услуга, муниципальная услуга, эффективность управления, административная процедура, административный регламент

Introduction

The Institute for the provision of public services in our country is regulated by Federal Law of July 27, 2010 No. 210-FZ «About the organization of provision of the state and municipal services» [1] (hereinafter - the Law on State Services). According to the article 30 of this law, most of its norms came into effect from the moment of the official publication of the law text, and only a small part of the norms had to take effect a year later. Since the adoption of the Law on State Services, it has been repeatedly amended, which, however, did not affect the very concept of providing state and municipal services.

At the same time, according to I.V. Ponkin, definitions of the «public service» and «municipal service» concepts, which are stipulated by clauses 1 and 2 of article 2 of the Law, claim to provide explanations of the meaning of these concepts but do not, in fact, properly disclose the content, the essence, the nature of these concepts and their other features, that allow us to delineate the notion of «service» [2].

Therefore, it is extremely important to develop and enforce clear and legally correct definitions of the concepts of «public service» and «municipal service», which provide an exhaustive interpretation of the content of these concepts. But this Federal Law does not properly implement this task.

The Federal Law in question also has other terminological lacks.

Thus, clauses 1 and 3 of Article 4 of the analyzed Law introduce the concepts of «state and municipal services» and «services that are necessary and mandatory for the provision of state and municipal services and are provided by organizations specified in part 2 of Article 1 of this Federal Law», but it is impossible to clarify what their differences are according to the analyzed Federal Law.

Instead of indicating that provision (submitting) of some public services can be delegated to outside organizations, and instead of fixing corresponding conditions, requirements and procedures, the analyzed Federal Law introduces a special kind of state and municipal services - «services that are necessary and obligatory for the provision of state and municipal services and are provided by organizations ...».

Meanwhile, the terminological confusion and inaccuracy in these issues turn into an unreasonable and significant irrational constraint in the development of state-private partnership relations, the subject of which are, as it is known, the infrastructure and service facilities or, what is important in the context of subject under discussion, the provision of services that have traditionally turned out to be public authority.

On the issue of the relationship between the concepts of «public service» and «public service»

The Law on State Services defines the state service as follows: «the act of implementing the federal executive body functions, the state extra-budgetary fund, the executive body of state power of the constituent entity of the Russian Federation, as well as the local government in the exercise of certain state powers transferred by federal laws and laws of the subjects of the Russian Federation, that is carried out at the request of applicants within the limits of authorities providing public services, which are established by regulations of the Russian Federation and normative legal acts of the Russian Federation». The definition of the municipal service is the same: «the act of implementing the functions of the local government, which is carried out at the request of the applicants within the power of the authority that provides municipal services, to address issues of local significance established in accordance with the Federal Law of 06.10.2003 No. 131-FZ "About the general principles of the organization of local self-government in the Russian Federation" and the charters of municipalities» [3].

It should also be noted that the term «service» has been used for a long time in Russian legislation and means a finished product of labor that can satisfy the needs of individuals and legal entities. The first mention of the term «service» is found in articles 8 and 74 of the Constitution of the Russian Federation [4]. The norms of civil law qualify services as one of the objects of civil rights. The Budget Code of the Russian Federation defines the state services as services that are rendered to individuals and legal entities by state authorities, budget institutions, or other persons, in accordance with the state task, free of charge or at prices that are established by public authorities.

In our opinion, at present time there is no common opinion among the legal scientists on the concept of «public service», which would be distinguished by clarity and necessary legibility. If we summarize the majority of opinions encountered in the literature, then the prevailing idea is that of the public service as one of the

1 Federal Law of July 27, 2010 No. 210-FZ «About the organization of provision of the state and municipal services» // URL.: http://www.consultant.ru/document/cons_doc_LAW_103023/ (accessed on 09.04.2017).

2 Ponkin I.V. On the issue of the system of providing public services // Pravozaschitnik. 2013, №1. // URL.: http://pravozashitnik.net/ru/2013/1/22.

3 3 Federal Law «About the General Principles of the Organization of Local Self-Government in the Russian Federation» of October 6, 2003 No. 131-FZ (last edition) // URL: http://www.consultant.ru/document/cons_doc_LAW_44571/ (accessed on 09.04.2017)

4 4 The Constitution of the Russian Federation (adopted by popular vote on 12.12.1993) (taking into account the amendments introduced by the Laws of the Russian Federation on Amendments to the Constitution of the Russian Federation of 30.12.2008 No. 6-FKZ, of 30.12.2008 No. 7-FKZ, of 05.02.2014 No. 2-FKZ, of 21.07.2014 No. 11-FKZ) // URL: http://www.consultant.ru/document/cons_doc_LAW_28399/ (accessed on 09.04.2017).

varieties of state functions [5]. Therefore, it makes sense to say that the state service is the activity of the executive authorities, state extra-budgetary funds, which is carried out at the request of individuals and legal entities and is aimed at obtaining the benefits provided by the current legislation.

The matter of the relationship between the concepts of «public service» and «state service» also seems important. Note that the legal science at the moment has not developed a unified approach to this issue. Y.A. Tikhomirov believes that it is necessary to separate these concepts, while the public service includes all services rendered in society, including state services. Public services also include municipal, social and other services. On the contrary, state services are thought of as services that are rendered by public authorities to a particular person [6].

L.K. Tereshchenko proposes to distinguish between the concepts of «public service» and «state service». In her opinion, the state service characterizes mainly the active subject, which is the state body. But there are also local self-government bodies that can provide services similar to state ones, but due to the legal status of local government bodies, these services cannot be attributed to state services. Public services, in her opinion, characterize a wider range of services, which include services provided by public authorities, local governments, and non-state actors [7].

To state services A.V. Nesterov refers the services rendered by providers free of charge on the basis of law to all persons applying for such services in accordance with the procedure defined in regulations and standards for the provision of public services. Again, public services are provided on a reimbursable basis, while the cost of such services should be regulated by the state. Public services are provided by commercial organizations in accordance with regulations approved by the state [8].

E.V. Talapina distinguishes the following distinctive features of public services:

- they are directed towards maining socially significant activity;

- these services can be used by an unlimited number of persons;

- subjects for providing public services can be both public authorities and other entities;

- they are based not only on public property, but also on private property [9].

Consequently, state service can be defined in the following way. The state service is one of the forms to implement the state function, within which the authorized state bodies carry out their activities to execute appeals of individuals and legal entities related to recognizing, establishing, modifying or terminating their rights, obtaining material and financial resources in cases and in order, provided by the legislation, establishing legal facts or provisioning information on the issues that fall within the competence of the relevant state bodies of power.

Based on the definitions above, the basic features of state and municipal services can be formulated. These features are:

- provision of state or municipal services is carried out only on the basis of the applicant's request;

- state or municipal service is provided only within the powers of the relevant authority;

- provision of state or municipal services is regulated in detail by normative and legal acts.

Analyzing the characteristics above, one can see their relationship to the principles of state services, which are listed in Art. 4 of the Law on State Services. According to it, one of the principles for providing public services is a declarative order, which means that a service can be provided only if there is an appropriate request from the interested party. This feature makes it possible to delimit state services from the state functions that are carried out without submitting a request, although they are directly related to interaction between agencies and interaction of state authorities with individuals and legal entities.

It should be emphasized again that the service is provided when there is a request from an interested party along with the required documents in accordance with special regulatory legal acts. Usually, state services are provided on a reimbursable basis, which is expressed in the need to pay a state fee before receiving a state service. The amount of the fee is rigidly fixed in the normative order. In accordance with the law, certain categories of applicants may be exempt from paying the state fee or provision of a particular public service may be free of charge for all categories of its recipients.

State service can be provided only by the authority. This condition is also fixed as one of the principles for the provision of state services. To keep a record of state and municipal services, the register of state services of the Russian Federation, the register of state services of the subjects of the Russian Federation and the register of municipal services are maintained. The inclusion of state and municipal services in these registers depends

5 5 See: Smirnova A.A. On the correlation of state services, functions and powers of executive bodies // Journal of Russian Law. - 2015. - № 3. Pp. 120-130.

6 See: Tikhomirov Y.A. Theory of competence. M., 2001.

7 Tereschenko L.K.. Services: state, public, social // Journal of Russian Law. – 2004. –No. 10. Pp 45-48.

8 See: Nesterov A.V. Discussing the draft law on state services // State power and local self-government. - 2009. - No. 10. P. 17-20.

9 Talapina E.V. Public administration: problems and prospects of legal regulation // Laws of Russia: experience, analysis, practice. - 2015. –No. 3-4. P. 96-101.

on the nature of the service itself and the level of the state authority that provides the relevant service.

Currently, there are 845 state services and functions at the federal level, coordinated with direct interaction of authorities and citizens. Information on more than 145 00 services (functions) of executive authorities of the subjects of the Russian Federation (an average of 175 services per subject of the Russian Federation) is placed in the regional section of the Federal Register of State Services. At the municipal level, according to the assessment of the Ministry of Justice of Russia, there are more than 32,500 municipal services [10].

It should be noted that the full list of rendered state and municipal services that are necessary and mandatory for the provision of services can be found on the Unified Portal of state and municipal services. At the same time, if possible, regional and municipal portals for the provision of state and municipal services are created in the regions. In accordance with the Law on State Services, the federal portal of state and municipal services should contain information on services of all levels. The regional portal should be devoted only to the provision of regional and municipal services.

The Unified Portal of state and municipal services performs another important function. With the help of the portal, it is possible to provide state services not only in traditional paper form, but also in electronic form. In order to receive a state service in the electronic form, the applicant must possess certain technical means to be able to use electronic signature or register on the Unified Portal. For some services, the Unified Portal is used to schedule an appointment in person, which saves considerable time for the applicants. In addition, the portal can be used to access, fill out or print the application forms needed to obtain the particular state service.

Thus, it becomes more and more obvious that in modern society state and municipal services can be provided only if there is an accompanying infrastructure that consists of software and information tools, with the help of which both interactions among departments and communications of state authorities with the applicants can be maintained.

Administrative procedures as a guarantee of the legality for providing state services

The necessary tools to provide state services are the administrative procedures, which in a normative form mediate the interaction of state authorities with applicants. In this regard, administrative procedures are auxiliary and service-oriented in relation to state services. But the actual provision of state services would be impossible without the adoption of appropriate administrative procedures in the form of administrative regulations. Provision of state services should be carried out in a strict unity of form and content, while it is unacceptable to ignore the basic principles of the provision of state services in developing appropriate administrative procedures to prevent «over-regulation» of the procedure for obtaining a state service, resulting in a service losing its accessibility. It seems that it would be wrong to completely or partially refuse to regulate the provision of state services from the administrative component that brings order to the relevant social relations.

According to Starilov Y.N., the development of legislation on administrative procedures is the main direction in modern Russian lawmaking, and the effectiveness and quality of the state administrative, executive (executive-administrative) activity depends on the degree of its practical implementation. The «unrealized potential» of the Constitution of the Russian Federation with regard to the creation of an administrative procedural form of public administration in the country should obviously become a factor in promoting the activities of scientists, politicians, and statesmen to create a single draft law establishing the legal regime of administrative procedures in the public administration system [11].

Therefore, it is necessary to consider the two basic concepts: the concept of a state service and the concept of an administrative procedure, as well as to understand the relationship between these two concepts.

As of today, there has been published a large number of scientific papers, which talk about the issue of administrative procedures [12] in one way or another, but the normative regulation of administrative procedures is still in its development stage, and there is still no legal definition of an administrative procedure. The authors offer various options to determine this concept. Differences in interpretation concern, first of all, the volume of the concept under study. Some scholars believe that a positive administrative procedure in the field of public administration can be defined as follows: it is a rule-based, documented activity of various entities which is aimed at achieving a certain result and at least one these actors is a public entity; during this activity the competence of the said entities is realized, the application of the norms of various branches of law is carried out and various legal administrative acts are adopted.

It should be noted that administrative procedures are not only a procedural form of positive public-legal relations. They have a more complex and close relationship with public administration.

10 Nesterenko I.A. To the question of administrative responsibility for violating the legislation on organization of the provision of state and municipal services // State power and local self-government. 2014. No. 1. P. 29-33.

11 Starilov Y.N. The Russian law on administrative procedures should become an integral part of modern administrative legislation // Voronezh State University Herald, No. 3, 2015. P. 22-28.

12 See: Sinyugin V.Y. Administrative Procedure: Problems of Definition // Administrative Law and Process. - 2014. – No.10. P. 30-33.

First of all, it must be emphasized that public administration includes both positive and negative activities. By positive activity we mean the activities of the relevant state bodies aimed at law execution, and by negative – law enforcement. In the sphere of interaction with positive and negative administrative procedures there is procedural and legal regulation.

The notion of public administration is relatively new to Russian legal science. Previously, as a general rule, it was said about state administration. In textbooks on administrative law, there was always a chapter on state administration, to which many scientific studies were also devoted [13]. At the same time, the term "public administration" has recently spread, which means not only the management that the state authorities participate in, but also includes local self-government bodies. It seems that this approach is most appropriate, since from a content point of view these types of management are almost identical, because they function on the basis of unified laws and principles. Everything that scientists developed during the analysis and study of the concept of "state administration" can be applied to the notion of "public administration".

The category of "public administration" is closely related to administrative procedures. The content of public administration is the activities of public authorities and local self-government bodies, regardless of clothing this activity into procedural and legal framework. The normatively established procedure, being in its essence procedural regulation of administrative activities, formalizes the process of public administration. But it is important to understand that the legal procedure does not aim to eliminate discretion in general. A legally regulated administrative procedure is necessary in order to prevent negative, arbitrary, and unjustified discretion [14].

Administrative procedures are a guarantee of legality in the conduct of public administration. Procedural norms always carry an element of procedural form, that is, they prescribe certain rules for recording, storing and processing information, as well as empowering all participants of the public process with the appropriate rights and obligations.

Administrative procedures are brought to protect bona fide participants in managerial relations from formal attitudes and neglect of state and municipal employees. The legal procedure always tightens the requirements for the preparation, storage and processing of procedural documents that serve as the basis for the adoption of administrative decisions. In the future, these documents serve not only the purposes of storing information and compiling statistical reports, but also in the event of a dispute may be presented as evidence in court and other state bodies. Thus, all the norms of substantive law, including administrative and legal norms, need an additional way to ensure legality – in a procedural form.

It becomes obvious that administrative procedures are an integral part of state and municipal government. Administrative procedures are not only an expression of the procedural aspect of public administration, but are also a guarantee of compliance with the rule of law in the conduct of public administration. Administrative procedures, being duly executed, establish the limits of permissible public relations with individuals and legal entities, as well as protect the interests of bona fide participants in managerial processes.

On the concept and content of administrative regulations

While investigating the concept and content of state services, it is also necessary to address the issue of administrative regulations.

Administrative regulations are still a relatively new legal phenomenon for Russia, since they appeared only as a result of the ongoing administrative reform of the executive authorities system. The development and implementation of administrative regulations for the provision of state services was one of the main directions to reform the executive bodies system. As A. F. Nozdrachev stated, during the implementation of the administrative reform it was revealed that there is an urgent need to strengthen the legislative regulation of administrative procedures, that is the executive authorities' order to implement actions aimed at the realization of their competence. And the basis for that regulation was in the administrative regulations [15].

Generally, the science of administrative law under the notion of administrative regulations understands the actions or their totality that are committed by the state executive authority, its structural subdivision and its officials to achieve a specific goal within the framework of the powers conferred upon them by law. So, in the opinion of P.I. Kononov, the administrative regulations are a legal form of administrative and public activities along with such administrative and legal acts as, for example, the resolutions of the Government of the Russian Federation, etc [16]. The main difference between the administrative regulations and other documents, according to P.G. Lahno and V.Y. Sinyugin, is the existence of timing and action sequence in administrative regulations that are required for public authorities, as well as the description of their structural units and officials interaction with other state authorities in per-

13 Popov L.L., Migachev Y.I., Tikhomirov S.V. State administration and executive power: content and correlation. - M., 2011. - P. 319.

14 Popova N.F. The role of administrative procedures in realizing rights, freedoms and obligations of Russian citizens // Administrative Law and Process. - 2014. –No.1. P. 5-9.

15 Habrieva T.Y., Nozdrachev A.F., Tikhomirov Y.A. Administrative Reform: Solutions and Problems // Journal of Russian Law. - 2006. – No.2. P. 3-23.

16 Kononov P.I. On the systematization of Russian administrative law and legislation // Administrative Law and Process. - 2014. – No. 6. P. 6-11.

forming functions assigned to them and provisioning state services to the public [17].

It is also necessary to further investigate the legal nature of administrative regulations. Let's ask ourselves: are they normative legal acts? As is known from the general theory of state and law, the normative legal act is adopted by an authorized state body, contains legal norms and is designed for repeated application. The characteristics above constitute the essential characteristics of a normative legal act that make it possible to distinguish a normative legal act from an individual law enforcement act.

It should be noted that administrative regulations are adopted by federal executive bodies, which are authorized to adopt corresponding documents. This is evidenced by the content of the Model Regulations on the Interaction of Federal Executive Bodies, approved by the Resolution of the Government of the Russian Federation No. 30 of 19.01.2005 [18].

Proceeding from the fact that the administrative regulations are a normative legal act, it follows from this that the adoption of administrative regulations is law-making activity. But according to the decree of the President of the Russian Federation No. 314 [19], federal services and federal agencies only have the right to adopt individual regulatory and legal acts in their own field of activity. Normative and legal regulation can be carried out by the specified subjects only in exceptional cases provided by decrees of the President of the Russian Federation and resolutions of the Government of the Russian Federation. In this regard, the Model Regulations can be regarded as a special permit of a higher-level state authority to implement law-making activity. On the other hand, it is unreasonable to evaluate the Model Regulations as a special authorization act, since its content is not of an exceptional nature.

It is also necessary to define what is the administrative regulation on the provision of state services as a non-normative legal act. In principle, the administrative regulation can be compared to the standard, and its content – to the norms of a technical nature due to their addressing to the state body of power authorized to provide a state service.

Indeed, the assertion of some authors, stating a certain sameness of the service standard and regulations in connection to the fact that the quality of the state service is determined with the help of administrative regulations and doesn't exist in isolation from the process of rendering the service, makes sense.

Administrative regulations for the provision of state services should be considered normative legal acts. Therefore, their effect must be extended to all participants of legal relations in the sphere of state services. This can be done through the norms of federal legislation.

Conclusion

Currently, there is a process of establishing a service-oriented state for which state services are a key institution. With regard to state services in general, irrespective of departmental delineation, the technology of their provision needs to be improved. Improving the quality of state service delivery should occur through changes in existing legislation and lawmaking, which should result in a normative legal act that is free of collisions and gaps.

At the disposal of government agencies providing state services, there should be detailed and effective mechanisms for managing the quality of state services, and interagency cooperation.

The provision of state services should be carried out in a strict unity of form and content, bringing order to the relevant social relations. At the same time, it is unacceptable to ignore the basic principles of the provision of state services in developing appropriate administrative procedures to prevent their excessive "over-regulation", as a result of which the service loses its accessibility.

Administrative regulations on the provision of state services are a logical result of the administrative reform carried out in our country. Administrative regulations are designed for flexible, situational regulation of the activities of executive authorities, including the new ways of doing business.

17 See: Lahno P.G., Sinyugin V.Y. Theory and Methodology of Administrative and Legal Management of Reform // Entrepreneurship. - 2008. –No. 4. P. 2-11.

18 Resolution of the Government of the Russian Federation No. 30 of January 19, 2005 «On the Model Regulations for the Interaction of Federal Executive Bodies» (with amendments and additions) // URL: http://base.garant.ru/187790/#ixzz4dpRg94PD (accessed on: 04/09/2017).

19 Decree of the President of the Russian Federation No. 314 of 09.03.2004 (Edited on 07.12.2016) «On the System and Structure of Federal Executive Bodies» // URL: http://www.consultant.ru/document/cons_doc_LAW_46892/ (accessed on: 04/10/2017).

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