

Annotation to the dissertation of Ekaterina Viktorovna Trofimova on the topic: “Procedural activities of a magistrate in carrying out proceedings in cases of administrative offenses”, submitted for the degree of candidate of legal sciences in the specialty 5.1.2. Public legal (state legal) sciences

Relevance of the research topic. Modern trends in the development of legislation on administrative offenses indicate the increasing social significance of the procedural activities of magistrates in considering cases of administrative offenses, due to the fact that the functioning of the institution of magistrate justice makes it possible to ensure accessibility to justice and relieves a large burden on district and city judges. At the same time, from year to year the workload on justices of the peace increases, administrative offenses become more widespread, and the public danger of these offenses does not decrease.

In addition, the current legislation on administrative offenses is characterized by a significant expansion of the role of magistrates in the field of administrative jurisdiction. At the same time, a significant expansion of the role of judges in this area is determined not only by the exclusive competence to apply almost all types of administrative penalties, but also by the expansion of the possibility of transferring to the jurisdiction of judges the majority of administrative offenses involving penalties that officials of executive authorities are authorized to apply. Thus, judicial statistics in recent years show that about 90% of cases of administrative offenses (of the total number considered by judges of district courts and magistrates) are considered by magistrates.

At the same time, the time spent on considering cases of administrative offenses is increasing due to the permanent reform of the legislation on administrative offenses, the complication of the procedure for judicial consideration of cases, including surveys of participants in administrative proceedings, including witnesses, specialists, experts, victims, etc. Data from the practical activities of

magistrates reveal significant problems in law enforcement practice that arise when magistrates consider cases of administrative offenses and affect the legality and validity of the decisions of magistrates. All this indicates the need to further improve the organizational and procedural activities of justices of the peace, including judicial mechanisms that allow, in the procedures for independent consideration of a legal conflict, to maintain a balance of interests and constitutional guarantees of the individual.

Systematization and generalization of existing knowledge and approaches established in administrative-legal science in terms of their integration seem relevant and theoretically significant.

Identification and theoretical understanding of the features of the procedural activities of magistrates in the consideration of cases of administrative offenses correspond to the needs of modern judicial practice and trends in the development of legal knowledge, aimed at improving administrative and administrative procedural legislation, which generally determines the relevance of the chosen topic.

The object of the study is the social relations that arise when justices of the peace carry out proceedings in cases of administrative offenses.

The subject of the study is the legal norms regulating the basis and procedure for magistrates to carry out proceedings in cases of administrative offenses, as well as decisions of the Constitutional Court of the Russian Federation, the Supreme Court of the Russian Federation, acts of justice, and law enforcement practice on this issue.

Purpose and objectives of the study. The purpose of the dissertation research is to theoretically substantiate and develop a constructive model of legislative regulation of the procedural activities of magistrates in carrying out proceedings in cases of administrative offenses, as well as to formulate scientific and practical recommendations for improving the legal regulation of administrative procedural activities of magistrates at the present stage of development of administrative proceedings.

Achieving this goal predetermined the need to solve **the following tasks:**

- reveal the content and patterns of historical development and determine the nature of the system of modern world justice: genesis, characteristics, functions in modern society;

- to understand the essence and purpose of the administrative jurisdiction of a magistrate in carrying out proceedings in cases of administrative offenses;

- determine the limits of the competence of a magistrate when considering cases of administrative offenses;

- characterize the types of evidence and procedural actions of the magistrate that provide evidence in a case of administrative offenses;

- to determine the role of the magistrate in ensuring adversarial behavior in the consideration of cases of administrative offenses, contributing to the creation of the necessary conditions for the parties to fulfill their procedural duties and exercise the rights granted to them;

- highlight the features of the stage of preparation for consideration by a magistrate of a case of an administrative offense, determine ways to optimize the legal regulation of this stage;

- determine the place and role of the stage of consideration of a case of an administrative offense in the system of stages of administrative and tort proceedings;

- based on an analysis of law enforcement practice, identify problems in the consideration of cases of administrative offenses by magistrates, and propose options for resolving them.

The scientific novelty of the study is determined by the set of tasks and consists in the fact that, based on the analysis of administrative and administrative procedural legislation, a comprehensive study of the problems of procedural activity and the practice of implementing legal proceedings in cases of administrative offenses by magistrates was carried out.

In the context of a study of administrative and legal regulation of the procedural activities of a magistrate when considering cases of administrative offenses:

- the procedural mechanism of judicial proceedings, built on the use by the magistrate of substantive, procedural and competence norms of the legislation on administrative offenses, has been scientifically rethought;

- the author's understanding of the procedural form of consideration by magistrates of cases of administrative offenses, which is defined as "legal proceedings in cases of administrative offenses", is proposed;

- the goals, objectives and characteristics that characterize the consideration by magistrates of cases of administrative offenses as legal proceedings in cases of administrative offenses are determined;

- system elements of the procedure for consideration by magistrates of cases of administrative offenses are presented, reflecting the identity from the standpoint of legal significance, content and features of the implementation of procedural actions by both judges of district courts and magistrates;

- characteristics of the legal regulation of the stage of consideration of a case of an administrative offense by a magistrate are given;

- the scope of sufficiency of evidence is determined, which is determined by the magistrate when assessing the evidence, including the totality of relevant, admissible and reliable evidence;

- identified criteria for significant violations of the procedural requirements of the law, entailing the cancellation of the decision and the return of the case for a new consideration;

- it has been proven that the procedural activity of a magistrate when considering cases of administrative offenses exhibits the dual legal nature of adversarial behavior;

- the need to supplement the legislative list of principles of proceedings in cases of administrative offenses with the principles of adversarial and equal rights of the parties has been proven;

- the essential significance of the use of measures to ensure evidence by a judge when considering a case of an administrative offense has been determined;

- it has been proven that the absence in the law of the right of participants in proceedings to appeal against rulings and the powers of subjects of administrative jurisdiction to consider complaints against rulings in a case does not contribute to the adoption of a legal decision in the case, and is not in direct correlation with the constitutional guarantee of everyone to judicial protection of their rights and freedoms and appeals against violated rights in court;

- the decision of the magistrate to terminate proceedings in a case of an administrative offense was recognized as legal and justified in the presence of signs of a crime, when administrative prejudice is a condition for bringing to criminal liability, directly provided for by criminal law.

Scientific novelty is reflected in substantiated theoretical provisions, conclusions and proposals for improving the legal regulation of the administrative procedural activities of justices of the peace when considering cases of administrative offenses.

The theoretical significance of the dissertation is determined by the fact that:

- provisions have been proven that expand scientific ideas about the procedural activities of a justice of the peace when considering cases of administrative offenses;

- the chronological framework for the emergence and development of the institution of magistrate justice in Russia is presented, given in the context of this study in order to clarify the presence (or absence) of issues of resolution (consideration) of offenses within the competence of magistrates of Russia;

- the signs are formulated, the stages of the stage of consideration by magistrates of cases of administrative offenses are highlighted;

- the author's approach to the rules of adversarial behavior when a magistrate considers a case of an administrative offense is proposed;

- provisions are set out that affect the rights of participants in proceedings and the powers of bodies and officials at the stage of considering a case of an administrative offense;

– individual procedural documents (decrees, rulings) and procedures for recognizing their legality and legality, issued by justices of the peace when considering cases of administrative offenses, were analyzed.

The practical significance of the dissertation is determined by the possibility of using its results in the future implementation of new scientific research in the field of procedural activities of both justices of the peace and judges of arbitration courts, and courts of general jurisdiction for the consideration of cases of administrative offenses.

The practical proposals contained in the work for modernizing domestic legislation regulating the procedural activities of judges when considering cases of administrative offenses can be used in the current legislative work of the federal legislator to develop amendments and additions to the Code of the Russian Federation on Administrative Offenses, as well as in improving the draft of a new law about administrative offenses.

The author's proposals and conclusions on issues of judicial procedural activity when considering cases of administrative offenses can be used as scientific, practical and additional material for the purpose of preparing educational and educational literature and conducting the educational process in the academic disciplines "Administrative Law", "Administrative Jurisdictional Law". activities" and "Administrative responsibility" in educational organizations of higher education of a legal profile.

The structure of the dissertation is determined by the objectives of the scientific research carried out within the framework of this work. The dissertation includes an introduction, two chapters consisting of seven paragraphs, a conclusion and a bibliography.

Applicant



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