RESPONSIBILITY AS A PRINCIPLE OF ORGANIZATION AND ACTIVITY OF EXECUTIVE AUTHORITIES IN THE RUSSIAN FEDERATION: CONSTITUTIONAL AND LEGAL ANALYSIS

INTRODUCTION

The system of executive authorities in the Russian Federation is actively studied in the scientific works of V.V. Grib, I.A. Umnova, S.A. Avakyan, V.V. Komarova, N.Yu. Khamaneva, O.E. Kutafin, L.Yu. Grudtsyna, Yu.A. Tikhomirov, V.E. Chirkin, T.Ya. Khabrieva, and several other authors. These works provide the basis for studying the theoretical foundations of the public administration system in Russia in relation to its social content. However, the share of scientific works devoted to the study of the problems of implementing the principle of responsibility in the organization and activity of executive authorities in the Russian Federation is insufficient. In this regard, the main purpose of this constitutional and legal research is a comprehensive study of responsibility as a principle of organization and activity of executive authorities in the Russian Federation, in order to expand and clarify the conceptual and categorical apparatus of the science of constitutional law in the field of public administration, forming an integrated the concept of the optimal organization and exercise of executive power in Russia, and the subject of research is the legal framework enshrining the above-mentioned principle of the organization and activity of bodies of executive power in the Russian Federation, as well as scientific views on the resolution of problems associated with its implementation.

METODOLOGY

This article in the process of cognition of state-legal phenomena were used: a) General scientific methods (formal-logical, systemic, structural-functional, concrete-historical); b) General logical methods of theoretical analysis (analysis, synthesis, generalization, comparison, abstraction, analogy, modeling, etc.); c) private scientific methods (technical and legal analysis, specification, interpretation, etc.) (ZALESNY, GONCHAROV, 2019: 129-142; ZALESNY, GONCHAROV, 2020: 1-6).

RESULTS

Responsibility in law has a social nature, predetermined by the social nature of relations. The subject of any social relationship should always be able to choose a variant of his behavior, otherwise the possibility of bringing him to responsibility for deviations from the requirements of these requirements is excluded. A number of scientists consider responsibility as a socio-legal regulator (RUSSIAN, 1999: 109), but it seems more accurate that in the most general form, responsibility acts as an attitude that ensures the interests and freedom of related parties and

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General logical methods of theoretical analysis (analysis, synthesis, generalization, comparison, abstraction, analogy, modeling, etc.); c) private scientific methods (technical and legal analysis, specification, interpretation, etc.) (ZALESNY, GONCHAROV, 2019: 129-142; ZALESNY, GONCHAROV, 2020: 1-6).


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is guaranteed by society and the state, which is formed as a result of the successive interaction of three main parts: duty consciousness; behavioral assessments; the imposition of sanctions (ATAMANCHUK, 1997: 302). The stages of this process should be detailed on: the emergence of responsibility; detection of norm violation; official or public evaluation of it; implementation of responsibility.

Due to the fact that in society there are different rules of behavior (political, moral, legal) in relation to individual individuals and their communities in terms of morality and material wealth, respectively, there are several types and elements of responsibility: personal and collective, political and legal, moral and material, occurring both for violation of the norms by the violator through action and inaction. The responsibility of the executive authorities and their officials can be divided into: political and legal (constitutional, criminal, civil (material), disciplinary). Moral responsibility is a condemning attitude towards a violator of social norms that develops with a society or a collective, a negative assessment of an act that contradicts moral standards, proceeding from public perceptions of justice and honor, good and evil, dignity, which serves as a criterion for social assessment of certain qualities of a violator.

The political responsibility of executive bodies and officials is their responsibility to the people of the country or part thereof for activities that do not meet the mandate of trust (KRASNOV, 1993: 46-56), expressed in the inability or unwillingness to pursue a policy and exercise power for the benefit of society and the state. Sanctions of political responsibility of executive authorities can be divided into: distrust shown to elective officials by voters during elections or referendum (however, the absence of direct elections of executive authorities and restrictions on referendum legislation deprive people of a mechanism of mistrust of the executive branch); resignation, dissolution, removal from office of an executive body or official by another state body or official (group of bodies or officials); recall of heads of executive bodies of state power of subjects due to loss of voters’ confidence as a result of illegal or immoral acts, gross violation of the country’s Constitution, federal and regional legislation (modern legislation has deprived people of this sanction of political responsibility). The political responsibility of the President of Russia, for example, in accordance with Article 93 of the Constitution of the Russian Federation (removal from office) occurs after he is charged with high treason or another serious crime.

As S.A. Avakyan notes, the line between political responsibility and constitutional responsibility (as a form of legal responsibility) cannot always be clearly drawn (SIVITSKY, 2002: 114-121), since the grounds and measures of political responsibility are quite subjective and often do not have legal fixation. It seems interesting that some experts believe that authorities must be legally responsible for breaking the law before the state, not the population (KRASNOV, 1993: 47), otherwise the possibility of arbitrary, and sometimes criminal, manipulation of such a plebiscite is not excluded. Legal liability, being a type of social responsibility, is the relationship between the state and the offender generated by the offense, which is obliged to undergo adverse consequences and deprivation for the violation of the requirements contained in the rules of law. However, there is no single understanding of legal responsibility among domestic and foreign lawyers (SIVITSKY, 2002: 114-121; BOYTSOVA, 2001: 51-60; GAJIYEV, 2014: 7-15). Conventionally, two points of view on its understanding can be distinguished: as a «two-aspect» responsibility, which includes both «negative» and «positive» responsibility; as soon as a «negative» responsibility.

A number of authors consider it inappropriate to divide the responsibility into positive and negative, since, firstly, such a distinction is rather arbitrary, since the sanctions are the same (Zh. I. Hovsepyan); secondly, it is necessary to distinguish between the range of tasks and powers for which the official is responsible, and the exposure of this person or body to adverse consequences (B. A. Strashun). Some authors relate positive and negative responsibility as political and legal (SIVITSKY, 2002: 117). The positive responsibility, consisting of the obligation to carry out certain activities defined by law, is primarily related to justice, as through judicial acts it is the responsibility of the offender to commit certain actions or to refrain from them. Negative legal responsibility arises for the failure to perform functions by a state or official or a violation of laws and is the responsibility of the guilty person (state body) to undergo sanctions for unlawful behavior. It seems the most accurate position, according to
which responsibility is considered as a single and indivisible into types, aspects of a holistic fabric (KRASNOV, 1997: 17).

Indeed, a number of functions of a single and indivisible legal responsibility can be distinguished: penalty, as the state’s reaction to the offense; preventive, both private, developing motives for the offender for further non-violation, and general, contributing to the emergence of persons with antisocial psychology of motives to comply with legal norms; legal restoration (compensation), which is considered as ensuring the violated interest authorized (ALEKSEEV, 1981). A number of scientists along with the established constitutional legal responsibility introduce the concept of public legal responsibility.

If under the constitutional responsibility a number of scientists understand the responsibility provided for by the Constitution of the country and constitutions (charters) of subjects, which is of a suprasectoral nature and character, also established by other acts of this kind and constitutional customs (except decisions of the Constitutional Court) (DOBRYNIN, 2014: 5-18; SIVITSKY, 2002: 115), then public law responsibility, in the opinion of I. A. Umnova (UMNOVA, 1998: 219-224), due to the need to systematize the forms and measures of responsibility used in the organization and functioning of public authority. Indeed, firstly, the main difference between public liability from other types is the combination of moral, political and legal measures of responsibility that its subjects bear before the main sources of public power - a citizen, people, population; secondly, it is public law that includes mutual responsibility, regulated by the law of the Federation and its subjects as carriers of public authority in the state (UMNOVA, 1998: 221).

With regard to constitutional and legal responsibility, it is possible to distinguish, conditionally, its two types: restorative (protective) responsibility inherent in private law; punitive, characteristic of public law. One of the debatable issues of constitutional responsibility is the attribution to the last cancellation of illegal decisions by the executive authority and their officials. It seems that the allegations of the proponents of this approach that the responsibility for the repeal of an illegal act or the application of disciplinary measures consist in diminishing authority, prestige, respect for the guilty body and official, and, as appropriate, in damages (MALEIN, 1994: 23), were relevant in the Soviet period when the abolition of acts of lower Councils was perceived by higher authorities as the realization of responsibility. In this regard, the question arises of the existence of double liability for one offense, for example, in the event that a legal act of a subject of the Federation is recognized as not corresponding to federal legal acts: firstly, the court declares it invalid; secondly, the termination of powers of the body (official) that received it is provided.

The constitutional legal responsibility of executive authorities in the narrow sense can be regarded as the responsibility of only state bodies and officials for violation of constitutional legal norms. According to some scholars, constitutional legal responsibility is provided for by the norms of constitutional law itself and is primarily political in nature, «and only in certain cases does it require the presence of the guilt of a particular official» (BAGLAY, TUMANOV, 1998: 295-297). However, it is more accurate to broadly define constitutional responsibility as legal liability for violation of constitutional norms or other sources of constitutional law in the form of adverse consequences defined in the Constitution of the country or federal laws aimed at protecting the constitution.

Consider the features of the constitutional legal responsibility of representatives of the executive branch to other branches of government and the people (citizens of Russia). A number of authors rightly notes the narrow nature of the responsibility of the Government of the country (CHEPUS, 2012: 63-71), which is responsible only to the head of state, who has the right to dissolve it, without revealing the basis for such a decision. Moreover, the constitutional responsibility of the head of state itself is reduced only to a complicated and confusing procedure for his removal from office (Article 93 of the Constitution), and the grounds for liability are limited to committing treason or another serious crime by the President of the country. Currently, we can only talk about the political responsibility of the President of Russia to the people, which can be expressed in the refusal of voters’ confidence in the re-election of the head of state. Moreover, if the head of state fulfills his duties for a second term in a row, then political responsibility is excluded, since according to the Constitution of the country his...
re-election for a third term in a row is not allowed. Moreover, the President of Russia cannot be held accountable even after the completion of his powers (ON, 2001: 617).

It seems that the powers of the President of the Russian Federation to resign the Government should be limited by certain conditions (for example, the head of the Government or the Government itself can be dismissed for actions or inaction that would cause harm to the interests and security of Russia, threatening its unity and territorial integrity, as well as a systematic violation of the Constitution of the Russian Federation and current legislation, or the systematic publication of acts that contradict them) by changes in Federal legislation. The mutual responsibility of the legislative (representative) bodies and heads of executive bodies of power of the constituent entities of Russia, as well as their responsibility to the Federal government, in recent years have received detailed regulation in the legislation. In addition, a number of scholars, referring to Articles 87 and 88 of the Constitution of the Russian Federation, declare the possibility of introducing the institution of direct presidential rule under the circumstances and in the manner prescribed by Federal Law, considering this as a form of constitutional responsibility of the executive authorities of the country’s subjects to the executive branch of the Federation.

The current legislation (in particular, Article 53 of the Constitution) provides for civil liability of the state for harm caused by public authorities (mainly executive) or their officials through actions (inaction) that are illegal. The composition of such an offense includes mandatory elements: illegal actions (inaction); material and moral harm; the presence of a causal relationship between illegal actions (inaction) and harm; the presence of guilt of the authority or its official. Damage can be caused not only by actions (inaction), for example, of an executive authority (official), but also by its decision adopted in the field of public administration, drawn up in the form of a normative act, since it is the main form of exercising the powers of state power (ADMINISTRATIVE, 1999: 268). The Civil Code of the Russian Federation (Article 1082) provides for two ways of compensation for material damage: compensation in kind; compensation for losses (real damage and loss of profit). Responsibility for non-pecuniary damage, defined as moral or physical suffering caused by actions (inaction), infringing on intangible goods belonging to a citizen from birth or by force of law, or violating a citizen’s property rights, compensated along with material, is provided for in Articles 151, 1099-1101 of the above-mentioned law (SOME, 1995: 9).

There are two procedures for recognizing actions (decisions) of executive authorities as unlawful: administrative (by higher authorities or officials, or upon a citizen’s complaint or protest of a prosecutor); judicial (on the complaint of the citizen or the protest of the prosecutor). The responsibility of the apparatus, services, units and employees of state bodies for the results of their work is expressed in the fact that the shortcomings and omissions of subjects of administrative activity entail disciplinary and other responsibility. For a long time now, the media have been talking about the need to bring to justice (along with Khodorkovsky and Nevzlin) other oligarchs (RYABOV, 2001). Meanwhile, the fact that many of them held the posts of heads of government, ministries and departments is hushed up, and these officials are responsible for the collapse of the army, the insane privatization and impoverishment of the country, and toothlessness in the fight against terrorists.

CONCLUSIONS

Establishing the responsibility of executive authorities and their officials helps to improve the quality and efficiency of work, fosters a conscientious attitude to official duties, exacting bosses to subordinates, and a sensitive and attentive attitude to people. As the President of Russia noted:

> Every citizen of our country must know exactly what exactly he has the right to receive free of charge from the federal government, from the regional government, and for which he must pay. And just like that, authorities of all levels should have their responsibilities assigned (THERE, 2001).

In this regard, it seems that the implementation of all the principles of the formation and functioning of executive authorities is possible only if these authorities strictly fulfill their legitimate duties under the threat of inevitable prosecution.
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Responsibility as a principle of organization and activity of executive authorities in the Russian Federation: constitutional and legal analysis

A responsabilidade como princípio de organização e atividade das autoridades executivas na Federação Russa: análise constitucional e jurídica

La responsabilidad como principio de organización y actividad de las autoridades ejecutivas en la Federación de Rusia: análisis constitucional y legal

Resumo
Este artigo é dedicado à análise constitucional do princípio mais importante de organização e atividade das autoridades executivas na Federação Russa - responsabilidade. Os autores desenvolveram e justificaram um conjunto de recomendações para fortalecer e fortalecer o princípio da responsabilidade nas atividades dos órgãos executivos e da responsabilidade dos seus dirigentes, uma vez que de forma a refletir nas atividades do Poder Executivo a vontade real da maioria dos cidadãos do país, monitoramento constante da sociedade como um todo e de cada cidadão individualmente quanto ao seu funcionamento.


Abstract
This article is devoted to the constitutional analysis of the most important principle of organization and activity of executive authorities in the Russian Federation - responsibility. The authors have developed and justified a set of recommendations to strengthen and strengthen the principle of responsibility in the activities of executive bodies and the responsibility of their officials, since in order to reflect in the activities of the executive branch the actual will of the majority of citizens of the country, constant monitoring of society as a whole and each citizen individually for his functioning.

Keywords: Responsibility. Executive Branch. Russian Federation. Principle.

Resumen
Este artículo está dedicado al análisis constitucional del principio más importante de organización y actividad de las autoridades ejecutivas en la Federación de Rusia: la responsabilidad. Los autores han desarrollado y justificado un conjunto de recomendaciones para fortalecer y fortalecer el principio de responsabilidad en las actividades de los órganos ejecutivos y la responsabilidad de sus funcionarios, ya que con el fin de reflejar en las actividades del Poder Ejecutivo la voluntad real de la mayoría de los ciudadanos del país, seguimiento constante de la sociedad en su conjunto y de cada ciudadano individualmente para su funcionamiento.