Original article
UDC 342.92
doi 10.46741/2686-9764.2024.66.2.009

Administrative Arrest Appointment as an Exclusive Prerogative of the Court

STANISLAV V. SHCHEPALOV
Supreme Court of the Republic of Karelia, Petrozavodsk, Russia, schepalov@mail.ru, https://orcid.org/0009-0004-8835-247X

Abstract

Introduction: in connection with the scientific discussion on the expediency of the judicial procedure for the consideration of cases of administrative offenses, the article describes the background of its appearance in domestic law. It is largely related to the imposition of such a type of punishment as administrative arrest. The decree that marked the emergence of administrative liability in the RSFSR, at the insistence of V.I. Lenin, the appointment of arrest for violation of sanitary standards was entrusted not to the court, but to the housing and sanitary inspection. Further food commissioners and local executive committees became entitled to arrest citizens. However, the administrative authorities, using arrest as an additional resource to perform their basic managerial functions, often exceeded their powers. As a result, the Soviet government rolled back such a reform in 1922–1925. Deprivation of liberty became a criminal punishment within the court jurisdiction. In 1956, the institution of administrative arrest was revived, but within the framework of the judicial prerogative and simultaneously with the emergence of an independent judicial procedure for the consideration of cases of administrative offenses. *Purpose*: to substantiate the need to preserve the judicial procedure for the appointment of administrative penalties as a form of preliminary judicial control. *Methods*: formal-legal, historical-legal, comparative-legal. *Results*: the jurisdictional function of administrative bodies is secondary and, as a rule, is considered by them as a means to perform the main and more time-consuming managerial function, which is confirmed by the history of Soviet law. If the governing bodies are given the authority to independently impose the most severe punishments, they may violate personal freedom of a citizen. *Conclusion*: it is necessary to preserve judicial jurisdiction of cases involving administrative arrest. Othrewise, subsequent judicial control will not be able to fully restore violated personal rights.

Keywords: judicial proceedings, administrative justice, administrative liability, people's court, Soviet administrative law, administrative arrest.

5.1.2. Public law (state law sciences).

For citation: Shchepalov S.V. Administrative arrest appointment as an exclusive prerogative of the court. *Penitentiary Science*, 2024, vol. 18, no. 2 (66), pp. 187–195. doi 10.46741/2686-9764.2024.66.2.009.

Introduction

The increasing role of courts in the consideration of cases of administrative offenses is noted as an important trend [1]. However, today there is still a discussion about whether there is a need for judicial review of such cases. The role of courts could be limited only to the consideration of complaints, and administrative liability is extrajudicial by its nature.

B.V. Rossinskii reasonably draws attention to the fact that judicial review complicates and delays proceedings, is very expensive for the state, and recognizes a non-judicial model of proceedings in cases of administrative offenses (hereinafter referred to as the PCAO) as the most acceptable [2]. A.I. Kaplunov, also advocating the non-judicial model of the PCAO, notes that the nature of administrative liability is in the imposition of its control and supervisory authorities, and the judicial order represents its "mutation". At the same time, the authoritative scientist expresses his position on the expediency of minimizing the competence of judges to consider administrative and tort cases [3]. E.V. Trunova also recognizes validity of the non-judicial model of the PCAO [4].

Other researchers speak about the need for a judicial procedure for the consideration of administrative and tort cases. The importance of applying judicial control over the public administration activities is substantiated by the fact that administrative sanctions have significantly tightened, due to the complexity of the economy and environmental management [5]. L.L. Popov and Yu.I. Migachev note that judges consider the most serious and complex cases involving application of strict administrative penalties [6]. S.N. Bratanovskii backs the idea emphasizing that the consideration of such cases by a judge is a reliable guarantee of suspects and victims [7].

The ambiguity of understanding limits of judicial intervention in administrative prosecution has largely led to difficulties in codifying procedural legislation on administrative offenses. The draft Procedural Code of the Russian Federation was developed in 2020 [8] but is still under preparation [9].

Lawyers supporting the court's appointment of administrative punishment refer to administrative arrest. Indeed, only in rare cases motorists detained under "arrest" articles of Chapter 12 of the Administrative Code persistently ask to be sent to an administrative detainee cell, but not to be deprived of their driver's license. Otherwise, arrest deservedly enjoys the status of the most severe type of administrative punishment, which has a tangible preventive value.

Taking into account the lively discussion, we would like to propose a short foray about how the appointment of administrative arrest has become a judicial prerogative in domestic law. In our opinion, it gives good reason to believe that the judicial procedure for administrative proceedings should be preserved. It also provides a basis for thinking about what criterion should be used to distinguish jurisdiction of such cases.

Research

The institution of arrest accompanies the entire evolution of domestic administrative and delictual legislation. Administrative arrest was formed out of criminal and penitentiary law, including the institution of deprivation of liberty, and was originally called that way. Imprisonment for up to 1 month for unsanitary housing maintenance was introduced in the first normative act of Soviet Russia, the Decree of the Council of People's Commissars on Measures for Correct Distribution of Housing among the Working Population of May 25, 1920, which marked the emergence of administrative liability. It was appointed by the housing and sanitary inspection. The draft decree originally provided for the imposition of such a severe punishment by the people's court. However, this procedure became extrajudicial at the insistence of V.I. Lenin, who, stating "weakness" of the people's courts [10], pointed out the need to punish, without trial, by imposing arrest for up to 1 month and forced labor for up to 2 months for uncleanness, etc. [11].

Another regulatory act on administrative liability again provided for the same type of punishment, which was officially called arrest. The Decree of the Council of People's Commissars on the Natural Tax on Wool of May 10, 1921 stipulated that "citizens who have not paid the tax bear personal and property liability in the administrative and judicial order". The Decree of the Council of People's Commissars of May 25, 1921 established "to grant the right to county food commissioners to arrest individual faulty payers for a period not exceeding two weeks

and to district administrative commissioners – for a period not exceeding one week, as well as the right to impose a surcharge".

The procedure for bringing to administrative liability in 1920–1937 was exclusively extrajudicial, and the sphere of administrative prosecution itself was steadily expanding. The Decree of the All-Russian Central Executive Committee and the Council of People's Commissars of June 23, 1921 granted the authority to impose administrative penalties to presidiums of county executive committees in county towns and to collegiums of provincial management departments in provinces. Among the types of penalties in the first edition of the document, imprisonment for up to 2 weeks, forced labor for up to a month and a fine of up to 50 thousand rubles were fixed. This decree led to the widespread creation of local administrative jurisdiction.

Law enforcement practice showed that arrest was usually more effective than fines. However, this had a downside. The administrative authorities were unnecessarily "carried away" with the appointment of this type of punishment. The desire to impose arrests was realized even at the cost of deliberate abuse of authority. At the same time, it disproportionately increased the number of administrative detainees, increasing the burden on the penitentiary system. The reason was quite understandable. The main function of the state control bodies was to resolve issues of public administration, of which the state control was a part [17, p. 93.]. In this regard, the existing arsenal of administrative coercion measures was openly or implicitly put at the service of managerial goals. The law was interpreted through their prism, the principles of justice, proportionality, etc. were "refracted". Therefore, two years later, the Soviet government began to limit the use of extrajudicial arrest, despite the objections of individual law enforcement bodies.

The new Regulation on the procedure for issuing mandatory decrees and imposing administrative penalties for their violation of July 27, 1922, which established limits of the rule-making of local authorities in terms of the introduction of administratively punishable corpus delicti, no longer provided for arrest. The first Criminal Code of the RSFSR of 1922 outlined the direction of the criminal law policy, according to which deprivation of liberty is a criminal punishment and a judicial prerogative (Articles 9, 32, 34). The first Soviet Constitution did not yet contain a judicial guarantee for the protection of personal freedom, and historically this principle was not constitutional, but criminal. Due to the lack of a judicial procedure for bringing to administrative liability, the institution of administrative arrest ceased to exist.

In 1923, the NKVD submitted to the Council of People's Commissars and the Presidium of the Central Executive Committee a petition to grant provincial executive committees the right to impose administrative arrest again. It was motivated by the unsuitability of forced labor without imprisonment, since unemployment "put the convicted in a privileged position". It was also argued that a fine in the absence of the right to replace it with arrest was ineffective [13]. However, the proposal raised objections. The People's Commissariat of Justice pointed out that the institution of forced labor could be organized in places of deprivation of liberty, and also, "according to the general principle adopted by the session of the Central Executive Committee when considering the Criminal Code, administrative arrest was not allowed" [14].

In 1925, in accordance with the Decree of the Central Executive Committee and the Council of People's Commissars of the RSFSR of April 6, 1925 "On the Procedure for Issuing Mandatory Resolutions by Volost and District Executive Committees and on Imposing Administrative Penalties by Them", local authorities (volost and district executive committees) became entitled to issue mandatory regulations and impose administrative penalties for their violation. Arrest was not listed among the latter. As an exception, it continued to exist for some time within the framework of administrative liability for tax offenses. Its use was strictly controlled by the Council of People's Commissars. Explanations on these issues were consistently issued by the relevant people's commissariats. In 1923, the Decree on a Unified Agricultural Tax of May 20, 1923 was adopted, which provided for bringing defaulters to justice "administratively and judicially". The immediate administrative penalty in accordance with the Instructions on the procedure for bringing to justice for violation of the decree on the unified agricultural tax and on the procedure for initiating referral

and consideration of cases of these violations, issued by the Central Executive Committee and the Council of People's Commissars of the RSFSR of July 11, 1923, turned out to be an arrest of up to two weeks. In the same year, three People's Commissariats issued a joint explanatory circular of the People's Commissariat of Justice, the People's Commissariat of Finance and the People's Commissariat of Food No. 184 of September 12, 1923 "On the Procedure for Applying Administrative Penalties in the Current Campaign to Levy a Single Agricultural Tax".

However, the practice of non-judicial arrest was accompanied by both drawbacks and abuses. It continued to be applied with deliberate abuse of authority and not only for tax offenses. Local authorities, already deprived of the right to impose arrest for violation of the norms established by them, ignored this restriction. As noted, "despite decrees on the procedure for administrative penalties, on the procedure for issuing mandatory decrees, we often see "orders" of local authorities, mainly heads of province militia, relating to all citizens ... containing the threat of a fine and even arrest by the administrative authorities, orders not based on legislative norms" [16, p. 10]. In this regard, it was recognized that "local authorities were still forced to apply arrest in violation of mandatory regulations" [17, p. 226].

Legal literature discussed advantages of the judicial procedure. A. Ageev describes the practice of imposing illegal arrests by volost executive committees, explaining them by the need to strengthen their authority and conduct measures on the cart tax and food tax. As a result, the arrested, who had no means, were kept by hundreds in damp storerooms and cold barns. The author emphasized greater effectiveness of strict criminal penalties imposed by the court against some most odious and wealthy violators than numerous and useless administrative arrests of the poor. At the same time, he called for "convincing provincial and county executive committees to trust court, so that they themselves would transfer their right to the courts, as bodies closer to the population and better understood by them" [18, p. 9].

The political line to consolidate the judicial order of deprivation of liberty was developed in the mid-twenties. According to the Criminal Code of the RSFSR of 1926, which included many articles with an administrative sanction, the appointment of imprisonment was within the powers of the court. Regulations providing for non-judicial arrest for non-payment of taxes became invalid after the introduction of the Tax Collection Regulations in 1925 [19]. It no longer allowed for administrative arrest. Non-payment of taxes entailed, as a general rule, the accrual of penalties, fines and administrative foreclosure on the debtor's property (section II).

There was no judicial authority to appoint arrests for administrative offenses, since there was no judicial procedure for considering such cases. However, necessary legal ground began to form in 1936.

Article 127 of the 1936 USSR Constitution provided citizens with a guarantee of judicial protection of their rights: no one could be arrested except by court order or with the approval of a prosecutor. The 1937 RSFSR Constitution reproduced this provision of the USSR Constitution in Article 131. At the same time, the Criminal Code of the RSFSR did not fix arrest in the list of criminal penalties. Articles 160–161 of the 1923 Criminal Procedural Code of the RSFSR, as amended in 1936, established a measure of restraint in the form of detention, not arrest. Obviously, this term was considered as a more general legal category, not exclusively related to criminal law and procedure. Thus, there emerged a common legal basis and the possibility of forming a judicial procedure for the appointment of arrest as a non-criminal, but other public legal sanction.

At the same time, the first forms of judicial intervention in administrative prosecution appeared in 1937. These are cases on the issuance of writ of execution for the compulsory collection of administrative fines, on forest violations and on collection of arrears on natural supplies with the collection of appropriate fines. The reason for the transfer of such cases to the courts was the distrust of the Council of People's Commissars to local governments as dependent on regional authorities, as well as exceedingly using their jurisdictional function in managerial interests. All three categories of cases were related only to the imposition of administrative fines. They appeared in the judicial competence within the framework of civil proceedings and did not mark the emergence of proceedings in cases of administrative offens-

es as a new procedural order. It appeared almost 20 years later and in relation to that painful category of cases where it was impossible to do without administrative arrest.

The 1920s were characterized by an incredible rampage of hooliganism in public places [20]. From the first years of the Soviet government formation, criminal liability in the form of imprisonment was introduced for hooliganism. Meanwhile, criminal legal struggle against it was complicated, first, by the ambiguity of the disposition of Article 176 of the 1922 Criminal Code of the RSFSR, since "the article avoided indicating elements of hooliganism of the act or its mischievous nature, granting the decision of the issue to the judge" [21]. Second, the article competed with administratively punishable corpus delicti. Individual hooliganism was punished administratively in accordance with local mandatory regulations. They contained more casuistic dispositions and often fixed punishments for individual hooligan actions [22].

The 1926 Criminal Code of the RSFSR criminalized hooliganism in Article 74, but the problems remained the same. Part 2 of this article established liability for repeated hooliganism, as well as consisting of "violence, outrage", as well as being distinguished by "exceptional cynicism or audacity". Meanwhile, the courts not only mitigated penalties, taking into account a possible error in qualification, but also, being unable to distinguish violent hooliganism from ordinary, switched to an unqualified corpus delicti of Part 1 [23].

By the Decree of the Presidium of the Supreme Court of August 10, 1940 "On Criminal Liability for Petty Theft at Work and for Hooliganism", criminal liability for hooliganism at enterprises and institutions was increased to a one-year prison sentence. But even this act did not have the desired effect. There was still no clear distinction between a criminally punishable act and individual manifestations of hooliganism, which could be punished in accordance with mandatory regulations.

In such legal conditions, the militia preferred mild administrative punishment for violating a mandatory decree to difficulties of initiating and investigating a criminal case. Law enforcement bodies often maintained a facade of an effective fight against crime. "Instead of bringing hooligans to criminal liability, the militia sometimes imposed administrative fines on them", wrote the auditor of the Ministry of Justice of the Ukrainian SSR [24]. In 1955, the Socialist Legality Journal cited the USSR Prosecutor's Office that hooliganism was weakly counteracted in the Karelo-Finnish SSR, "police officers are too lenient towards violators, in some cases, instead of initiating criminal prosecution, hooligans are brought to administrative liability (...) Why is this happening? Is it because some police officers, misunderstanding their tasks, artificially achieve an imaginary reduction in crime by bringing hooligans to administrative liability instead of criminal? Isn't it clear that such a method of fighting for the "reduction" of crime does nothing but harm?" [25, p. 68].

Taking into account such an overly cautious attitude of the militia towards the initiation of criminal cases, it was necessary to introduce administrative liability for hooliganism. It was more "easy-to-use" for Soviet law enforcement officers, since it was imposed in a simplified manner and did not lead to a surge in crime rates. At the same time, punishment for hooliganism, from which the law and order of the post-war Soviet republics suffered so much, clearly could not be reduced to a fine. In this regard, hooliganism should have led to arrest. And it had to be appointed only by the court, both by virtue of the Constitution, and so that it would not again turn into that "cudgel" of managerial repression, which the Soviet government barely coped with in the early years of its formation.

In 1956, imprisonment for hooliganism turned into administrative arrest, reviving this institution, and became the subject of regulation of a new procedural judicial order. On December 19, 1956, the Decree of the Presidium of the Supreme Soviet of the RSFSR "On Responsibility for Petty Hooliganism" was issued. Unqualified hooliganism, which received the name of petty hooliganism, was directly distinguished from criminally punishable acts. It now entailed arrest from 3 to 15 days, "in case these actions by their nature did not entail punishment provided for in Article 74 of the Criminal Code of the RSFSR". This document eliminated a long-term bias in legal regulations [26]. Administrative materials were considered "by the people's judge on his/her own during the day upon their receipt to the court from the militia; a person

who had committed the hooligan offense and, if necessary, witnesses were summoned to the court". The decision of the people's judge on the arrest was executed immediately and was not subject to appeal. The Resolution of the Presidium of the Supreme Soviet of the RSFSR of December 19, 1956 "On Liability for Petty Hooliganism" clarified that the use of arrest for minor hooliganism was a measure of administrative impact. After 4 years, this procedural procedure was supplemented by the institution of judicial recovery of expenses related to the ruling execution, in accordance with the Decree of the Presidium of the Supreme Soviet of the RSFSR of April 19, 1961 "On Liability for Petty Hooliganism". In case the arrested person evaded physical labor imposed by the judge's order, he/she was charged the cost of food for the time under arrest.

Judicial competence for the consideration of administrative and tort cases, appeared in 1956, was consistently expanded. It was also mainly connected with "arrest" cases. By the Degree of the Presidium of the Supreme Court of September 12, 1957 "On Liability for Petty Speculation", a judicial procedure for bringing to administrative liability for petty speculation was established. It entailed from 3 to 15 days of arrest or a fine of up to 500 rubles with confiscation of speculative items. By the Degree of the Presidium of the Supreme Court of February 15, 1962 "On Strengthening Liability for Encroachment on the Life, Health and Dignity of Police Officers and People's Vigilantes", malicious disobedience to the lawful request of a police officer and a national vigilante was punished by a judge's order with arrest for up to 15 days, a fine of up to 20 rubles, or correctional labor.

According to I.A. Galagan, the expansion of the competence of people's judges in cases of administrative offenses testified to the expansion of judicial control over administrative activities and met the requirements of strengthening socialist legality in it [27]. This expansion of judicial powers is substantiated in a similar way in modern science [28]. In short, judicial appointment of administrative arrest embodies a legal principle not so much jurisdictional as judicial.

In the Administrative Code of the RSFSR and later in the Administrative Code of the Russian Federation, appointment of such a strict administrative punishment also remains the prerogative of the court. Judicial audit of the initiative of the public administration on the application of administrative coercion measures is called judicial control. In science, it is believed that it is carried out both within the framework of administrative proceedings [29, p. 49] and proceedings in cases of administrative offenses [30].

Discussion of the legal phenomenon of judicial control most often boils down to questions about whether an administrative body should first obtain court permission to apply administrative coercion, or only the possibility of a subsequent appeal to the court of an administrative act is sufficient. The first type is called preliminary judicial control, the second – subsequent [31]. It is questionable which executive actions a bailiff can perform with the permission of the court and which ones – independently with an explanation of the right of subsequent judicial appeal [32], which investigative actions the investigator should perform independently and which ones – with the judicial sanction [33].

As a general rule, such control is considered to be subsequent. Inspectors should not wait for the judge's permission to use any coercive measures. Otherwise, the judicial power will replace the executive power, and the arsenal of powers of the latter will be too meager for the effective solution of managerial issues. As for promptness, in favor of subsequent judicial control, when resorting to the procedure of giving judicial sanction can negate effectiveness of the requested emergency measure. Finally, administrative bodies, having a narrower specialization than the courts, are often more competent. B.V. Rossinskii states significant overload of the judicial system. According to the authoritative scientist, there are many examples where decisions on administrative offenses made by officials are better reasoned and justified [34].

Preliminary judicial control is rather an exception. But it is necessary to resort to it when the preservation of the administrative coercion measure among prerogatives of the executive power threatens the risk of irreparable violation of the fundamental rights and freedoms of citizens. Most often, this happens when public administration bodies show an intention to interfere most deeply in the rights of individuals for managerial purposes. It is wiretapping, search, seizure of property, foreclosure on residential premises and, finally, restriction of personal

freedom. In such a situation, the interests of the public authority should lose the status of the main criterion for solving a management issue. Instead, they should be on the same scale as the personal interests of a citizen. Both values should be reasonably balanced by an independent jurisdictional body. It is obliged to appeal only to law and justice.

In 1997, the Constitutional Court of the Russian Federation raised the issue of preliminary judicial control of the administrative punishment measure to consider compliance of paragraphs 4 and 6 of articles 242 and 280 of the Labor Code of the Russian Federation with the Constitution of the Russian Federation. These provisions gave the Customs authorities the right to carry out extrajudicial confiscation of goods and vehicles. First, the Resolution No. 8-P of May 20, 1997 in the case of checking the constitutionality of paragraphs 4 and 6 of Article 242 and Article 280 of the Customs Code of the Russian Federation stated that the law, if there was a guarantee of subsequent judicial control as a way to protect the rights of the owner, did not contradict the Constitution of the Russian Federation. However, in 1998, administrative confiscation became the subject of verification by the Constitutional Court of the Russian Federation again. The Resolution No. 8-P of March 11, 1998 in the case of checking the constitutionality of Article 266 of the Customs Code of the Russian Federation, Part 2 of Article 85 and Article 222 of the RSFSR Code of Administrative Offences in connection with complaints from citizens M.M. Gagloeva and A.B. Pestryakov considered an episode related to the confiscation of a rifle belonging to a citizen by the body overseeing compliance with hunting rules under articles 85 and 222 of the Administrative Code of the RSFSR. A slightly different conclusion was formulated. The possibility of judicial appeal alone did not exclude deprivation of property without a court decision. At the time of seizure, neither the act itself nor the culprit of its commission could be considered established. These circumstances required subsequent consideration and proof in a due judicial process. Soon, confiscation within the framework of the Administrative Code also became a judicial prerogative.

To the greatest extent, preliminary judicial control is required in cases involving administrative arrest. Public authorities are interested in the powers to restrict freedom of a citizen, in order to fulfill their assigned public legal duties, which is understandable. However, there should be an unreasonable barrier in front of an inspector in the form of the need for a reasoned appeal to the court. Days of lost freedom, which is, along with life and health, the greatest value, cannot be returned. Even monetary compensation here will be nothing more than a kind of palliative. Of interest are cases where the subject of review by the Supreme Court of the Russian Federation was judges' decisions in "arrest" cases, mitigating the punishment imposed by lower courts from the arrest served to a fine. Such decisions were canceled on the grounds of violation of Part 5 of Article 4.1 of the Administrative Code of the Russian Federation, according to which no one can be held responsible twice for one offense. Since the arrest has already been served, such a commutation of punishment essentially entails, on the contrary, a deterioration in the situation of the person involved.

The author of the article backs the idea that judicial interference in administrative jurisdiction should not spread excessively, turning into intrusive guardianship. At the same time, direct judicial review of administrative offense cases is also objectively necessary, first of all, in cases related to the restriction of personal freedom.

Conclusion

The main function of the executive branch, which includes law enforcement agencies, is public administration, including state control. This involves solving a significant number of large-scale problems, such as mobilizing population to fulfill certain tasks set by the government, collecting taxes, and ensuring public order. A rich arsenal of administrative enforcement measures available to the executive branch becomes a resource of public administration. Administrative jurisdiction entrusted to the public administration is put at the service of public administration with appropriate prioritizing: the priority of the fiscal function over the welfare of a private person, the preference for general prevention rather than individualization of punishment, the importance of ensuring the manageability and control of the population in comparison with personal freedom and private interests, etc. This situation is normal, but also determines the importance of judicial control.

At the same time, since management issues require prompt solutions that do not involve unnecessary formalities, judicial control is usually subsequent.

However, managing the life of a country is an extremely time-consuming and sometimes risky business. In this regard, public authorities are interested in the authority to interfere as deeply as possible in the freedom of a citizen, solving managerial issues as effectively as possible. But even here, limiting the role of the court by subsequent control will lead to the fact that it will no longer be able to make up for the right allowed by the repressive initiative. Therefore, where unlawful imposition of administrative punishment, dictated by managerial goals, will entail the most obvious or irreparable violation of the rights of a citizen, judicial control should be preliminary. It should be carried out by examining the case of an administrative offense by a judge.

Appointment of administrative arrest is the most striking example. It is reasonably excluded from the powerful resource of administrative enforcement measures available to the executive branch. Providing only the possibility of a subsequent judicial appeal here will not ensure restoration of the violated rights if the decision turns out to be illegal and does not discipline the prosecution authorities. In our opinion, this criterion should be the main one when deciding on the issue of jurisdiction.

REFERENCES

1. Salishcheva N.G. On some trends in the development of legislation on administrative responsibility in Russia in the modern period. *Administrativnoe pravo i protsess = Administrative Law and Process*, 2009, no. 5, pp. 2–13. (In Russ.).
2. Rossinskii B.V. Is the differentiation of administrative proceedings and proceedings in administrative cases final offenses? *Zhurnal administrativnogo sudoproizvodstva = Journal of Administrative Proceedings*, 2016, no. 1, pp. 49–51. (In Russ.).
3. Kaplunov A.I. Administrative responsibility as a form of administrative coercion. *Sibirskoe yuridicheskoe obozrenie = Siberian Law Review*, 2019, vol. 16, no. 4, pp. 518–524. (In Russ.).
4. Trunova E.V. On the administrative jurisdiction of judges reviewing administrative offense cases. *Administrativnoe pravo i protsess = Administrative Law and Process*, 2021, no. 6, pp. 51–53. (In Russ.).
5. Shishkina O.E. Judicial proceedings in cases of administrative offenses: the search for constitutional frameworks and standards of justice (based on the practice of the Constitutional Court of the Russian Federation). *Zhurnal Konstitutsionnogo pravosudiya = Journal of Constitutional Justice*, 2015, no. 3, pp. 19–27. (In Russ.).
6. Popov L.L., Migachev Yu.I. *Administrativnoe pravo Rossiiskoi Federatsii* [Administrative law of the Russian Federation]. Ed. by Popov L.L. Moscow, 2019. 544 p.
7. Bratanovskii S.N. *Administrativnoe pravo. Obshchaya chast': ucheb.* [Administrative law. General part: textbook]. Moscow, 2013. 921 p.
8. Sokolov A.Yu., Lakaev O.A. Critical view on drafts of the code of administrative offenses of the Russian Federation and the Procedural Code of Administrative Offenses of the Russian Federation. *Administrativnoe pravo i protsess = Administrative Law and Process*, 2020, no. 8, pp. 44–51. (In Russ.).
9. *Chuichenko v Kakhani rasskazal, na kakom etape nakhoditsya razrabotka novogo KoAP* [Chuichenko in Kahani told at what stage the development of the new Administrative Code]. Available at: https://www.business-gazeta.ru/amp/608593. (accessed December 11, 2023).
10. Zaitsev D.I. Administrative discretion in the RSFSR and the USSR (1917–1953). In: Starostin S.A. (Ed.). *Aktual'nye problemy administrativnogo prava i administrativnogo protsessa: monogr.* [Actual problems of administrative law and administrative process: monograph]. Moscow, 2022. Pp. 378–379. (In Russ.).
11. V.I. Lenin's remarks on the draft Decree of the Decree of the Council of People's Commissars on Measures for Correct Distribution of Housing among the Working Population of May 25, 1920. In: *Dekrety Sovetskoi vlasti: v 12 t. T. VIII. Aprel' – mai 1920 g.* [Decrees of the Soviet government: in 12 volumes. Volume VIII. April – May 1920]. Moscow, 1976. Pp. 241–243. (In Russ.).
12. Starostin S.A. A critical view on drafts of the Code of Administrative Offenses of the Russian Federation and the Procedural Code of Administrative Offenses of the Russian Federation. *Vestnik Tomskogo gosudarstvennogo universiteta. Pravo = Bulletin of Tomsk State University. Law*, 2019, no. 32, pp. 76-96. (In Russ.).
13. People's Commissariat of Justice on the project of administrative arrest. *Ezhenedel'nik sovetskoi yustitsii = Weekly of Soviet Justice*, 1923, no. 14, p. 329. (In Russ.).

14. On administrative arrest. *Ezhenedel'nik sovetskoi yustitsii = Weekly of Soviet Justice*, 1923, no. 16, p. 377–379. (In Russ.).
15. Circular No. 184 of September 12, 1923 of the People's Commissariat of Justice, the People's Commissariat of Finance and the People's Commissariat "On the Procedure for Applying Administrative Penalties in the Current Campaign to Levy a Single Agricultural Tax". *Ezhenedel'nik sovetskoi yustitsii = Weekly of Soviet Justice*, 1923, no. 36, p. 838. (In Russ.).
16. On administrative orders. *Ezhenedel'nik sovetskoi yustitsii = Weekly of Soviet Justice*, 1922, no. 35, p. 10. (In Russ.).
17. Administrative arrest. *Ezhenedel'nik sovetskoi yustitsii = Weekly of Soviet Justice*, 1923, no. 10, p. 226. (In Russ.).
18. Ageev A. Administrative practice and court. *Ezhenedel'nik sovetskoi yustitsii = Weekly of Soviet Justice,* 1922, no. 26–27. P. 9. (In Russ.).
19. Regulation on the collection of taxes: approved by the Central Executive Committee of the USSR and the Council of People's Commissars of the USSR of October 2, 1925. In: *SZ SSSR* [Collection of laws of the USSR]. 1925. No. 70. Art. 518. (In Russ.).
20. Lagovier N. The Prosecutor's office and administrative penalties. *Ezhenedel'nik sovetskoi yustitsii = Weekly of Soviet Justice*, 1927. No. 33, p. 1,022. (In Russ.).
21. Mokrinskii S. Mischief and hooliganism (ending). *Ezhenedel'nik sovetskoi yustitsii = Weekly of Soviet Justice*, 1924, no. 38, p. 899. (In Russ.).
22. Supervision of administrative penalties. *Ezhenedel'nik sovetskoi yustitsii = Weekly of Soviet Justice*,1928, pp. 42-43. (In Russ.).
23. Sapozhnikov I. Strengthen the fight against hooliganism. *Sotsialisticheskaya zakonnost' = Socialist Legality*, 1955, no. 12, pp. 14–17. (In Russ.).
24. Artyshkov V. Fight against hooliganism. *Sotsialisticheskaya zakonnost' = Socialist Legality,* 1956, no. 5, p. 66. (In Russ.).
25. Bezuglov A., Lai P. In the Karelo-Finnish SSR, they struggle badly with hooliganism. *Sotsialisticheskaya zakonnost' = Socialist Legality*, 1956, no. 1, p. 68. (In Russ.).
26. Kolokolov N.A. Hooliganism: genesis, evolution and contemporary state of elements of crime. Article 1. History of development of legal regulation of criminal responsibility for hooliganism in Russia. *Mirovoi sud'ya = World Judge*, 2014, no. 2, pp. 2–8. (In Russ.).
27. *Ivan Aleksandrovich Galagan i ego nauchnoe nasledie* [Ivan A. Galagan and his scientific legacy]. Ed. by Starilov Yu.N., 2010. Pp. 418–419. (In Russ.).
28. Panova I.V., Panov A.B. Topical problems of administrative responsibility. *Aziatsko-Tikhookeanskii region: ekonomika, politika, pravo = PACIFIC RIM: Economics, Politics, Law*, 2019, vol. 21, no. 3, pp. 105–134. (In Russ.).
29. Shergin A.P. On the understanding of administrative proceedings. In: *Administrativno-deliktnoe pravo i zakonodatel'stvo (Stat'i, vystupleniya, razmyshleniya): sb. nauch. tr.* [Administrative-tort law and legislation (Articles, speeches, reflections): collection of scientific papers]. Moscow, 2015, p. 49. (In Russ.).
30. Shishkina O.E. Proceedings on administrative offences: search for constitutional frameworks and standards of justice (on the basis of the Russian Constitutional Court's case-law). *Zhurnal konstitutsionnogo pravosudiya = Journal of Constitutional Justice*, 2015, no. 3. (In Russ.).
31. Sattarova Z.Z. *Uchastie suda v ispolnitel'nom proizvodstve: avtoref. dis. … kand. yurid. nauk* [Participation of the court in enforcement proceedings: Candidate of Sciences (Law) dissertation abstract]. Moscow, 2004. 29 p.
32. Shchepalov S.V. *Priroda i kharakter pravootnoshenii v ispolnitel'nom proizvodstve: avtoref. dis. … kand. yurid. nauk* [The nature and nature of legal relations in enforcement proceedings: Candidate of Sciences (Law) dissertation abstract]. Moscow, 2005. 28 p.
33. Ustimov M.A. *Sudebnyi kontrol' na stadii predvaritel'nogo rassledovaniya: dis. … kand. yurid. nauk* [Judicial control at the stage of preliminary investigation: Candidate of Sciences (Law) dissertation]. Saransk, 1999. 276 p.
34. Rossinskii B.V. Reflections about the government and administrative responsibility. *Administrativnoe pravo i protsess = Administrative Law and Process*, 2016, no. 5, pp. 6–24. (In Russ.).

INFORMATION ABOUT THE AUTHOR

STANISLAV V. SHCHEPALOV – Candidate of Sciences (Law), Associate Professor, Judge of the Supreme Court of the Republic of Karelia, Petrozavodsk, Russia, schepalov@mail.ru, https://orcid.org/0009-0004-8835-247X

Received January 10, 2024