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CONCEPT OF PUBLIC ADMINISTRATION IN THE CONTEXT OF GLOBALIZATION

Lubov POSTNIKOVA [1,*] | Gulnara DZHANCHAROVA [1] | Yulia KAPITONOVA [2] |
Veronika KOZHINA [3] | Polina ROSTOVTSEVA [4] | Aleksandr SHELYGOV [5]

1 Russian State Agrarian University – Moscow Timiryazev Agricultural Academy, Moscow, Russian Federation
2 Russian Biotechnological University, Moscow, Russian Federation
3 Moscow International University, Moscow, Russian Federation
4 Financial University under the Government of the Russian Federation, Moscow, Russian Federation
5 Moscow Polytechnic University, Moscow, Russian Federation

* *Correspondence*
Lubov POSTNIKOVA, 49 Timiryazevskaya Str., Moscow, 127434, Moscow, 125080, Russian Federation
E-mail: lpostnikova@rgau-msha.ru

Abstract: The article considers the constitutional foundations of public administration in the context of globalization. The current legislation in the field of public service does not meet the quality requirements of the law since it does not establish the basic principles, the sequence of stages, and their essence regarding the competition, promotion, and certification of public servants. Therefore, this issue has been regulated at the level of by-laws, which contradicts the constitutional order. This concerns both the scope and content of human rights and freedoms, as well as the criteria for their restrictions provided by the Constitution and laws. In practice, the appointment of officials to bodies and institutions will mean reaching a consensus since it considers the representation of political forces. Members of such independent bodies and institutions should be appointed for a certain period and have a limited right to hold office. They cannot be dismissed at the discretion of public authorities but only through a judicial procedure. This will guarantee the independence of these bodies in the context of globalization transformations.

Keywords: constitution, public administration, globalization, consensus, state, rights, representation, procedure.

Introduction

According to a fundamental legal position, society does not have an acting constitution if there is no separation of powers. The separation of powers is instrumental since it aims at limiting or preventing administrative arbitrariness. It also determines the degree of state intervention in the sphere of private autonomy, i.e. it predetermines the system of guarantees of human rights and quality requirements for the exercise of public powers (in particular, in the field of public administration) and protects the freedom of an individual.

The separation of powers is often regarded in the context of republicanism, which is not a universal principle. The principle of republicanism comprises three elements: the derivative nature of public power from the sovereign will of the people and accountability and control of state

power to the people. However, the constitutional monarchy has a more sophisticated mechanism for decentralization: through the system of parliamentarism and judicial law-making, for example, in the United Kingdom.

In general, the idea of distributing state powers among separate institutions with their inherent functions of legislation, administration, and justice can be considered in a broad and narrow sense. In the first case, it means a certain constitutional and legal principle, in accordance to which the mechanism of state power or state administration as a form of exercising power should be formed with due regard to the division into legislative and executive powers, as well as the independence of the court.

In a narrow sense, the separation of powers is often considered from the standpoint of division and structural-functional differentiation in the daily activities of legislative and executive authorities. In the USSR, this approach was often based on the prosaic nature of the separation of powers as a distribution of control functions and management operations.

The issues related to public administration are considered by Bazhina (2020), Belov (2021), Bondar et al. (2022), Donnelly (1982), Gorbacheva et al. (2021), Kosilova et al. (2022), Magomedov et al. (2017), Maltseva (2012), Mantelero and Esposito (2021), A. Mihr (2022), Novikova et al. (2021), Revina and Zemlyanikin (2021), Singh (2023), Koruts (2021), Volodenkov and Fedorchenko (2022), etc. Nevertheless, this works do not pay to the justification of the constitutional foundations of public administration.

In the study, we consider the principle of subsidiarity as the basis for the vertical separation of powers and institutions of civil society. It provides their free initiative, self-organization, and self-regulation. We also need to specify the financial, budgetary, tax, and resource instruments of economic self-sufficiency within local self-government to transform local state administrations into institutions of power similar to the French prefect designed to exercise administrative control over the activities of public administration bodies.

Methods

The methodological basis of the study includes the following general scientific methods: analysis and synthesis of existing theoretical and methodological approaches, provisions, and scientific developments on the issues of public administration; the structural and logical systematization of factors influencing the constitutional foundations of public administration; factor analysis in determining the impact of factors on public administration in the constitutional environment.

The informational base of the study consists of legislative and regulatory legal acts, statistical materials of public authorities and local self-government bodies, and scientific publications on forming the constitutional foundations of public administration (Agamirova et al., 2017; Grakhotsky, 2022; Potekhina et al., 2022).

Results and Discussion

The separation of powers is widely substantiated by political and legal doctrine which is manifested in modern public administration or in the form of a constitutional principle. This is the basis of power in any democratic state and a political guarantee to exclude the possibility of establishing an authoritarian or totalitarian political regime.

The functional purpose of the separation of powers includes not only the specialization and differentiation of power functions but also the provision of balancing and mutual control in the system of public administration. This is the key purpose of this principle based on the constitutional maxim and its body (goal), i.e. limiting arbitrariness. Without a system of checks and balances, mutual control and balancing, public power is doomed to the dominance of a certain element. Such a dominant element might be the executive branch: either the president (sovereign) or the government.

For example, the fact that the government of V. Orbán has been in power in Hungary since 2010 with his populist-conservative policies proves how dangerous the concentration of power in the hands of the parliamentary majority is. This combines the qualified majority of the mandates and decisions that go against the fundamental principles of constitutional values, moderating the political process and marginalizing the Constitutional Court.

The requirement to limit arbitrariness determines the functional, organizational, and human aspects of the separation of powers. These are as follows: from a functional viewpoint, each of the three branches is competent in its specific area, i.e. the legislator owns the will of the state from which the Constitution requires the form of a law or which should regulate a certain branch of state activity using the law.

The executive power is empowered to implement these rules. Judicial proceedings consider specific cases with the help of special techniques of jurisprudence. From an organizational perspective, the separation of powers into three branches is manifested in the fundamental independence and separation of bodies exercising the relevant power. The issues related to personnel address the compatibility of various posts.

Under such conditions, the established views on the three branches of power seem to be insufficiently substantiated. This principle is introduced to rationalize the activities of power institutions. This mechanism expresses the main idea of the Constitution of the Russian Federation, i.e. to limit the arbitrariness of public power and ensure the legitimacy of power decisions (Fig. 1).

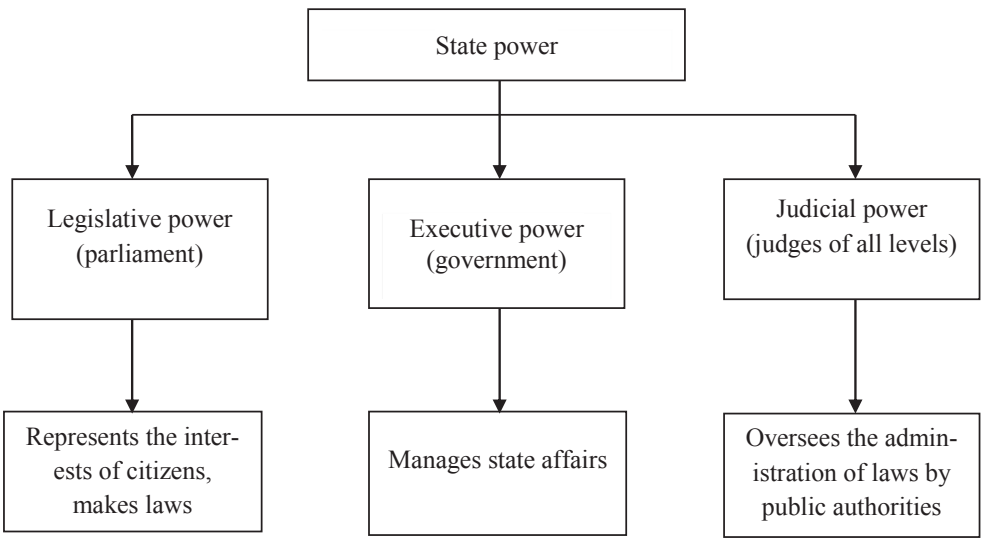

Figure 1. Branches of power in the Russian Federation.

It is difficult to completely separate powers. This principle is embodied through 1) organizational independence (including personnel) and 2) independence in decision-making (Lebedev et al., 2020; Nesterov et al., 2022; Besshaposhny & Dzhancharova, 2019; Kosilova et al., 2022; Otchesky et al., 2023). The constitutional status of public authorities depends on the definition of the subject of their functioning rather than the dogmatic interpretation of the Constitution. The latter creates an incorrect conclusion that there are only legislative, executive, and judicial branches of power.

The concept of a branch of power is conditional and realized through a legal construct. For these reasons, it is inappropriate to reduce the existing types just to these branches of power. The constitutional formula can be filled with real content if we pay attention to the constitutional definition of an organ of power. There is no absolute separation of powers since there is a very close relationship between the parliament and the government.

After the government is formed, the center for coordination and decision-making can be placed outside the parliament since the parliamentary majority, on which the government relies in its activities, according to the requirements of fractional discipline, is predominantly inclined to make appropriate decisions that are developed by the government. Therefore, the well-balanced separation of powers grants the opposition access to the decision-making process of the parliament and the government, and the real ability to influence decisions of the parliamentary majority and the government, as well as to propose alternative solutions and bring these controversial processes to the attention of society.

Thus, the separation of powers is substantiated in the constitutional doctrine and manifested

in two forms: horizontal and vertical. The horizontal separation of powers is of functional nature (the distribution of the functions of legislation, administration, and justice). The vertical separation of powers is embodied through centralization and subsidiarity. The separation of powers is ensured using the following tools.

1. Balancing government authorities. Balancing the status of government authorities determines the mechanism of interaction between the legislative and executive authorities. Balancing the status of government authorities determines that they are constituted at the level of the Basic Law. However, this does not exclude conflicts between public authorities. This might be due to different interpretations of the Constitution and the activities of different authorities. Since these conflicts are not always resolved properly within the political process, legal procedures for resolving disputes between public authorities need a legitimate basis. Therefore, such a system excludes the dominance of a certain authority or monopoly over the interpretation of the Constitution.
2. The separation and independence of public authorities. It is embodied in functional independence that endows public authorities with exclusive powers but does not allow them to interfere with any other authority. The necessary elements of functional independence are the subject of jurisdiction, powers, and competences of a particular authority.

In a constitutional state, power is exercised with the help of specially created bodies functioning in separate spheres. This provision aims at preventing the abuse of power. Therefore, the separation of powers is not only a means of preventing authoritarianism but also the rational organization of the public power system, which allows mutual control through an appropriate system of checks and balances.

3. Balancing relations between public authorities. There is no ideal model for the separation of powers since it is about determining their general functions. Therefore, the separation of powers in the context of balancing relations can be considered in two aspects: 1) as a rational way of distributing power functions in the system of public power; 2) as a condition for preventing the usurpation of power and its abuse by public authorities or officials.

The primacy of the legislative power over other branches of power cannot be absolute because it is illusory and contradicts the basic foundations of constitutionalism. On the one hand, it exists in the same system of public power along with the executive and judicial branches. On the other hand, it is limited by the principle of separation of powers, the Constitution, and human rights. Legislative power does not always provide a balance of interests or the proper course of legislative work.

Preventing the concentration of power in a single individual or body by strengthening the monopoly and adopting or amending the Constitution is the goal of ensuring a balance within the separation of powers. The use of various approaches to the organization of public power is due to the fact that public authorities are called upon to interact with each other to effectively fulfill their functions.

4. The distribution of power functions and the determination of the mechanism for decision-making. According to the principle of separation of powers, a public authority is called upon to make power decisions only in a certain area. When disputes arise regarding the application of the law and its understanding by the parties to legal relations, this contradiction is resolved by an independent court. The implementation of the principle of separation of powers is influenced by the constitutional tradition of a particular country and the practice of constitutionalism.

Under these conditions, the requirements of control and balance determine the main legal directions of state policy. Otherwise, it leads to conflicts between authorities regarding the ways of its implementation or the delimitation of powers. Balance in making power decisions also means the subordination of public authorities. Subordination does not imply a hierarchical dependence of authorities but expresses a mechanism for coordinating power decisions.

This can be exemplified by the Constitutional Court of the Russian Federation which, when considering a case on communal services, introduced separate approaches to understanding the subordination of public authorities. In resolving the legitimacy of the regulation of tariff rates for housing, communal, and public transport services, the Court faced the problem of interpreting the separation of powers to regulate tariff rates

between various authorities.

5. The mechanism of checks and balances. The separation of powers in the constitutional practice of the Russian Federation is supplemented by a system of checks and balances. In the absence of a mechanism of checks and balances or its violation, the separation of powers is not just an empty declaration but also an obstacle to ensuring the effective implementation of state power, state administration, and approval and protection of political freedom in society and human rights. In this case, the main goal of the constitutional principle of separation of powers is, first of all, to ensure human rights and freedoms.

Functional isolation in the system of public power corresponds to the activities of government bodies, which are difficult to attribute to a specific branch of power. These issues affect the organizational structure of public administration that should meet constitutional requirements. In this regard, the constitutional and legal requirements for public administration are reduced to the following key elements:

- Being the order of legitimation, organizational law should establish what forms it needs to fulfill the constitutional and legal requirements, the requirements to the level of legitimation, and the structures of a public organization to implement not only the external conditions of legitimation but also generate their ability to act in favor of the community;
- As an informational order, organizational law should give a legal form to communication processes within the organization. The organizational and legal spheres should be mutually ordered in conformity with the order of legal relations. Information flows should be coordinated with them. If it is an issue of data protection, security is ensured with the help of special measures. Thus, the dualism of internal law and external law is replaced by a spectrum of legal relations, which can also give insight into the consequences of false information processes;
- Being an order for control, organizational law should develop new control mechanisms going beyond the established forms of legal, special, and official supervision. It is worth mentioning accountability, new forms of assessment, and integrated control, in particular, the role of society as a control tool.

In the case of updating the Constitution with an innovative approach, it is necessary to define the system of public administration and the status of public servants. Since there is a trend to update the understanding of the separation of powers within the framework of new independent institutions, the neutral term "public administration" is proposed. It can refer not only to ministries, departments, and local self-government bodies (executive authorities) but also to executive bodies of local territorial collectives or independent bodies with mixed status.

Under such a system, local self-government bodies should function as bodies for coordinating state and local policies, ensuring the rule of law, and adjusting local police and national security issues. To reach this goal, local self-government bodies should register legal acts and, if necessary, challenge them in court to ensure legality (Fig. 2).

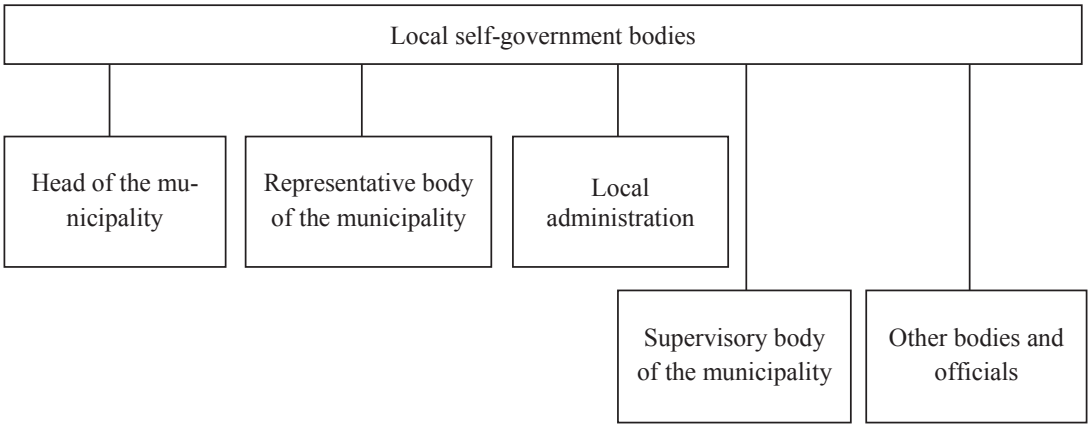

Figure 2. The Structure of Local Self-Government Bodies.

The suspension of legal acts of local self-government bodies should not be introduced together with an appeal to the court. It is also proposed to establish a rule that public service is headed by the Chairman of the Government of the Russian Federation.

The public service corps is made up of civil servants who serve the Russian people, are independent and neutral, exercise their powers on a professional basis, and contribute to the realization of human rights and fundamental freedoms.

Since it is difficult to ensure the separation of powers in the established triad (legislative, executive, and judicial) due to globalization, as well as to build an appropriate system of checks and balances, the status of independent bodies should be defined in a separate chapter of the Constitution.

In practice, the appointment of officials to independent bodies and institutions will mean reaching a consensus in the parliament since the latter considers political representation. Members of such independent bodies and institutions should be appointed for a certain period with a restriction on their right to hold office. This will serve as an adequate guarantee of the independence of these bodies.

By their nature, these bodies are difficult to imagine either as bodies of the legislative power or as bodies of the executive power. Among them, entities such as the Accounts Chamber lean toward functioning in a judicial manner, meaning that they operate as quasi-judicial bodies. However, their decisions are subject to judicial review and they cannot exercise the function of justice. By exercising legal regulation, they implement regulatory policy based on the law, ensuring a balance of private and public interests.

The law has a certain margin of appreciation for the implementation of regulatory policy, i.e. legal provisions should be sufficiently flexible but legislative regulation will not be relevant and have the desired effect. Discretion should be granted to such an extent that, on the one hand, it does not result from the replacement of the legislator by an administrative body. On the other hand, the law must be sufficiently flexible so that it is possible to adapt it to changing social circumstances through regulatory acts.

The absence of regulation through legal acts harbors the potential for conflict, as it is likely to give rise to a range of disputes within administrative or even constitutional jurisdictions. The European Court of Human Rights is ambiguous about the criteria for the legitimacy of laws and regulatory acts, as well as their differentiation. The Court highlights two of the most important requirements arising from the expression "established by law". Firstly, the law must be clear: each citizen, corresponding to specific circumstances, must know which legal norm applies in a particular case. Secondly, a legal norm should be clear enough that each citizen could adjust his/her behavior: with the help of competent advisers, they must be able to foresee, within reasonable limits and based on specific circumstances, what consequences a particular act might have in the context of globalization.

These consequences cannot be predicted with absolute certainty: as practice shows, this is impossible to achieve. Although it is desirable to strive for absolute clarity in the presentation of norms, this sometimes leads to inflexibility, while the law must take into account specific circumstances. That is why the texts of many laws are somehow unclear, and their interpretation and application depend on practice.

Thus, the function of executive authorities and independent bodies and agencies is to specify legal provisions, whose quality criterion is legal certainty, i.e. the ability to foresee the operation of the law independently or with the help of legal advice. Under these conditions, the separation of powers is also vertical because there is a constitutional distribution of powers at various levels of the government.

Indeed, such an interpretation of the separation of powers to some extent blurs its primary content as the distribution of powers between the highest bodies of the state since it refers to the hierarchical structure of power. The Constitution contains an important clause on the guarantee of local self-government as an independent type of public authority and calls for the power of municipalities. Equally, this applies to independence in the form of an autonomous republic, although its unbalanced implementation can reveal its destructive potential by balancing the centralization and decentralization of public power.

Without the transfer of land and material resources and real and effective fiscal, financial, and institutional instruments, the constitutional

provisions on local self-government in the context of globalization become a post-modern myth as an exchange of signs and symbols concealing strict centralization and regional displacement under the central government. However, the institutional component of local self-government is the principle of coherence, namely, the coordination of regional policies for equalizing the development of regions through subventions and grants from the state budget.

These cases are not observed in the world practice; therefore, there are no clear rules and procedures for the functioning of communities and regions, and even more so for their reproduction and multiplication. Since there is no functioning self-government in many countries, the construction of a federal state structure entails an increase in local abuses and hinders the full-fledged formation of local self-government.

The problems inherent in the functioning of power are as follows: a significant imbalance in the distribution of powers between public authorities, the predominance of authoritarianism and hierarchical ties, non-transparency and lack of openness, excessive formalism caused by inadequate guarantees of the due process of law, the interpretation of democracy mainly through the principle of majoritarianism.

The coordination of local and state policies in the context of globalization should be ensured through reforming the tax system based on the decentralization of the administrative-territorial structure and the formation of public authorities based on subsidiarity of state, intermediate public authorities, and local self-government bodies (Fedotova et al., 2021; Lukiyanchuk et al., 2020; Voskovskaya et al., 2022; Zavalko et al., 2017).

This organization of power determines its decentralization. In the context of globalization, the Russian Federation has not achieved proper public administration at the level of local self-government. There are generally no prospects for the federal government but subsidiarity can be interpreted as the distribution of powers between local councils and their executive committees, which is incompatible.

Democratic principles are not directly related to public administration and public service since they have a hierarchical relationship. This traditional view is based on the opposition of public administration and civil servants, although the latter are an integral part of the people and are also citizens of the country. In combination with republicanism, democracy determines the qualification and ethical requirements for public servants, their accountability and control, the level of management procedures, and the legal acts of public administration. From the viewpoint of public service or a person applying for such a position, democracy grants equal and fair access to public service, career advancement, certification and advanced professional training, and responsibility for removal from office.

Constitutions can establish the principle of democracy for the organization of state power and as a component of the people's sovereignty. The constitutional regulation of democracy determines the legal basis for legitimizing power. The power of the people is formalized as the participation of citizens in the management of public affairs through elections, referendums, and other forms of direct democracy guaranteed in a democratic constitutional state.

The content of democracy is not abstract and should be associated with the specific state of society, its inherent structure and relationships, and a specific historical situation. In this regard, the system of constitutional government is based on the will of the people. Democracy presupposes that a balance of interests of the majority and the minority is ensured, the interests of the minority are specified in the guarantees of human rights. The balance of interests of the majority and the minority follows from the principle of equality. Under these conditions, individuals possess an equal capacity to exercise self-determination, engage in rational decision-making, and strategize the course of their own lives. On this basis, democratic procedures are established for the formation of public control bodies.

According to a democratic audit, the legitimacy of public administration is measured by the following parameters:

- How systematic and open to public control are government consultations regarding public opinion and relevant interests in the formulation and implementation of policy and legislation?
- How broad is the power of parliament to oversee legislation and government spending and to oppose the executive branch? How effective are these powers?
- To what extent are the courts able to ensure that the executive branch is subject to the rule

of law? How effective are their procedures to ensure that all public institutions and officials are subject to the rule of law in the exercise of their functions?

- To what extent is the judicial branch independent of the executive branch? To what extent is the administration of law subject to effective public control?
- To what extent do citizens have access to the courts, ombudsmen, or tribunals to protect their rights in the event of abuse of power or the failure of the government or public authorities to meet their legal obligations? How effective are the available remedies?
- To what extent are appointments and promotions in public institutions based on equal opportunity? Do the conditions of public service violate the civil rights of their employees?
- To what extent do lower-level government measures meet the people's demand for accessibility and responsiveness?
- What is the development of voluntary associations to support and monitor the rights of citizens? Are they subject to violation?
- How effective are the procedures for informing citizens about their rights and procedures for training future citizens to enjoy them?
- How free of arbitrary discrimination are the criteria for allowing refugees or immigrants to live in a particular country? How easily can such people assert equal citizenship rights?
- To what extent are the main institutions of civil society subject to external regulation in the public interest?
- To what extent do the tradition and culture of society support the basic democratic principles of people's control and political equality?
- How much confidence do people have in the ability of the political system to solve the main problems faced by society and in their ability to influence it?

Democracy is regarded as a prerequisite for the legitimacy of constitutional government. Accordingly, the essence of democracy is the balance of the interests of the majority and the minority, as well as the legislative support of legal procedures for making political decisions. Democracy is manifested in political and ideological pluralism, parliamentarism, local self-government, the participation of citizens in public affairs, ensuring basic freedoms, and holding regular and free elections, referendums, and other democratic procedures. Democracy and justice are interconnected concepts that often support and influence each other within a political system. While democracy and justice are distinct concepts, they are closely interwoven. A thriving democracy is likely to foster justice, and a just society is more likely to sustain democratic principles. However, it's also worth noting that the presence of democratic institutions doesn't automatically guarantee justice, as democracies can have flaws and injustices. Ongoing efforts are needed to ensure that both democracy and justice are upheld.

The interaction of democracy and public administration embraces the following aspects: a) democratic institutions of society act as their form, and their content is power and administrative activity; b) goal setting is the mechanism for forming the goals of public administration based on objective needs and interests of people in the methods and means of achieving such goals; c) the organizational and state structure of society, as well as the set of functional components embodied in the system of state bodies; d) feedback between the effectiveness of governance and the perfection of democratic institutions; e) feedback between law and democracy.

Public administration and public service can be regarded as embodying the principle of empathy, which is founded on a comprehensive analysis of citizens' access to public services, as facilitated by senior management. This type of interaction corresponds to a certain way of communication between those who govern and those who are governed. To be close means to be accessible, receptive, and able to listen; it also means to respond and give explanations, not hiding behind the functioning of the institution.

This means to be within sight, to act transparently in relation to the public, to allow society to speak out, and to consider its opinion. The concept of proximity also means paying attention to the specifics of each situation. This means being close to each other, acting in a variety of contexts and conditions, and giving preference to the informal settlement of problems over the mechanical application of legal norms.

Democratism comprises the following elements: 1) the assumption that everyone can participate in public affairs; 2) the consideration of reservations from all members of the community and its elected representatives when making im-

portant decisions; 3) limiting the power of command to the necessary minimum; 4) changing the status of administrative functionaries (from heads to civil servants). However, the assumption that everyone can participate in public administration hardly corresponds to principle of equal opportunities. Not every citizen may be equally competent in the management of public affairs.

We can talk about the level of competence and the degree of participation of citizens in the management of public affairs. Hence, there is a wide range of democratic procedures that determine the participation of citizens in the field of public administration.

1. Local initiatives. They are often used in the system of democracy and can manifest themselves in at least three forms: local law-making initiative, public works, and self-determination by residents of the territorial community. In particular, public works are provided by the legislation of some countries. In general, it is connected with the status of persons vested with certain public functions at the level of local self-government. According to §17 of the Regulations of the Communities of the Land of Baden-Württemberg in Germany, a person who is entrusted with a public work must perform it disinterestedly and responsibly.

A public worker is obliged to exercise his/her functions on a confidential basis, and cannot represent anyone's interests to the disadvantage of the community if the latter does not act as a representative of the law. In particular, the community might be entrusted with the performance of public works related to municipal elections or other important social and domestic tasks. This provision focuses on the discipline and responsibility of the community under the threat of administrative measures.

2. Public hearings. At the level of local self-government, public hearings are often used. They are also a form of direct democracy that provides guarantees for periodic reports from deputies of local councils and direct meetings of voters with heads of rural, township, and city governments. According to the principle of democratic participation, a form of public hearings is public expertise and public discussion of draft legal acts issued by local authorities.
3. Public reviews of draft legal acts issued by public authorities. This procedure demonstrates the transparency and publicity of public authorities. The discussion of the content and intended consequences of legal acts issued by public authorities is an important element of their democratic legitimacy. It is important to listen to the conclusions of professional experts, analytical centers, and research institutions specializing in public relations, which should regulate the draft legal act.

To attain this goal, it is necessary to ensure the expert cooperation of relevant organizations and institutions, which is ensured by prior notification of the following discussion of draft legal acts. The timely adoption of legal acts without public examination is admissible only as a statement and must comply with the principles of proportionality, which must ensure a balance between public and private interests with the help of sufficient and appropriate means of pursuing a legitimate goal.

4. The freedom of assembly, rallies, marches, and demonstrations is an important means of identifying public interests and a means of public pressure on the activities of public authorities. Citizens do not use these forms of popular sovereignty to support public authorities, protest and influence public authorities. Citizens cannot express their position on a certain issue using the media.
5. Gatherings. At the level of local democracy, a significant role is played by gatherings of citizens that allow territorial communities to discuss local issues and make power decisions. In contrast to referendums and elections, gatherings are joint discussions that are a necessary means of civil participation in the implementation of various self-governing functions. This form acts as a method of increasing the level of responsibility in the implementation of local self-government.

The multifunctional institution of civil gatherings creates wide opportunities for their influence on the activities of local self-government bodies and their officials. The legal registration of public service is determined by the legal nature of this institution and its understanding. The most common methods are two theories of public service: statutory and contractual common to the Anglo-American doctrine.

In the UK, persons who are employed by ministries in a civilian capacity and are financed from the state budget based on an act of the parliament are recognized as employees. The statutory law gives broad powers to ministries to conclude contracts with their employees. If we consider public service from the viewpoint of ensuring competent managerial decisions and their succession regardless of the changing political course, there is a problem of qualification of public service within administrative relations.

However, the discussion about returning to classical public administration has recently resumed, in particular, to revising the system of responsibility and approving various possibilities of administration (Potekhina et al., 2022; Skabeeva et al., 2022; Zavalko et al., 2017; Dzhancharova et al., 2022; Nesterov et al., 2022; Nurutdinova et al., 2023). The solution to this issue is especially relevant for the Russian Federation since there are some shortcomings in the system of organizing public service: 1) the insufficient differentiation of officials, which increases the dependence of the latter on the economic course; 2) the lack of an adequate system of consultations between officials and politicians in making managerial decisions.

The formation of civil servants through recruitment is an important component in the system of state-service relations. In addition, it is generally recognized that the civil service is based on a merit system. This system provides that the formation of public service should meet the following criteria: a) qualification eligibility of the applicant for the position (age, education, business qualities, length of service, and a set of skills); b) prohibited recruitment and advancement in public service based on various motives and assessments.

Thus, the professionalism and stability of public service and its isolation from political activities and expediency are guaranteed. The opposite of a merit system is the formation of public service according to the acquisition system which provides for the formation and promotion of public service based on socio-political considerations.

In this system, any employee can be removed from office for various reasons without proper legal justification. In authoritarian regimes, this can be manifested in periodic rotations of the state apparatus. Such arguments can be as follows: the dismissal of officials who worked in the previous regime and are unable to properly perform their duties under the new regime; maintaining the old apparatus is not advisable.

A modern modification of a merit system is a patronage system. The existence of such a system is justified by the need to determine, based on the law, patronage positions that combine all two main elements: a) this category of employees is appointed according to the political procedure, as a rule, by the heads of state or heads of government, sometimes by agreement of the parliament (deputy ministers, secretaries of state, senior police officials, heads of central departments); b) based on discretionary powers providing for a wide margin of appreciation, personal assistants or advisers to heads of state, heads of government, ministers, and other figures are appointed.

The patronage system embraces the relationship between policy management. The Constitution might guarantee equal access to public service. The list of patronage positions is determined by the law to keep state secrets. Other categories of employees are recruited in accordance with a merit system.

The Basic Law defines the activities of public servants in the sphere of public administration and local self-government: a) guarantees of equal access to a vacant position in state and local self-government bodies; b) the presumed suitability of the applicant for the position, which must meet the criteria for admission to public service specified in the law, primarily with respect to the appropriate level of education, personal moral and business qualities; c) the formation and maintenance of a system of effective education and personnel retraining that allow the applicant to receive proper education and practical skills for the implementation of the functions and tasks assigned by the law to a public servant; d) the obligation to pass an open competitive selection for a vacant position in accordance with the qualification criteria established by the law.

The reliability of the above-mentioned approaches is confirmed by the fact that, according to the legal position of the Constitutional Court of the Russian Federation, the law establishes criteria for certain categories of civil servants, in particular, qualification requirements. These are due to the activities of officials and therefore cannot be regarded as a restriction of citizens in

equally accessing public service. Qualification requirements include life experience and social maturity acquired upon reaching a certain age. The criterion in the legislative formation of qualification requirements for age is expediency.

According to the rule of law, equal access to public service is a foundation of a democratic system and the free development of an individual. In conformity with the constitutional principle of equal access to services in state and local self-government bodies, citizens of the Russian Federation who have reached the age of majority and have professional education and a proper command of the state language have such a right.

The basis of the legal mechanism for ensuring equal access to public service in the Russian Federation is the selection of procedures for accepting public service positions and all further appointments during the promotion. In most democratic countries, the competitive procedure is the only possible way to get access to public service, and therefore this is the main feature that distinguishes public service relations from labor relations of the citizens employed in public authorities.

Upon hiring for the first time for a position classified according to the level of education and professional training necessary for their replacement, public servants are promoted to further positions based on the results of the selection procedure. A comparative legal analysis of public service shows that different countries use various mechanisms for replacing posts.

In France, recruitment to public service is combined with an open competition with further training (about two years) in schools for civil servants. Then exams are taken and an appointment is made. In Spain, a competitive selection is a sufficient condition for filling a position in public service. Unlike in France, training in a special administrative school is not required.

Germany has one of the most stringent systems for selecting personnel for public service. After obtaining an academic degree, candidates must pass the first state examination, having completed two to three years of preparatory service (internships in various positions and professional training). Then they must pass the second state exam and receive the title of assessor. The selection of candidates for vacancies in public service is completed with an interview.

Unlike the Russian Federation, some countries have no personnel reserve in public service. Indeed, training in special management schools and internships in the state apparatus fulfills the functions of the personnel reserve in some European countries. Under these conditions, the competition for filling positions is applied to the vast majority of civil servants, although legal regulation in this area requires improvement.

Competition is a procedure for the selection of personnel according to the decision of the competition committee and based on certain qualification criteria and the competence of applicants. The legal procedure of recruitment for public service is competitive and administrative by its nature. Competitive proceedings have the following stages: 1) preparation for holding a competition; 2) conducting a competitive examination and interview; 3) making a decision on the results of the competition; 4) appealing against the decision; 5) implementing the decision.

Conclusion

Summing up, it can be noted that persons can be admitted to the patronage service out of the competition, which is justified by the nature of their service related to the execution of instructions received from the relevant leaders. In contrast to some countries, the Russian Federation expands the range of civil service positions for which citizens can be hired without competition.

In addition, the current legislation in the field of public service does not meet the quality requirements of the law since it does not establish the basic principles, the sequence of stages, and their essence regarding the competition, promotion, and certification of public servants. Therefore, this issue has been regulated at the level of by-laws, which contradicts the constitutional order. This concerns both the scope and content of human rights and freedoms, as well as the criteria for their restrictions provided by the Constitution and laws.

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