

CHIEF EDITOR'S NOTE ON THE NEW RUSSIAN CODE OF ADMINISTRATIVE PROCEDURE

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In 2015, a new Code of Administrative Procedure [hereinafter Code] was adopted in Russia. Such a code has never existed in Russian legal history.

In 1993, the Constitution of the Russian Federation established separate legal proceedings for civil, administrative and criminal cases. Administrative procedure did not exist in practice until 2015 though related amendments were already being proposed in the middle of 1990⁵. The Code was approved by the Russian President on March 9, 2015, and entered into force on September 15, 2015.

Due to the adoption of the Code, a number of laws and regulations concerning legal proceedings for the investigation of administrative cases have been corrected. The provisions regulating proceedings arising out of administrative cases have been excluded from the Code of Civil Procedure, along with provisions on consideration of applications for compensation due to violations of the right to legal proceedings within reasonable time, and on compulsory hospitalization of citizens in psychiatric hospitals.

Unlike in civil and commercial procedures, the Code emphasizes the active role of the courts. It is caused by unequal position of the parties in such cases. In particular, if necessary, the court can call for evidence itself; and it can go beyond the bases and arguments of the declared requirements when checking the legality of legal statutory acts, decisions, actions and omissions.

Another innovation of the Code is the demand for confirmation that the participants in a trial have a higher legal education. The parties of administrative proceedings will also have additional expenses. However, all expenses, including representative fees, state duty, and other expenses connected with the proceedings

shall be borne by the defeated party. Therefore, it is quite possible that it will be more expedient for many potential plaintiffs to pay penalties rather than risk incurring additional expenses and spending time on an administrative trial. On the other hand, officials will sometimes have to think twice before making a decision, as those additional expenses can also be collected from the state, which could be very unpleasant for the government.

Finally, the Code provides additional guarantees for access to justice, and it makes the procedure more professional and specialized.