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Рекомендуемый объем от 12000 знаков.

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Ссылки на научные источники из Интернета допустимы и должны быть соответствующим образом оформлены.

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Статьи представляются в электронном виде только через сайт издательства http://www.e-notabene.ru кнопка "Авторская зона".

Статьи без полной информации об авторе (соавторах) не принимаются к рассмотрению, поэтому автор при регистрации в авторской зоне должен ввести полную и корректную информацию о себе, а при добавлении статьи - о всех своих соавторах.

Не набирайте название статьи прописными (заглавными) буквами, например: «ИСТОРИЯ КУЛЬТУРЫ…» — неправильно, «История культуры…» — правильно.

При добавлении статьи необходимо прикрепить библиографию (минимум 10–15 источников, чем больше, тем лучше).

При добавлении списка использованной литературы, пожалуйста, придерживайтесь следующих стандартов:

- ГОСТ 7.1-2003 Библиографическая запись. Библиографическое описание. Общие требования и правила составления.
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В каждой ссылке должен быть указан только один диапазон страниц. В теле статьи ссылка на источник из списка литературы должна быть указана в квадратных скобках, например, [1]. Может быть указана ссылка на источник со страницей, например, [1, с. 57], на группу источников, например, [1, 3], [5-7]. Если идет ссылка на один и тот же источник, то в теле статьи нумерация ссылок должна выглядеть так: [1, с. 35]; [2]; [3]; [1, с. 75-78]; [4]....
А в библиографии они должны отображаться так:
[1]
[2]
[3]
[4]....

Постраничные ссылки и сноски запрещены. Если вы используете сноску, не содержащую ссылку на источник, например, разъяснение термина, включите сноску в текст статьи.

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Прикрепить 10 ключевых слов.

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- Кавычки даются уголками (« ») и только кавычки в кавычках — лапками (“ ”).
- Тире между датами дается короткое (Ctrl и минус) и без отбивок.
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- Даты в скобках даются без г.: (1932–1933).
- Даты в тексте даются так: 1920 г., 1920-е гг., 1540–1550-е гг.
- Недопустимо: 60-е гг., двадцатые годы двадцатого столетия, двадцатые годы XX столетия, 20-е годы XX столетия.
- Века, король такой-то и т.п. даются римскими цифрами: XIX в., Генрих IV.
- Инициалы и сокращения даются с пробелом: т. е., т. д., М. Н. Иванов. Неправильно: М.Н. Иванов, М.Н. Иванов.

ВСЕ СТАТЬИ ПУБЛИКУЮТСЯ В АВТОРСКОЙ РЕДАКЦИИ.

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- информативной (не содержать общих слов);
- оригинальной;
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Аннотация включает следующие аспекты содержания статьи:

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- метод или методологию проведения работы;
- результаты работы;
- область применения результатов; новизна;
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Результаты работы описывают предельно точно и информативно. Приводятся основные теоретические и экспериментальные результаты, фактические данные, обнаруженные взаимосвязи и закономерности. При этом отдается предпочтение новым результатам и данным долгосрочного значения, важным открытиям, выводам, которые опровергают существующие теории, а также данным, которые, по мнению автора, имеют практическое значение.

Выводы могут сопровождаться рекомендациями, оценками, предложениями, гипотезами, описанными в статье.

Сведения, содержащиеся в заглавии статьи, не должны повторяться в тексте аннотации. Следует избегать лишних вводных фраз (например, «автор статьи рассматривает...», «в статье рассматривается…»).

Исторические справки, если они не составляют основное содержание документа, описание ранее опубликованных работ и общеизвестные положения в аннотации не приводятся.

В тексте аннотации следует употреблять синтаксические конструкции, свойственные языку научных и технических документов, избегать сложных грамматических конструкций.

Гонорары за статьи в научных журналах не начисляются.

Цитирование или воспроизведение текста, созданного ChatGPT, в вашей статье

Если вы использовали ChatGPT или другие инструменты искусственного интеллекта в своем исследовании, опишите, как вы использовали этот инструмент, в разделе «Метод» или в аналогичном разделе вашей статьи. Для обзоров литературы или других видов эссе, ответов или рефератов вы можете описать, как вы использовали этот инструмент, во введении. В своем тексте предоставьте prompt - командный вопрос, который вы использовали, а затем любую часть соответствующего текста, который был создан в ответ.

К сожалению, результаты «чата» ChatGPT не могут быть получены другими читателями, и хотя невосстановимые данные или цитаты в статьях APA Style обычно цитируются как личные сообщения, текст, сгенерированный ChatGPT, не является сообщением от человека.

Таким образом, цитирование текста ChatGPT из сеанса чата больше похоже на совместное использование результатов алгоритма; таким образом, сделайте ссылку на автора алгоритма записи в списке литературы и приведите соответствующую цитату в тексте.

Пример:

На вопрос «Является ли деление правого полушария левого полушария реальным или метафорой?» текст, сгенерированный ChatGPT, показал, что, хотя два полушария мозга в некоторой степени специализированы, «обозначение, что люди могут быть охарактеризованы как «левополушарные» или «правополушарные», считается чрезмерным упрощением и популярным мифом» (OpenAI, 2023).

Ссылка в списке литературы

OpenAI. (2023). ChatGPT (версия от 14 марта) [большая языковая модель]. https://chat.openai.com/chat

Вы также можете поместить полный текст длинных ответов от ChatGPT в приложение к своей статье или в дополнительные онлайн-материалы, чтобы читатели имели доступ к точному тексту, который был сгенерирован. Особенно важно задокументировать точный созданный текст, потому что ChatGPT будет генерировать уникальный ответ в каждом сеансе чата, даже если будет предоставлен один и тот же командный вопрос. Если вы создаете приложения или дополнительные материалы, помните, что каждое из них должно быть упомянуто по крайней мере один раз в тексте вашей статьи в стиле APA.

Пример:

При получении дополнительной подсказки «Какое представление является более точным?» в тексте, сгенерированном ChatGPT, указано, что «разные области мозга работают вместе, чтобы поддерживать различные когнитивные процессы» и «функциональная специализация разных областей может меняться в зависимости от опыта и факторов окружающей среды» (OpenAI, 2023; см. Приложение A для полной расшифровки). .

Ссылка в списке литературы

OpenAI. (2023). ChatGPT (версия от 14 марта) [большая языковая модель]. https://chat.openai.com/chat Создание ссылки на ChatGPT или другие модели и программное обеспечение ИИ

Приведенные выше цитаты и ссылки в тексте адаптированы из шаблона ссылок на программное обеспечение в разделе 10.10 Руководства по публикациям (Американская психологическая ассоциация, 2020 г., глава 10). Хотя здесь мы фокусируемся на ChatGPT, поскольку эти рекомендации основаны на шаблоне программного обеспечения, их можно адаптировать для учета использования других больших языковых моделей (например, Bard), алгоритмов и аналогичного программного обеспечения.

Ссылки и цитаты в тексте для ChatGPT форматируются следующим образом:

OpenAI. (2023). ChatGPT (версия от 14 марта) [большая языковая модель]. https://chat.openai.com/chat

Цитата в скобках: (OpenAI, 2023)

Описательная цитата: OpenAI (2023)

Давайте разберем эту ссылку и посмотрим на четыре элемента (автор, дата, название и

источник):

Автор: Автор модели OpenAI.

Дата: Дата — это год версии, которую вы использовали. Следуя шаблону из Раздела 10.10, вам нужно указать только год, а не точную дату. Номер версии предоставляет конкретную информацию о дате, которая может понадобиться читателю.

Заголовок. Название модели — «ChatGPT», поэтому оно служит заголовком и выделено курсивом в ссылке, как показано в шаблоне. Хотя OpenAI маркирует уникальные итерации (например, ChatGPT-3, ChatGPT-4), они используют «ChatGPT» в качестве общего названия модели, а обновления обозначаются номерами версий.

Номер версии указан после названия в круглых скобках. Формат номера версии в справочниках ChatGPT включает дату, поскольку именно так OpenAI маркирует версии. Различные большие языковые модели или программное обеспечение могут использовать различную нумерацию версий; используйте номер версии в формате, предоставленном автором или издателем, который может представлять собой систему нумерации (например, Версия 2.0) или другие методы.

Текст в квадратных скобках используется в ссылках для дополнительных описаний, когда они необходимы, чтобы помочь читателю понять, что цитируется. Ссылки на ряд общих источников, таких как журнальные статьи и книги, не включают описания в квадратных скобках, но часто включают в себя вещи, не входящие в типичную рецензируемую систему. В случае ссылки на ChatGPT укажите дескриптор «Большая языковая модель» в квадратных скобках. OpenAI описывает ChatGPT-4 как «большую мультимодальную модель», поэтому вместо этого может быть предоставлено это описание, если вы используете ChatGPT-4. Для более поздних версий и программного обеспечения или моделей других компаний могут потребоваться другие описания в зависимости от того, как издатели описывают модель. Цель текста в квадратных скобках — кратко описать тип модели вашему читателю.

Источник: если имя издателя и имя автора совпадают, не повторяйте имя издателя в исходном элементе ссылки и переходите непосредственно к URL-адресу. Это относится к ChatGPT. URL-адрес ChatGPT: https://chat.openai.com/chat. Для других моделей или продуктов, для которых вы можете создать ссылку, используйте URL-адрес, который ведет как можно более напрямую к источнику (т. е. к странице, на которой вы можете получить доступ к модели, а не к домашней странице издателя).

Другие вопросы о цитировании ChatGPT

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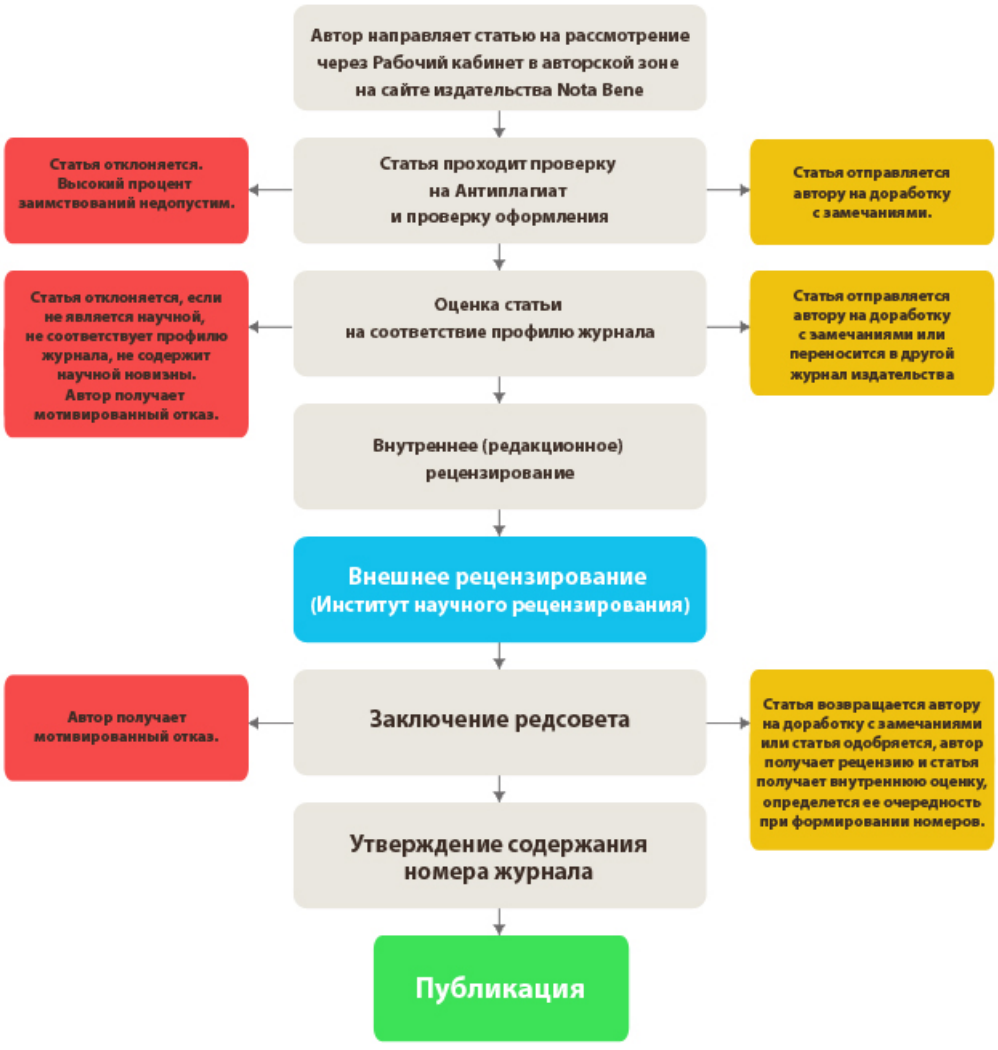

Содержание

Лолаева А.С. Место электронного правительства в системе государственного управления 1

Бегеза В.В. Проблемы взаимодействия правоохранительных органов по обеспечению национальной безопасности. 10

Муталипов Р.Б. О градостроительном и социально-экономическом развитии городов в России 16

Демченко М.С. Конституционность правовых режимов в период распространения коронавирусной инфекции COVID-19 21

Михайлов А.М. Понимание верховенства права в позитивистском учении Дж. Раза 33

Англоязычные метаданные 46

Contents

Lolaeva A.S. The Place of E-Government in the Public Administration System 1

Begeza V.V. Problems of Law Enforcement Agency Interaction to Ensure National Security 10

Mutalipov R.B. On Urban Planning and the Socio-Economic Development of Cities in Russia 16

Demchenko M.S. The Constitutionality of Legal Measures During the Spread of COVID-19 21

Mikhailov A.M. Understanding the Rule of Law in Joseph Raz's Positivist Doctrine 33

Metadata in english 46

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The Place of E-Government in the Public Administration System / Место электронного правительства в системе государственного управления

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Аннотация: В статье исследуется место электронного правительства в системе государственного управления. Актуальность темы обусловлена всеобщей цифровизацией общественных отношений, в том числе и сферы государственного управления. Электронное правительство представляет собой новый формат взаимодействия государства и общества на основе использования современных информационно-коммуникационных технологий, нуждающийся в теоретическом обосновании. В работе использованы методы научного анализа и синтеза, дедукции, индукции, а также методы описания, сравнения и анализа вторичных данных. В статье отражен вопрос развития электронного правительства в России. В качестве объекта исследования выступают общественные отношения, возникающие при создании и функционировании системы электронного правительства. Автор формулирует вывод о том, что электронное правительство в Российской Федерации находиться в непрерывном

развитии, а также является важным инструментом для развития цифровой экономики, что требует пересмотра цифровых навыков государственных служащих. В настоящий момент уже наметилась тенденция к подготовке кадров для цифрового государственного управления. Было выявлено, что на сегодняшний день в Российской Федерации электронное правительство, являющееся важным инструментом для развития цифровой экономики, находится в непрерывном развитии, уже наметилась тенденция перехода к электронному государству. Чтобы получить максимальную пользу от цифровых преобразований в государственном управлении требуется новый подход к формированию компетенций современного государственного служащего, ведь отсутствие нужного уровня подготовки может послужить серьезным барьером для повышения эффективности государственного управления. Информационные технологии динамичны, быстро претерпевают изменения, в результате существующие требования к государственным служащим перестают быть актуальными в период цифровой трансформации. Законодательством Российской Федерации определено, что требования к знаниям, умениям и навыком гражданских служащих устанавливаются должностным регламентом, поэтому модель компетенций должна быть адаптирована для каждой конкретной должности с учетом специфики деятельности органа власти.

Ключевые слова:

демократия, электронная демократия, электронное правительство, электронное государство, цифровизация, публичная власть, информационное общество, научно-технический прогресс, интернет, информационно-коммуникационные технологии

Introduction

The relevance of the presented research topic is due to the fact that at the present stage of society's development, there is a tendency to increase the role of digital technologies due to their rapid development and implementation in all spheres of life. The transition to the digital economy has contributed to the increased use of information and communication technologies (ICT) in the work of public authorities, which has become a factor in the development of the concept of "electronic government" in the Russian Federation. Due to the transition to a new qualitative level in the public administration system, new requirements are imposed on the competencies of civil servants, which must meet the needs of digital transformation and complement traditional knowledge, skills, and abilities. After all, to increase the efficiency of public administration and the effective functioning of e-government, new approaches are needed in forming civil servant personnel competencies because a modern civil servant must be ready for innovation and have the knowledge and skills to meet the needs of the digital economy.

Based on the analysis of this problem in the literature, it can be concluded that the topic still needs to be studied in detail. Therefore, there are only a few theoretical and methodological works on the modernization and functioning of e-government in the Russian Federation. The reviewed works in this area show that the requirements for civil servant digital competencies have been superficially outlined.

The presented research aims to determine the place of e-government in the public administration system.

The object of this study is e-government as a tool for the modernization of public administration.

The subject of the study is the digital competencies of civil servants as a factor in improving the efficiency of public administration.

The theoretical and practical significance of the study lies in the fact that the system of civil servant digital competencies, which are necessary for working in an e-government environment, has been generalized.

The source base includes legislation in the field of e-government development and the use of ICT in the public administration system.

Materials and methods

The research used methods of scientific analysis and synthesis, deduction, and induction, as well as description, comparison, and analysis of secondary data methods.

The theoretical research is based on the works of other researchers, including O. A. Morozov, T. S. Melnikov, E. I. Dobrolyubov, and E. G. Vasiliev, who were engaged in determining the essence of e-government, its models, and stages of development.

S. G. Kamolov and V. V. Trofimov made a great contribution to determining the importance of information technologies in public service.

Results

Information technologies are currently subject to rapid development and active implementation in all spheres of public life, and public administration closely interacts with all social relations and processes. Modern states should not ignore existing innovative trends in a post-industrial society, where information is integral to political, economic, and social progress. Therefore, to promptly respond to the needs of society, ensure economic growth, and improve the efficiency of public administration, "e-government" technologies are being introduced.

The concept of e-government began in the late 1990s in the West, where it acted as an idea for the widespread dissemination of computer and information technologies in the activities of government agencies to improve the efficiency of civil servants.

E–government is the use of information and communication technologies in state structures against the background of organizational reforms and the formation of skills among civil servants to improve the functioning of state structures and increase the level of services they provide. This definition was proposed by the European Commission [1].

As we can see, in this context, the role of civil servants' skills in the information and communication sphere is important as it can influence the quality of the work of state organizations.

In the Russian Federation, the development of e-government began with the approval of the federal target program "Electronic Russia" (2002) [2], as well as with the program "Information Society (2011–2020)" [3]. It should be noted that in Russian legislation, the term "electronic government" is used to denote the "digitization" of public administration as an integral part of the state’s strategy to develop the information society.

To date, there is no unambiguous definition of "e-government." Therefore, the variety of interpretations of the term "e-government" can be divided into two groups: narrow and

broad.

According to the narrow approach, this is the use of information technologies by public authorities in the course of their activities. According to this approach, there are no changes in the qualitative composition of the functions performed by the authorities, but only the form by which they interact with citizens and businesses changes [4, p. 31].

Thus, the introduction of information technologies in itself does not contribute to improving the efficiency of public administration. Therefore, a broad approach to the definition of e-government at present will be considered more relevant.

According to a broad approach, e–government is a fundamentally new form of organizing the activities of public authorities. It provides a new level of convenience and efficiency for citizens and organizations to obtain information and public services through the widespread use of information and communication technologies. It is important to note that within the framework of this approach, the transition of public administration to e-government involves not just the informatization of all processes but, namely, a qualitatively new level of ICT use by public authorities that will allow the implementation of new models of interaction between the state and society [5, p. 20].

Next, let's take a closer look at the existing types of this interaction:

1) G2C (government to citizens) model – between the state and citizens. The main purpose of the modernization of this type of relationship is to reduce and simplify the process of performing certain types of operations through web portals (for example, paying taxes, applying for benefits, etc.).

Thus, in Russia, there is a single portal for state and municipal services [6], where individuals and legal entities can receive public services electronically. A detailed list of tasks the portal solves is given in the Decree of the Government of the Russian Federation No. 861 dated 24.10.2011 [7].

Considering that at the end of 2021, the number of registered users exceeded 100 million, it can be argued that this portal is in great demand [8]. Most often, citizens use the services to make an appointment with a doctor, register their children for kindergarten, get information about pension savings, register vehicles, apply for an exam at the State Traffic Inspectorate, and obtain a driver's license. Also, the top ten most popular services include registration and issuance of Russian and foreign passports, registration at the place of stay and the place of residence, and issuance of certificates of the presence (absence) of a criminal record.

2) G2B (government to business) model – between the state and businesses. This interaction involves the use of open state information for business, the relationship regarding public procurement, and participation in the regulatory impact assessment procedure.

Since 2016, there has been a functioning unified information system for procurement that contains information about the procurement contract system, from schedules to a detailed description of the stages of concluding a state contract [9].

Also, an example of the functioning of the "state-business" model in practice is the interactive information offered by the Federal Tax Service of Russia. The most popular in the business environment are: "Checking the correctness of filling out invoices," "Business risks:

check yourself and the counterparty," and others.

3) G2G (government to government) – between different branches of government. The G2G model forms the basis of e-government because it is focused on the informatization of all management processes in public authorities and the use of specialized computer systems aimed at electronic interaction between various structures [10].

Thus, based on the above examples, it can be concluded that the complete examples of the implementation of e-government within the framework of the G2C, G2B, and G2G models are present in the Russian Federation.

Discussion of the results

So, we have revealed that the current trend of digitalization in public administration requires a new approach to the competencies and skills of civil servants. Before proceeding to the analysis of requirements, let's turn to the definition of the concepts of "digital literacy," "digital competencies," and "digital skills."

Digital literacy is an important tool that affects all areas of citizens' lives, including professional activities.

It should be noted that digital literacy means not only a person’s ability to use a computer —its concept is much broader.

Through digital competencies, we will understand specific skills with which a person can effectively use modern technologies, including interacting with other people using ICT, using and creating content, searching for information and exchanging it, synchronizing devices, and more [11, p. 79].

Digital skills are the basis of digital competencies and represent automated behavioral models that, with the help of knowledge in the field of digital competencies, manage information through digital devices and networks.

By analyzing existing research and recommendation documents from the Ministry of Labor and Social Protection of the Russian Federation, classifying the digital skills of public civil servants has been proposed in three levels:

· Basic level

· Advanced level

· Professional level

The Handbook of Qualification Requirements for applicants for positions in the State Civil Service and state civil servants contains the following basic qualification requirements [12]:

1. General knowledge concerning the use of a personal computer, including knowledge of hardware and software, security, and storage.

2. Knowledge and skills in PC applications. This includes knowledge of computer commands, the ability to work with files, as well as printing documents.

3. Knowledge and skills of working with office programs – skills working in text and graphic editors, preparing tables and presentations, as well as working with e-mail.

4. Knowledge and skills of working with the Internet – the ability to use search engines to

obtain the necessary information.

Thus, the basic requirements are the lowest level of skills required for employees as they do not take into account the specifics of the activities of public authorities.

The advanced level involves a deeper development of digital knowledge by civil servants and an expanded range of knowledge, skills, and abilities in the field of computer science. At this level, it is possible to distinguish such knowledge as the basics of information security and the ability to use interdepartmental document management, working with databases, information and analytical systems, as well as project management systems.

Some experts suggest that employees should have expanded digital competencies for senior positions [13, p. 30].

The third block, the professional level of competencies, is more focused on the specifics of the authority and the official duties of a particular civil servant. This may include knowledge and confident use of electronic archive systems, management of state information resources, and systems of interaction with organizations and citizens. A civil servant with digital skills of this level is capable of self-realization and using the latest information technologies.

In 2020, the Model of Digital Competencies was formed by the Center for Training Managers of Digital Transformation of the Higher School of Economics of the RANEPA, which would meet the existing digitalization needs in the Russian Federation [14, p. 5].

The structure of this model is shown in the diagram below.

Fig. 1. Structure of the RANEPA Digital Competence Model

Next, we will analyze in detail which competencies are included in each structural block.

1) The block for basic digital competencies is similar to the above-mentioned basic level of competencies recommended by the Ministry of Labor and Social Protection.

2) The block for professional competencies or hard skills are those competencies directly related to the functional application of skills and knowledge in the field of ICT in solving everyday tasks in civil service. They are measurable and have a direct impact on the effectiveness of the work performed.

This group includes the following competencies:

-Digital development management: the knowledge of the basics of Russian and international legislation in the field of the digital economy and digital public administration, as well as the ability to assess the technological development of the public administration system.

-Development of organizational culture: This assumes knowledge of the tools of organizational cultures and also their application in practice to manage organizational changes in public authorities.

-Management tools: a set of skills and abilities to use professional tools for managing public administration products, processes, and projects.

-Data management and use: This competence's key knowledge and skills are data collection and structuring and further analysis to build new or optimize old management models.

-Application of digital technologies: This competence includes civil servants' knowledge of the basics of end-to-end technologies and IT systems management, as well as skills in information security and cybersecurity in public administration.

-Development of IT infrastructure: A civil servant with this competence should be able to understand the technical documentation related to IT products and data storage systems in public authorities.

It should be noted that it is not necessary for all civil servants to fully possess the listed professional competencies in the field of digital development. If the specifics of their official activities do not provide for working with complex information systems, then perhaps the minimum level of skills and abilities will be sufficient to perform everyday tasks.

For example, if we consider the competence "Application of information technologies," then the ability to protect the information contained on a PC will be enough for an ordinary specialist, and if an information security specialist is serving in a public authority, then a higher level of proficiency in working with IT systems, including automation and design, is assumed.

3) The block of personal competencies in the field of digital development includes competencies that reflect the socio-psychological characteristics of a civil servant. Otherwise, they are called soft skills (soft, flexible competencies).

So, according to the model under consideration, this category includes:

- Focus on results. This competence aims to concentrate all available resources and opportunities to achieve the goals that digital development sets for itself.

- Client-centricity. This competence allows employees to show empathy, use feedback to improve their activities, and approach each consumer's problems flexibly.

- Communication is not only the ability to make the right choice in the strategy and form of conversation but also understanding the motives of other people and the skill of influencing them to solve professional problems.

- Emotional intelligence. This employee will be able to manage both their emotions and the emotions of other people and find it easier to cope with stress in the process of non-standard and complex situations.

- Creativity. Relevant competence in the era of digitalization because the ability to put forward original, unconventional ideas contributes to the introduction of innovative approaches to solving practical problems.

- Critical thinking. With digitalization, any employee is faced with a large flow of information, so the ability to critically treat all facts, verify their reliability, and subsequently systematize all information is important.

It is worth noting that these skills are non-specialized. Unlike hard skills, their presence is difficult to assess and measure in a particular civil servant. In the digital transformation era, the emphasis is shifting to the demand for soft skills, especially among managerial staff. However, personal competencies can never replace professional ones; only proportions can change depending on the employee's job responsibilities.

4) The last block of the Competence Model is digital culture. This is the element that every public authority should pay attention to in order to embark on the path of digital

transformation in the Russian Federation, and civil servants, in turn, accept and try to maintain those values and attitudes that will help the digital development of public administration.

Conclusion

So, we have established that the digital competence of civil servants is quite dynamic. IT technologies are changing rapidly, becoming obsolete, and new ones are coming to replace them, so it is necessary to constantly develop in this direction. In view of this, to assess the formation of competencies, it is only possible to apply a universal model of digital skills for some civil servants. Therefore, it is advisable to identify the levels of competencies, as they will help determine the degree of effectiveness of the use of modern digital technologies in professional activities.

Summarizing the above material, we can conclude that e-government in the Russian Federation is in continuous development and is also an important tool for the development of the digital economy, which requires a revision of civil servants' digital skills. At the moment, there is a trend toward training personnel for digital public administration.

It was revealed that today in the Russian Federation, e-government, which is an important tool for the development of the digital economy, is in continuous development. There is already a tendency to transition to an electronic state. To get the maximum benefit from digital transformations in public administration, a new approach to the formation of the competencies of a modern civil servant is required because the lack of the necessary level of training can serve as a barrier to improving the efficiency of public administration.

Information technologies do not remain static. They are rapidly undergoing changes. As a result, the existing requirements for civil servants cease to be relevant in the period of digital transformation.

The legislation of the Russian Federation defines that official regulations establish the requirements for the knowledge and skills of civil servants. Therefore, a competence model should be adapted for each specific position, taking into account the specifics of the activities of the authority.

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Problems of Law Enforcement Agency Interaction to Ensure National Security / Проблемы взаимодействия правоохранительных органов по обеспечению национальной безопасности

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Аннотация: Обеспечение национальной безопасности и меры для ее защиты лежат в основе процветания любого государства и народа. Современная система национальной безопасности Российской Федерации (РФ), которая представляет собой сложную, многоуровневую систему, выполняет важную роль в обеспечении государственной и общественной безопасности. Элементы этой системы представлены безопасностью на различных уровнях, взаимодействующих и функционирующих путем прямых и обратных связей. Важным направлением Стратегии национальной безопасности РФ, является консолидация правоохранительных органов и институтов гражданского общества, для создания положительных внешних и внутренних условий, для осуществления национальных интересов и приоритетов. В данной статье, автор исследует деятельность правоохранительных органов, направленных на обеспечение национальной

безопасности и вопросы взаимодействия. Также рассматривается проблема эффективности правоохранительных органов в системе обеспечения национальной безопасности Российской Федерации на основании анализа нормативно-правовых актов и результативности деятельности правоохранительных органов. Система обеспечения и защиты национальной безопасности рассматривается в совокупности субъектов, находящихся во взаимодействии, а также различных органов, сил, и средств обеспечения безопасности на национальном уровне, обеспечивающихся посредством существующих правовых норм. Что определяет необходимую актуальность рассматриваемых важных вопросов в современной ситуации.

Ключевые слова:

общество, безопасность, угрозы, правоохранительная деятельность, национальная безопасность, правоохранительные органы, государство, граждане, национальные интересы, государственная безопасность

Introduction: The relevance of the research.

National security issues are extremely relevant. Ensuring national security occupies an important place among the strategic priorities of the Russian Federation's national security. The country's stable development in the long term emphasizes the need for special attention to the problems of the interaction of law enforcement agencies to ensure national security.

The purpose of the study:

To correctly define the role of individual law enforcement agencies and their interaction to ensure national security, which, at present, is of great importance and significance.

Research methods:

The study uses general theoretical methods of scientific cognition (analysis and synthesis) as legal methods—comparative legal and formal legal—which made it possible to determine the features of law enforcement agencies' interaction and organization of activities to ensure national security.

Research results:

National security is the ability of the state to protect its citizens, the economy, and other institutions provided for by the legislation of the Russian Federation.

They distinguish internal security (corruption, drug addiction, prostitution, theft, and other various offenses on the part of the population) and external security (international terrorism and security emanating from the political and socio-economic situations in other countries)

In addition, the classification of types of security is also important in the structure of national security and contributes to developing specific policies and strategies to ensure national security. Depending on the nature of the threats, their source, and specifics, it is possible to distinguish types of security in specific spheres of life: military, political, socio-economic, environmental, and information security. A threat to national security is "a set of conditions and factors that create the direct or indirect possibility of harming national interests" [3].

Threats to national security have existed and will continue to exist. As a result, it is necessary to have time to adapt to environmental changes and look for new ways to prevent and suppress situations that threaten security.

The concept of "security" is considered from various positions. The most common approach is where security is understood as the protection of society and its components from internal and external threats.

National security is defined as a particular activity in law enforcement agencies specifically authorized by the state acting to eliminate threats to the state, the economy, politics, and social development [4].

Ensuring the national security of the Russian Federation is understood as the purposeful activity of state public institutions, law enforcement agencies, and citizens to identify and prevent threats to the security of individuals, society, and the state.

Interaction as a category means joint or coordinated activities of two or more subjects to achieve one or more goals.

In light of the stated topic, we note that the basis of such interaction is the objective need to ensure national security. Thus, ensuring the national security of the Russian Federation is the result of the interaction of law enforcement agencies, various state bodies, and organizations aimed at establishing and maintaining the political, economic, military-strategic, and international position of the country that will favor the development of the state, the individual, and society [6].

Discussion of the results:

The National Security Strategy of the Russian Federation, which was approved in 2021, defines a threat to national security as "a set of factors and conditions that create an indirect or direct possibility of harming national interests."

The threats to national security identified in the Strategy are classified by spheres and in relation to external or internal sources.

Thus, a significant number of threats are identified in the sphere of public and state security (the activities of special services and organizations of foreign states, extremist and radical organizations, natural disasters, and corruption). Epidemics and the spread of dangerous diseases are recognized as potential dangers in public health. Lagging behind in economic and technological development are threats to the quality of life of Russian citizens. Falsifications of Russian history and the erosion of spiritual and moral values are serious threats to national security.

Law enforcement agencies play a significant role in preventing risks and threats to Russia's national security. The Ministry of Internal Affairs of the Russian Federation is a key law enforcement agency that ensures national security. Topical issues to ensure the national security of the Ministry of Internal Affairs of the Russian Federation are forecasting and analyzing crime and public security, counter-terrorism activities, detecting and suppressing particularly serious crimes, and preventing and suppressing extremist activities. It should be noted that in 2016, a new structure was created in the law enforcement system, the Federal Service of the National Guard of the Russian Federation (Rosgvardiya), whose tasks also include issues ensuring national security [1].

The task assigned to law enforcement agencies requires a thorough systematic approach, provided only if specific goals and objectives are defined for each subject of national security (state, individual, and social institutions). In the Russian Federation, the following are involved in ensuring national security: The Ministry of Internal Affairs, the FSB, Rosgvardiya, the Ministry of Justice of Russia, the Prosecutor's Office, the Investigative Committee of the Russian Federation, etc.

The issues of correlation and development of the norms of legislation that determine the activities of law enforcement agencies in the legal framework to ensure national security are one of the main problems for the state.

The effectiveness and functionality of all systems of law enforcement agencies of the Russian Federation, coherence, and consistency in the actions of various structures and organizations performing tasks facing law enforcement agencies depend on the development of such legislation.

Law enforcement agencies that ensure security are classified depending on the direction of their activities to protect against external or internal threats. Some bodies aim to ensure external security (Armed Forces, foreign intelligence agencies), and others, internal security (internal affairs agencies, internal troops).

It should be noted that the activity and role of law enforcement agencies aimed at ensuring national security depends on the content of national security on the accepted official concept of national security [5]. Even though the term "national security" is enshrined in detail in the *National Security Strategy of the Russian Federation*, nevertheless, there is no unambiguity in the definition of the concept of "national security" in official legal documents, which in turn, is due to their possible broad interpretation, as well as the close interconnectedness of challenges and threats.

It is worth noting that the Federal Law "On Security" states that the policy in the field of state security "is executed by federal state authorities, state authorities of the subjects of the Russian Federation, and local self-government bodies" [2]. The powers of the President of the Russian Federation, both chambers of the Federal Assembly, the Government, and the Security Council are determined by legislation on state policy in the field of ensuring national security. At the same time, law enforcement agencies in the Federal Law "On Security" are not mentioned among the bodies implementing state policy in security. The Prosecutor's Office, which plays a significant role in ensuring the national security of the Russian Federation, is not mentioned among the bodies responsible for conducting state security policy.

At the same time, the prosecutor's office, which is affected by the law, is not included in any of the power networks specified in the Federal Law "On Security." The functions and status of the Prosecutor's Office determine its ability to ensure the national interests of the Russian Federation. The powers of the Prosecutor's Office of the Russian Federation include actions to identify and neutralize threats to the national security of the country and coordination of the activities of Russian law enforcement agencies in the fight against crime.

It should be noted that the issues of countering threats to both internal and external security are impossible without close interaction in the process of coordinating the activities of the prosecutor's office with the Ministry of Internal Affairs of Russia, the FSB of Russia, and the Federal Tax Service of Russia, which in turn, confirms the effectiveness of the

coordination activities of law enforcement agencies to ensure national security. It should be noted that the prosecutor's office consolidates law enforcement agencies' efforts to exercise citizens' constitutional rights and freedoms and fulfill the Russian Federation's national interests [5].

To date, law enforcement agencies and other national security agencies are implementing a relatively wide range of areas of interaction. The breadth, in this case, is explained by the peculiarities of the tasks assigned to the departments, which in some instances, overlap and require clear algorithms for the distribution of powers and interaction. Interaction is carried out in such areas as operational investigative activities, the sphere of information exchange, the sphere of implementation of state protection functions, the sphere of implementation of migration policy, ensuring national security, etc. In the conditions of increasing threats to information security, mutual coordination activities to ensure the moral and spiritual life of the younger generation are also becoming more relevant.

Nevertheless, the current lack of coordinated interaction of authorized structures leads to a possible undermining of national security. In this regard, the issues of improving the legislation of law enforcement activities of the Ministry of Internal Affairs of Russia to ensure the national security of the Russian Federation are of particular relevance. It is necessary to develop, expand, and strengthen the cooperation of law enforcement agencies. One of the means of solving this issue is the preparation and adoption by the heads of law enforcement agencies of joint organizational and administrative documents defining the order of interaction of these bodies in the detection and suppression of crimes in the field of national security.

Conclusion:

In the legislation regulating the main activities of various structures of the law enforcement system to ensure national security, it is advisable to introduce a specific classification of various forms of interaction and cooperative functioning in law enforcement agencies.

The legislation norms that will assign a classification of forms of interaction and cooperation in law enforcement agencies will allow them to work out many specific issues in detail and develop more effective forms of interaction and collaboration facing law enforcement agencies.

The activities of Russian law enforcement agencies in the national security system should be based on a strong legal framework that will bring their powers in line with the objectively evolving situation and changes in the structure of security threats, which in turn, will allow them to form effective interaction with other security actors.

Thus, to achieve stability in the country and the necessary political balance, a model of simultaneous functioning and interaction of all elements of the national security system is needed. Of course, the success of the work largely depends on the effectiveness of interaction with other state law enforcement agencies.

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On Urban Planning and the Socio-Economic Development of Cities in Russia / О градостроительном и социально-экономическом развитии городов в России

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Аннотация: В статье анализируется некоторые особенности градостроительного и социально-экономического развития в России, в связи с чем выявляются проблемы, требующие законодательного разрешения. Исследуя вопросы градостроительного и социально-экономического развития, автор использовал анализа и синтеза, формально-юридический, логический методы. При анализе законодательства и складывающейся практики его применен диалектический метод. Выявлено, что изменение функциональных зон городских земель может производиться зачастую необоснованно, что приводит к оспариванию данных изменений в судебном порядке. Вместе с тем последствия такого оспаривания законодателем прямо не указаны, что приводит к правовой неопределённости относительно возможного использования земельного участка. Предложено законодательно определить в качестве последствий признания судом недействующими спорных изменений: восстановление прежней функциональной зоны, приведение территориальной зоны в соответствии с функциональной путем

внесения городскими органами изменений в правила землепользования и застройки. По итогам исследования практики социально-экономического развития городов установлено, что в городах разрабатываются мастер-планы и концепции, принятие которых не предусмотрено законодательством о градостроительной деятельности и о стратегическом планировании. По мнению автора, следует внести изменения в Федеральный закон «О стратегическом планировании в Российской Федерации» и дополнить перечень документов стратегического планирования муниципального образования мастер-планами и концепцией развития города, что будет соответствовать сложившейся практике. Ожидается, что предложенные идеи позволят повысить эффективность управления городским пространством, привлечь инвестиции частных лиц в формирование комфортной городской среды.

Ключевые слова:

градостроительное развитие городов, социально-экономическое развитие городов, оспаривание функциональной зоны, мастер-планы, концепции развития города, генеральный план, функциональное зонирование, территориальное зонирование, стратегии социально-экономического развития, документы стратегического планирования

Introduction

Urban governance issues are common and problematic yet promising areas of legal urbanology caused by a significant increase in the urban population.

According to the Federal State Statistics Service, as of January 1, 2016, the share of the urban population out of Russia's total population was 74.09%. As of January 1, 2022, this indicator was 74.8% [1].

At the same time, the legal literature notes that Russian cities, mainly small and medium-sized ones, are experiencing several problems (migration of the younger population, insufficient tax sources, underdevelopment of small and medium-sized businesses, etc.) [2, pp. 70–71]. Despite such problems, Russian cities have the potential for development, which is facilitated by a number of conditions, including the territory and the ability to manage it. An important role is played by various kinds of resources that allow us to talk about both urban planning and socio-economic development.

Urban development of a city

Urban planning issues are regulated by the Town-Planning Code of the Russian Federation No. 190-FZ of 29.12.2004 (hereinafter referred to as the GrC of the Russian Federation)[3], which contains a number of provisions aimed primarily at creating conditions for a comfortable living environment.

However, despite the existing legal framework, certain problems arise. A situation that occurred in 2014 in St. Petersburg is of interest. The limited liability company "UNISTO Petrostal Project-Sytninskaya" (hereinafter, the company) acquired a plot of land for hotel accommodation. However, a burial was discovered on this site. Therefore, changes were made to the general city plan: a functional recreation zone was established on the plot, which led to the impossibility of its development. Later, it was also included in the list of

public green spaces according to St. Petersburg law.

Initially, the company unsuccessfully tried to recover damages from the city and then went to court to challenge the provisions of St. Petersburg's general plan. By the St. Petersburg City Court's decision of 31.10.2018 in case No. 3a-146/2018, the company's claims were denied, indicating that its references to the fact that the inclusion of a plot in a functional recreation zone makes it difficult to exercise ownership of it and cannot be recognized as justified. This decision was overturned by the Russian Federation Supreme Court, which pointed out that the disputed plot could not be attributed to the territories of green spaces due to it being in private ownership; the decision to create a burial place was not taken, and the remains found were seized. However, invalidating the contested provision of the general plan did not restore the company's rights. As A. V. Basharin notes, there is no functional zoning concerning the plot, and territorial zoning does not imply the possibility of its development. Challenging the master plan may only create a situation of legal uncertainty regarding the possibility of using the land. We believe it is necessary to agree with Basharin's opinion regarding his proposal to legislatively establish a list and procedure for taking into account criteria in the framework of territorial planning, as well as to identify possible types of functional zones, to compile a list of principles for establishing and determining the boundaries of such zones. The content of the master plan as a normative legal act of direct action should be determined at a legislative level [4, pp. 12–14, 21–22].

We believe it is necessary to legislatively determine the consequences of the court invalidating the provisions of the master plan in terms of functional zoning. In our opinion, such consequences should be the restoration of the former functional zone, bringing the territorial zone in accordance with the functional one by making changes to the rules of land use and development by city authorities.

It should be mentioned that the basis for considering amendments to the rules of land use and development at present is its inconsistency with the master plan (Article 33 of the GrC of the Russian Federation). At the same time, we consider it necessary to separately fix the provision, bringing the territorial zone in accordance with the functional one as a result of the invalidation of the master plan in court for the full restoration of violated rights and legitimate interests.

City socio-economic development

Issues of city socio-economic development are regulated, in particular, by Federal Law No. 172-FZ of 28.06.2014, "On Strategic Planning in the Russian Federation" (hereinafter, Law No. 172-FZ) [5].

According to Article 11 of Law No. 172-FZ, the strategic planning documents developed at the municipal level include the strategy for the socio-economic development of the municipality. The approximate content of the municipal development strategy is not given in Law No. 172-FZ.

Socio-economic development strategies are of a general nature. This conclusion can be reached by analyzing the main provisions of Russia's development strategy listed in Article 16 of Law No. 172-FZ and the development strategy of Russia's subjects in Article 32 of Law No. 172-FZ.

In practice, master plans and concepts are being developed in cities, the adoption of which is not provided for in urban planning and strategic planning legislation. For example, this is a master plan of Derbent, a master plan of the satellite city of Vladivostok, the concept of

the architectural appearance of Karl Marx Avenue in the city of Kingisepp, the Concept of the development of retail space in the city of Rostov-on-Don for the period up to 2030 [6–9]. As noted by E. V. Zhertovskaya and M. V. Yakimenko, master plans can be called "... documents of strategic spatial planning of urban development containing a pronounced urban planning component (combining elements of the master plan, municipal strategies, and territorial development projects), which are of a long-term nature and focus on a limited number of goals and objectives developed by public authorities, but with the active participation of various interest groups: experts, business representatives, and citizens." [10, p. 20].

Master plans are similar to city development concepts, as they also contain an urban planning element. It is long-term, aimed at solving limited problems, and is accepted by public law education. For example, at the federal level, the "Smart City" urban digitalization project has been approved, as well as the development of historical settlements, support and popularization of cultural and tourist opportunities, and the development of the cultural heritage economy for the period up to 2030 [11, 12]. At the city level, Rostov-on-Don has also adopted a concept for developing retail space for the period up to 2030. In this concept, the goal is "... the formation of a comfortable environment for citizens and business entities in the field of trade industry socio-economic development...". In accordance with this goal, the tasks are defined (development of street retail in the city, preservation, and improvement of the historical appearance of the central part of the city, ensuring the level of competition between trade formats and complementarity of formats, etc.).

E. V. Zhertovskaya and M. V. Yakimenko propose to include sectoral documents in the list of strategic planning documents developed at the municipal level, such as, for example, a master plan for tourism development [10, p. 26]. In our opinion, the master plan and its concepts may concern not only the development of tourism but also the development of other urban areas: digitalization, trade, etc. In this regard, we believe it is necessary to amend Law No. 172-FZ by supplementing the list of documents of local strategic planning with master plans and the concept of city development, which will comply with established practice.

Conclusion

A city's socioeconomic and urban development plan should be transparent and understandable.

At the same time, the prospects of socio-economic and urban planning legal regulation periodically become the subject of discussion. In particular, A. V. Basharin believes that "the systematic application of various urban planning legislation institutions will create transparent business conditions for private entities in this area and provide opportunities for private individuals to invest in the development of the urban environment." [4, p. 22]. V. V. Tabolin and A. V. Tabolin believe that the main factor in the active revival of Russian cities and the construction of new cities as reference points for the development of regions "should be the profitability and usefulness for residents of all federal, regional, and municipal development programs of these cities, based not only on economically sound but also socially and urbanologically calculated and legally defined forecasts of the practical results of their implementation." [2, p. 71]. Considering the above, we expect that the proposed ideas will improve the efficiency of urban space management and attract private investment in the formation of a comfortable urban environment.

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The Constitutionality of Legal Measures During the Spread of COVID-19 / Конституционность правовых режимов в период распространения коронавирусной инфекции COVID-19

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Аннотация: Появление новой коронавирусной инфекции бросило серьезный вызов всему мировому сообществу и потребовало принятия неотложных, экстраординарных мер для минимизации последствий пандемии. В истории современной России чрезвычайная ситуация национального масштаба произошла впервые. В подобных условиях государству потребовались экстренные меры реагирования, которые в том числе затрагивали и механизм правового регулирования. Безусловно, режим правового регулирования в чрезвычайных ситуациях имеет существенное отличие от повседневного законодательного регулирования. Автором подробно рассматривается вопрос конституционно-правового регулирования чрезвычайных ситуаций подобного рода, проводится анализ и соотношение с фактическим правовым регламентированием. Исследуются особенности организационной деятельности публичной власти в условиях

пандемии. Особое внимание уделяется правам человека в условиях распространения COVID-19. Автор приходит к выводу о том, что вместо применения действующего и понятного регламента, установленного Федеральным конституционным законом «О чрезвычайном положении» от 30 мая 2001 года № 3-ФКЗ, предусматривающего введение как на территории страны, так и в ее отдельных местностях режима чрезвычайного положения со всеми вытекающими последствиями властвующими субъектами был выбран иной способ правового разрешения, породивший скоротечное изменение чрезвычайного законодательства. Основная проблема, по мнению автора, лежит в неправильном применении положений Конституции РФ, так как из системного и взаимосвязанного толкования статьей 55 и 56 Конституции РФ следует, что они регулируют одни и те же общественные отношения. Однако ст. 56, в отличии от 55, имеет специальные основания применения, поэтому к ним необходимо применять принцип lex specialis derogate legi generali, то есть предпочтение должно отдаваться специальной норме. Помимо этого, автором предлагается принятие единого нормативно-правового акта, который бы объединил между собой различного рода чрезвычайные ситуации, придал системность и упорядоченность правовому регулированию.

Ключевые слова:

пандемия, повышенная готовность, чрезвычайное положение, ограничение прав, чрезвычайная ситуация, КОВИД, Конституционализм, права человека, Кризисная ситуация, чрезвычайное законодательство

Introduction

On March 11, 2020, the World Health Organization (WHO) described the spread of COVID-19 as a pandemic.

Recognizing the new coronavirus infection as a global existential threat required the adoption of special response measures from the governments of every country. As a rule, such measures were associated with restricting the right to free movement both outside and inside the country, the prohibition of mass events, including rallies and meetings, restricting the activities of enterprises, the infected were isolated, and their location was monitored. These and other measures, directly and indirectly, affected the scope of each individual's constitutional rights.

Constitutional and legal framework for combating epidemics:

Article 56 of the Constitution of the Russian Federation establishes that in a state of emergency, it is possible to restrict rights and freedoms with an indication of the limits and duration of their validity.

At the time of the spread of the pandemic in the Russian Federation, the legal regulation of such emergencies was regulated exclusively within the framework of the Federal Constitutional Law "On the State of Emergency" of May 30, 2001, No. 3-FKZ (hereinafter, the FKZ on the state of emergency). According to this act, a state of emergency is introduced in the presence of circumstances of an immediate threat to the life and security of citizens or the constitutional order. Such events can be conditionally divided into two groups. The first group includes circumstances related to violent actions. The second group includes circumstances of a peaceful nature, such as natural, man-made disasters, including epidemics (Article 3 of the Federal Law on the State of Emergency).

In accordance with Article 88 of the Constitution of the Russian Federation, the President of the Russian Federation is authorized to introduce a state of emergency with immediate notification of the upper and lower houses of Parliament. In turn, the Federation Council is vested with the authority to approve a presidential decree (paragraphs "b," "c" of Part 1 of Article 102), for which it is given 72 hours, which should be expressed in the adoption of an appropriate resolution. After the specified time expires, the unapproved decree becomes invalid, which the population is immediately notified of, as when it was introduced. The duration of the state of emergency in the territory of the Russian Federation may not exceed 30 days, and in its individual localities, 60, with the possibility of its extension or cancellation by presidential decree. The judicial system's role and its functioning as a whole do not imply any significant changes. The role of the Constitutional Court is to verify the constitutionality of the presidential decree upon the introduction of a state of emergency, and cases of violations of the state of emergency are considered by courts of general jurisdiction.

Despite the presence of circumstances stipulated by the Federal Law during the state of emergency, in our opinion, they include the recognition by the global community of the spread of the new coronavirus infection as an international threat [1], a high probability of infection, complicated symptoms [2, p. 9], a high percentage of mortality among certain age categories of citizens [3], and the unavailability of the healthcare system [4, p. 84]. A state of emergency has not been declared in the territory of the Russian Federation or any part of it.

Covid rule-making in the Russian Federation:

An alternative to the above-described mechanism of legislative regulation was a spontaneous change in the current legislation and the decentralized introduction of a high–alert regime by the supreme executive authorities provided for by the Federal Law "On the Protection of the Population and Territories from Natural and Man-made Emergencies" dated December 21, 1994 No. 68-FZ (hereinafter the Federal Law on Emergency Situations).

The introduction of a special legal regime was accompanied by the provision of a set of measures that included both restrictions and prohibitions ("self-isolation," "masks," "social distancing") and measures of state support for citizens and businesses (simplification of procedures for obtaining social assistance, lump-sum payments to certain categories of citizens, additional payments to employees involved in the fight against COVID-19, tax holidays, a moratorium on control and supervisory measures, and much more).

It should be noted that the Federal Law in Emergency Situations provides for three response modes. The first is the daily activity mode, in which there is no threat of an emergency. The second is called a high-alert mode (hereinafter RPG) and should be used in case of a threat of an emergency. And the third is emergency mode itself (hereinafter referred to as the emergency situation) when the threat has come, and measures are required to eliminate it.

Previously, we considered the issue of the legitimacy of the RPG [5, p. 224]. However, we will repeat the main theses. Firstly, before the changes in April 2019, the Federal Law on Emergency Situations only regulated relations that developed as a result of natural and man-made emergencies, and the RPG did not provide for the volume of restrictions that were established for emergency situations. Secondly, the RPG allows the state to independently determine the range of obligations it is ready to assume—that is, there is a threat of insufficiency of such obligations depending on the will of the actor.

Features of the organizational activity of public authorities in the context of a pandemic

Executive power: Preventive measures related to the spread of the new coronavirus infection were taken by the Government of the Russian Federation back in December 2019 [6]. Despite the existing Government Commission for Combating Emergency Situations[7], which performs the functions of a coordinating body in cooperation between executive authorities and organizations, regardless of their organizational and legal form, on January 29, 2020, an operational headquarters was established in the Russian Federation on behalf of the Prime Minister (dated 01/27/2020) to prevent the import and spread of new coronavirus infections [8], coordinating the work of executive authorities, and giving recommendations and carrying out other activities within its competence. Later, operational headquarters were established in each subject of the Federation [9]. On March 14, 2020, under the Government of the Russian Federation, the coordinating council was established to combat the new coronavirus infection in the territory of the Russian Federation [10] headed by the Chairman of the Government of the Russian Federation, whose tasks, as in the previous two bodies, included addressing problems related to COVID-19, finding ways to solve them and organizing interaction between all levels of government.

In general, it should be said that the shift in focus in the Government of the Russian Federation's work aimed to minimize and eliminate the consequences associated with the spread of coronavirus infection, resolving issues of repatriating Russian citizens from abroad, developing measures to economically support affected entities, improving the efficiency of the healthcare system, etc. Moving government events to an online format was actively involved.

Legislative power. From the very beginning of the pandemic, the legislative branch's activities were also affected. For example, working hours changed, mass events were canceled, plenary sessions decreased, etc. The spring session in 2020 was limited to 42 plenary meetings, compared to 57 meetings a year earlier. However, paying attention to the statistical data [11], we note that the pandemic did not significantly affect the Parliament's consideration and adoption of bills. During the spring session, 621 draft laws were considered, and 312 laws were adopted. Compared with the previous spring session, the deputies considered 581 drafts and adopted 325 laws. The Federation Council has not rejected any law passed by deputies. There is also an increase in the share of so-called "permissive" laws associated with activities carried out to support the population and businesses during the pandemic.

Judicial power. Changes in work also affected the country's judicial system. On March 18, 2020, the Presidium of the Supreme Court and the Council of Judges adopted a joint resolution [12] due to the threat of the spread of COVID-19 that provided for the suspension of personal reception of citizens, restriction of access to persons who are not participants in trials, remote filing of documents, consideration of only urgent cases, and the expansion of the use of online meetings. Then another resolution was adopted [13], allowing the courts to consider some cases without the parties' participation. From May 12, 2020, there was talk about restoring the courts, taking into account the established restrictions and recommendations [14]. The Supreme Court published two "coronavirus" reviews [15,16,17] concerning the application of both procedural and substantive norms in a pandemic.

Thus, we see a proportionate organizational response to the challenges dictated by the spread of the new coronavirus infection by all branches of government. However, it should

also be noted that the need for the further development of measures that increase the efficiency of the authorities' work was not limited to what has already been created.

The role and place of human rights in the context of the spread of COVID-19

Due to the spread of COVID-19 in the territories of the vast majority of subjects, an RPG was introduced, which, as the coronavirus infection spread, was supplemented with measures restricting human rights.

In order to give legal force to the restrictions imposed by the supreme executive authorities, the Government of the Russian Federation approved rules of conduct that required the population and enterprises to comply with the measures imposed. Even though the Federal Law on Emergency Situations only allows the restriction of rights in terms of movement in the zone of an emergency or the threat of its occurrence, as well as the suspension of the activities of organizations that find themselves in the zone of an emergency, and only if there is a threat to the life of employees and other citizens, in fact, on the part of the executive authorities of the subjects, we see them going beyond the powers established by law, when the restrictions imposed, among other things, affected political, economic, social and other rights. For example, bans and restrictions were imposed on holding mass events [18], offline retail trade, and the provision of services to the population [19]. Restrictions also affected the movement of citizens in the territory of the Russian Federation. As S. S. Zenin correctly notes, the state authorities de facto failed to determine the limits of their competence in the current legal regime [20, p. 78].

The analysis allows us to conclude that the legislative regulation of emergencies related to the spread of infectious diseases during the COVID-19 pandemic has changed. Therefore, the question arises: can an emergency situation for the spread of a novel coronavirus infection, being an existential threat on a global scale, exist outside the framework of a special state of emergency and without its official declaration on the territory of the country, if the Russian Constitution expressly provides for this?

Argumentation of the need to introduce a state of emergency

As you know, the restriction of human and civil rights and freedoms is possible on the basis of and in accordance with Articles 55 and 56 of the Constitution of the Russian Federation. A. A. Podmarev proposes to divide the constitutional norms regulating the restriction of rights and freedoms into three groups.

The first category includes restrictions on all rights and freedoms (Part 3 of Article 55, Part 1 and Part 3 of Article 17, Part 2 of Article 19, part 4 of Article 15). The second group includes the restriction of individual rights of the individual (Part 5 of Article 13, Part 2 of Article 20, part 2 of Article 23, Article 25, part 2 and 4 of Article 29, part 3 of Article 32, part 2 of Article 34, etc.). The third group concerns the norm allowing the restriction of rights and freedoms in extraordinary situations (state of emergency, article 56) [21, p. 589].

Of course, there are many examples that are beyond doubt when rights are subject to restriction in conditions of normal life. For example, restriction of rights is allowed by the Civil Procedure Code (securing a claim) and criminal and criminal procedure codes (detention, preventive measures, deprivation of liberty, deprivation of the right to engage in certain activities). But, as a rule, such restrictions are associated with the participant in the process and their direct actions or inactions.

At the same time, restrictions under articles 55 and 56 may apply to an indefinite number of

persons. At the same time, if Article 56 of the Constitution of the Russian Federation clearly defines the motive to introduce restrictions (a state of emergency), then Article 55 contains a list of reasons for the potential restriction of rights and freedoms. In particular, such restrictions are allowed to protect constitutional order, morality, health, rights, and legitimate interests of other persons, to ensure the defense of the country and the security of the state. Thus, Article 55 of the Constitution of the Russian Federation does not contain a direct indication of the conditions for the introduction of restrictions, and the list of grounds allows both the introduction of restrictions in everyday life and in emergency situations, which, in fact, leads to competition between Articles 55 and 56 in the event of an emergency.

The COVID-19 pandemic has revived the discussion regarding the application of the two above-mentioned norms [22]. Despite the support of the Constitutional Court of the Russian Federation, the approach chosen by the state received an impressive portion of criticism not only from constitutional scholars but also from other researchers. Thus, A. M. Konovalov notes that the introduction of RPG before the amendments to the Federal Law on Emergency Situations should be considered illegal (the amendments were put into effect on 04/01/2020), as the spread of infectious diseases did not relate to emergency situations regulated by this law and the persons who introduced these acts did not have the authority to do so [23]. I. A. Alabastrova emphasizes that the restrictions applied by the state are adequate only to the state of emergency but not to the high-alert regime [24]. G. B. Romanovsky also pointed out various legislative errors, including the absence of declared duties of citizens in high-alert mode, which may become a threat to the revision of the full range of state obligations in the field of human rights [25]. M. V. Agaltsova and T. V. Kyzy Imanova believe that: "The Law on Emergency Situations does not require either proportionality of measures or their periodic review—unlike, for example, the Constitutional Law on Emergency Situations" [26]. The chosen course of state regulation, which includes emergency rulemaking, and the adoption of unpopular decisions, became, as T. L. Kuksa writes, a burden for the entire system of support for the collective good and hindered the coordination and transactional effect of formal rules and institutions [27, p. 185].

However, there are also fundamentally different points of view in the literature. For example, R. M. Dzidzoev, criticizing the supporters of the introduction of the state of emergency (hereinafter the PPP), argues in favor of the legality and validity of the "anti-covid" mechanism for the introduction of restrictive measures [28, p. 35]. In substantiation of his position, the author points out a slight difference between Articles 55 and 56 of the Russian Constitution, arguing that Article 56 of the Constitution of the Russian Federation is essentially a detail of Part 3 of Article 55, with the only difference being that it mentions a federal constitutional law instead of a federal law, which does not change the essence. Additionally, the author notes the legislative possibility of introducing "restrictive measures" in this regime and suggests not to identify restrictive measures, calling them security measures, with the restriction of rights and freedoms.

The author's conceptual delusion appears to us in the identification of Articles 55 and 56 of the Constitution of the Russian Federation. The systematic and interrelated interpretation of these articles leads us to the need to apply the doctrine known as the theory of law on the division of legal norms into general and special. According to this concept, general norms are designed to regulate social relations, and special norms regulate a subspecies or a certain part of these relations. As M. I. Baytin correctly notes, special norms are designed to specify the general ones as much as possible, adjust the temporal and spatial conditions

of their implementation and ways of legal influence on the behavior of legal subjects, thereby ensuring uninterrupted and consistent implementation of general norms of law [29, p. 208]. For the persuasiveness of our arguments, we will use I. N. Senyakin's "test," which identifies four distinctive features of special norms: derivation from general prescriptions; the purpose of their adoption is to achieve maximum effectiveness of the general rule of law; functioning in interaction with general rules of law; regulation of specific species relations [30]. So, as we have already noted, if Article 55 allows the restriction of rights by federal law for various purposes (security and defense of the country, constitutional order, public health) and conditions (normal life, emergencies), then Article 56 regulates public relations exclusively in the presence of a state of emergency (emergency nature of the situation). It has two strictly defined main goals: the safety of citizens and the protection of the constitutional order. Thus, it becomes clear that we are facing general (Article 55) and special (Article 56) norms, therefore it would be reasonable to apply the principle of *lex specialis derogate legi generali*, the essence of which is that in the competition of general (*generalis*) rules and special (*specialis*) priority in interpretation and application should be given to special rules.

In addition, it should be noted that the Russian Federation has ratified international treaties such as the International Covenant on Civil and Political Rights [31] (hereinafter IPPR) and the European Convention for the Protection of Human Rights and Fundamental Freedoms (Russia has ceased to be a High Contracting Party to the Convention since September 16, 2022) [32] (hereinafter the ECHR), which impose certain obligations on the participating states (Article 4 of the IPPR, Article 15 of the ECHR) in the field of ensuring individual rights in emergency situations. To this extent, firstly, in the Federal Law on the State of Emergency, unlike the Federal Law on Emergency Situations, such duties are declared (a list of possible restrictions on rights, notification of the Secretary General of the Council of Europe, time frame) [33]. Secondly, the norms of international law require that the restrictions imposed be proportionate, specific, and contained in the relevant legislation [34]. However, it is difficult to imagine a situation where, within the framework of a high-alert regime, it is proportionate to introduce the number of restrictive measures that the Russian Federation has used to combat COVID-19. Thirdly, the Syracuse Principles on the Interpretation of Restrictions and Derogations from the Provisions of the IPPR of 1984 state that such restrictions and derogations of a state party may be applied "only when there are sufficient guarantees and effective remedies against abuse." Thus, the application of the Federal Law on Emergency Situations in the current situation clearly does not comply with the provisions of international law and, in the absence of clear legal regulation, actually provides the federal and regional executive authorities with carte blanche in decision-making, which can become a dangerous precedent for the development of similar situations in the future.

Regarding the possibility of introducing restrictions in high-alert mode, it should be said that such a mechanism in a real emergency situation does not comply with the principle of legal certainty and predictability. At the same time, we should not forget that some citizens' rights are declared only in an emergency situation, for example, compensation for damage (paragraph 1 of Article 18 of the Federal Law "On Emergencies).

The author's position on the non-identity of "restrictive measures" and the restriction of rights cannot be called successful either. In our opinion, if any measure, no matter what it is called, directly or indirectly restricts human rights, then by definition, it should be considered a restriction of rights, regardless of the function performed. It is not for nothing

that both in the doctrine of law and in law enforcement practice, the restriction of rights is considered not only in a narrow but also in a broader sense, which makes it possible to define the abstract formulations of the legislator not as something foreign (restrictive measures, security measures, additional duties, etc.), but as a true restriction of rights and freedoms, as any legitimate encroachment on rights is nothing else than its restriction. For example, the suspension of the activities of enterprises from various spheres mentioned earlier [19] is nothing but a restriction of economic rights (Article 34 of the Constitution of the Russian Federation). The ban on mass events leads to a restriction of the individual's political rights (Article 31 of the Constitution of the Russian Federation), etc. Moreover, despite the abolition of all restrictions by Rospotrebnadzor, which were introduced due to the coronavirus pandemic, holding rallies, and pickets still remain unavailable with reference to the action of the RPG [35]. Under such circumstances, it seems obvious that, given the nature of the pandemic, introducing a state of emergency in the country's territory, or at least in certain localities, is a more understandable and reasonable response tool.

In the history of modern Russia, this is not the first case when abuse of authority has occurred on the part of state bodies, expressed in the non-application of appropriate exceptional regimes. Such actions were noted both during the period of the first Chechen military company, which applied the "regime for restoring the foundations of the constitutional system, constitutional legality and law and order in the territory of the subjects of the Russian Federation," which was not provided for by law, and in the second phase of the Chechen company, which received the official name of the counter-terrorist operation in the North Caucasus, with the introduction of the corresponding regime [36]. In the first case, the Constitutional Court [37] noted the partial inconsistency of the Presidential Decree [38] with the norms of the Constitution. Secondly, several researchers argue about the compliance of the counter-terrorism operation regime with actual events [39,40]. All this leads to a systemic violation of human rights [41, p. 98].

The fact that in the Federal Law on Emergency Situations and the acts of the supreme executive authorities of the subjects, there is no reservation about the duration of the high alert regime is also of concern. Even if we consider that the duration of the restrictions themselves is determined, the regime's operation allows authorized entities to use restrictions as a legitimate tool at any opportunity. Such an approach seems unreasonable and, without censure, can lead to a situation where illegality will be justified and normalized.

Conclusion

Thus, we come to the conclusion that the provisions enshrined in Part 3 of Article 55 of the Constitution of the Russian Federation, in comparison with Article 56, contain general conditions for the institution of restriction of human and civil rights and freedoms. In contrast, Article 56 of the Constitution of the Russian Federation establishes special grounds for restricting individual rights.

That is why we believe it is reliably justified to apply a special norm of the Constitution of the Russian Federation in the event of an emergency. The elimination of ambiguous interpretation in the future, we see in the adoption, taking into account the positive experience of legal regulations of other special regimes and accumulated experience in dealing with various emergency situations, of a single Federal Constitutional law "On Special Legal Regimes," which will combine all types of emergency situations and systematize their legal regulation.

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Understanding the Rule of Law in Joseph Raz's Positivist Doctrine / Понимание верховенства права в позитивистском учении Дж. Раза

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Аннотация: Предметом исследования выступает интерпретация доктрины верховенства права в учении ведущего представителя эксклюзивного юридического позитивизма Джозефа Раза (1939 - 2022). Значимость изучения доктрины верховенства права в данном ракурсе обусловлена тем, что такое исследование способно выявить принципиальные идеи позитивистского понимания права и правопорядка с позиций пост-хартианского этапа его эволюции. В статье раскрываются два основных подхода к пониманию верховенства права в современной британской юридической литературе - материальные и формальные концепции. Взгляды Раза на верховенство права сопоставляются с классическими идеями А.В. Дайси, принципами "внутренней моральности" права Л.Л. Фуллера и позицией Ф.А. фон Хайека. Научная новизна статьи состоит в том, что впервые в российской юридической литературе предпринята попытка раскрыть различия между формальными и материальными концепциями верховенства

права в британской юриспруденции. Идеи Дж. Раза о природе и целях верховенства права не носят общепринятого характера в английском государствоведении, но достаточно показательны в отношении позиции пост-хартианского юспозитивизма на проблему построения стабильного и предсказуемого правопорядка. С одной стороны, принципы верховенства права, раскрываемые в учении Раза, относятся исключительно к юридической форме, что в целом характерно для неопозитивизма XX века. С другой стороны, в учении Раза можно выделить и социологические установки, что позволяет утверждать, что пост-хартианский юспозитивизм сочетает в себе ряд идей "классического" и социологического позитивизма.

Ключевые слова:

дискреционная власть, Л Фуллер, Дж Раз, пост-хартианский позитивизм, правопорядок, принципы права, верховенство права, юридический позитивизм, аналитическая юриспруденция, Ф А Хайек

Исследование выполнено при финансовой поддержке РФФИ в рамках научного проекта № 20-011-00914 «Проект позитивизма сегодня: историческая траектория, проблемное поле и система юридического позитивизма в англо-американской традиции».

The doctrine of the rule of law is a fundamental component of the unwritten Constitution of Great Britain and is one of the foundations of British constitutionalism. The doctrine of the rule of law expresses the specifics of the historical development of English case law and forms the basis of the prevailing legal ideology of common law states. In this regard, it is significant that the terminological formalization of the *Rule of Law doctrine* does not have an adequate translation into other European languages [1, p. 4; 2, p. 7]. This feature demonstrates that the professional language of lawyers reflects the peculiarities of legal awareness and value-oriented structures that develop in the minds of lawyers and the entire intellectual elite of a certain society.

Modern British legal literature has developed two main approaches to understanding the doctrine of the rule of law: formal and substantive. Some legal scholars argue that the rule of law is exclusively a formal or procedural ideal, neutral in relation to goals; the law only has to satisfy formal restrictions of the general nature of the rules, advance notice, clarity, etc., to be applied procedurally in an honest and respectable manner [3, p. 61]. Representatives of the substantive (material) approach reject formalism and closely link the rule of law with the protection of human rights. For example, the authoritative English lawyer Tom Bingham, who held high positions in the judicial system for 16 years, stated in his book *The Rule of Law* (2011) that "a state that barbarously suppresses or persecutes some groups of its population cannot be considered as observing the rule of law, even if the transportation of the persecuted minority to concentration camps ... is the subject of detailed laws adopted in accordance with due process and scrupulously observed" [4, p. 67].

According to supporters of the substantive concepts of *The Rule of Law*, the rule and universality of legality, compliance with the procedural form of the law-making process, and the implementation of the law are far from sufficient as guarantees of the rule of law as they are not able to exclude or even minimize the possibility of the formation of a totalitarian state-political regime that tramples on fundamental human rights. By themselves, compliance with legally established procedures and the implementation of actions in accordance with the requirements of legislation cannot make the illegal content

of the current law legal; to achieve the rule of law, it is necessary to comply with a number of substantive principles, first of which is the principle of the legal nature of the current laws.

A meaningful approach to understanding the rule of law often referred to as the term "legality," draws its origins from the ideas of one of the representatives of the "revived" natural law in post-war Europe, Gustav Radbruch, who, in his work *Lawful Wrong and Lawless Law* (1946) linked the legal quality of the law with *justice as equality* (equal treatment of equals), arguing that with the blatant incompatibility of the law with justice, the law as an "unfair right" is by its nature illegal "because the law, including positive law, cannot be defined otherwise than the order and totality of laws (*Satzung*), designed essentially to serve justice" [5, p. 234].

The formal approach to understanding the rule of law is associated with the name of the American lawyer Lon L. Fuller, who, in his "procedural" concept of "natural" law, justified a number of formal requirements for the legal system that ensure its legal nature and the achievement of goals. The central idea of the doctrine of the "internal morality" of Fuller's law was that law is impossible without observing a number of principles of binding morality, which the American jurist interpreted as natural laws of "subordination of human behavior to the guidance of rules" [6, p. 118]. The necessary conditions for the existence of a legal system are: firstly, the existence of *general* rules of conduct. Secondly, the mandatory *publication* of these rules. Thirdly, their *direct (prospective) effect*. Fourth, their *clarity* for addressees. Fifth, their mutual consistency, *consistency*. Sixth, fundamental—the *possibility of their execution*. Seventh, the *constancy of* the rules. Eighth, the *compliance of law enforcement practice with the established rules* [6, p. 65–82]. Following Fuller, the British constitutionalists recognize the prohibition of the adoption of secret acts, the reverse (retrospective) action of norms, and the imposition of criminal liability for behavior not defined in criminal legislation but perceived as undesirable by officials as intrinsic principles of law [7; 8, p. 85].

A leading representative of Anglo-American legal positivism, one of the most famous students of G. Hart, Professor of Oxford University Joseph Raz (1939–2022) built his understanding of the doctrine of the rule of law on the position of Friedrich Hayek, who understood this concept as the principle of limiting the activities of the government by pre-established public rules that allow foreseeing with great accuracy "what coercive measures will be used by the authorities in a given situation" [9, p. 90].

It is fundamentally important to note that even such a "formal" understanding of the doctrine of the rule of law is based on the idea that the power of the state is not absolute or unlimited, which was characteristic of the early concepts of legal positivism both in England and on the European continent. It is impossible not to agree with the British jurist Roger Cotterrell that "Austin's theory is not a theory of the rule of law: a government subject to the law. This is the theory of the "rule of people": the government using the law as an instrument of power" [10, p. 70]. It is possible to reveal the content of the concept of the rule of law even within the framework of a formal approach only if it is recognized that "legal systems not only consist of rules but are also based on them" [11, p. 211]. The key idea of the doctrine of the rule of law is reduced to the need and possibility to subordinate the activities of the mechanism of the state to legal rules, and this idea was only recognized by neo-positivist concepts formed in the Anglo-American philosophy of law at the end of the nineteenth to twentieth centuries, thanks to the ideas of the legal teachings

of J.W. Salmon and G. Hart [12, p. 110; 13, c. 98–99].

Starting to reveal his understanding of the doctrine of the rule of law, Raz claims that it has become used in a meaning that has nothing to do with its original content. Thus, the jurist rejects the understanding of the rule of law as a principle of proper law, in which it is reduced to the requirement of such functioning of legislative bodies, in which not only the civil and political rights of citizens are recognized, but also the creation of social, economic, educational and cultural conditions necessary for the full development of the individual is ensured [14, p. 353]. This approach, the rule of law, according to Raz, does not perform any useful function. The rule of law is only one of the virtues based on which it is possible to evaluate the legal system. At the same time, he admits that the implementation of the rule of law does not exclude autocratic power, widespread poverty, gender inequality, and religious persecution [14, p. 354].

Raz argues that in a narrow sense, the doctrine of the rule of law is understood as the principle of the rule of law, not people, the duty of state bodies to be guided in their activities by positive law and obey it. At the same time, such an understanding of the rule of law is tautological, as the actions of the government, not authorized by law, are illegal, have no legal force, and, in principle, cannot be the actions of the government as a government [14, pp. 355–356]. It seems that in this matter, one follows the position of the pure doctrine of law by G. Kelsen, who proceeded from the identity of the state and law; state power does not represent any independent instance but is the reality of the legal order [15, p. 34; 16, p. 67]: "Law ... is the very order of coercion, as the state appears to jurisprudence" [17, p. 153]. Accordingly, if we proceed from the legal constitution of the state and its organs, then the doctrine of the rule of law should be broader than the "tautological" principle of the legality of the activities of state organs.

It reduces the concept of the "rule of law" exclusively to values traditionally associated with the legal system and expressing a legal form. The jurist contrasts the everyday and professional legal understanding of the term "law." In the understanding of the law, Raz follows the central figure of legal neo-positivism, Hart, and recognizes as law any rules that correspond to the conditions of validity laid down in the rules of recognition of the legal system or its other norms [14, p. 356]. According to Raz, law consists of general and relatively stable laws in the ordinary legal consciousness. However, if the law is understood in this way, then the rule of law will "establish too strict a requirement that no legal system can fulfill and which has very little merit" [14, p. 357]. For the legal system to properly perform its functions, it requires not only general (normative) but also individual legal prescriptions. The latter, in particular, are used in their activities by both the executive branch and the courts. At the same time, the adoption of individual legal acts should be governed by open, clear, and general rules.

According to Raz, in its original meaning, the doctrine of the rule of law includes two aspects. Firstly, in their activities, people should be guided by the law and obey it. Secondly, the law should be such that people are able to be guided by it. In other words, it should be able to guide human behavior [14, pp. 359–362]. Once he emphasizes that such an understanding of the doctrine of the rule of law is exclusively formal, he says nothing about a democratic or autocratic way of creating law, the recognition or non-recognition of fundamental human rights, social equality, or justice [14, p. 358].

At the same time, he denies that the formal approach to understanding the rule of law is

devoid of any content. The jurist believes that from the basic requirement of the ability of law to guide people's behavior, it is possible to deduce a number of requirements (principles) with which the concept of the rule of law was initially associated until it was unreasonably identified with all the political ideals of a democratic rule of law state [14, p. 358].

The first principle, following from the ability of law to direct people's behavior, is the requirement of direct action, openness, and clarity of laws. People are unable to be guided by retroactive, unpublished, and unclear laws, as these defects act as objective barriers to proper knowledge of the operation of the law and therefore lead to the inability to be guided by them in their activities [14, p. 359].

The second principle, which is derived from the need for the law to act as a regulator of the behavior of addressees, is the requirement of the relative stability of the law. Excessively frequent changes in the law lead to the fact that it becomes extremely difficult for the addressees to determine the content of the law at any particular moment, to the constant fear that since the last time they were interested in the law, changes have been made to it. According to Raz, the law's relative stability is required not only for making short-term decisions but also for long-term planning [14, pp. 359–360]. The jurist emphasizes the fact that the compliance of the law with the requirement for clarity and stability is always a matter of degree, which does not mean that it is possible to quantify compliance with such principles. Raz believes that the principles of the rule of law directly affect not only the content and form of laws but also the nature of public administration. In his opinion, the requirement of the stability of the law cannot be made the subject of exhaustive legal regulation; it can be implemented only with a wise state policy [14, p. 360].

The third principle, following from the basic requirement of the rule of law, is the provision that the creation of individual legal acts should be based on open, clear, and general rules. Firstly, such general rules transfer the necessary powers for the adoption of individual legal acts and, secondly, impose duties on executive bodies, establishing how the transferred powers should be exercised. Similarly, general regulatory legal acts of administrative law-making, which, according to Raz, are capable of introducing unpredictability into the process of legal regulation for the purpose of stability, should obey detailed basic rules enshrined in framework laws [14, p. 362].

The fourth principle that makes up the content of the doctrine of the rule of law in Raz's teaching is the provision of the need to guarantee the independence of the judiciary. He rightly believes that the correct application of the rules of law by judges is a necessary condition for the parties to the trial to be guided by the rules of law. The rules guaranteeing the independence of judges, concerning the method of their appointment, guarantees of retention of office, the method of setting salaries for judges, and other significant working conditions—all these rules are designed to ensure the freedom of judges from external pressure and their independence from any authorities other than the authority of the current law itself [14, p. 363].

The fifth principle of the doctrine of the rule of law in Raz's teaching, in fact, adjoins the fourth and is also designed to ensure the correct application of the law and its ability to guide the behavior of the parties to trial. To do this, he believes, it is necessary to observe the principles of natural justice, which exclude the bias of judges and guarantee an open, honest, and generally fair nature of the court hearing [14, p. 364]. At the same time, the

English jurist does not enter into the discussion of the natural-legal nature of such principles, does not analyze their content, indicates only some of them, and considers them only as appropriate means to achieve the impartiality of judges, the judicial process and the jurisdictional decision. In such an instrumentalist position of the times, one should see a change in the attitude of legal positivism to ideas and principles that are recognized as natural: if J. Bentham or J. Austin, obviously, would not recognize their legal nature (since the establishment of the sovereign generates the law, and not by "self-evident" justice), then he puts them forward as necessary requirements of the rule of law.

Raz's sixth principle considers the provision according to which the courts should have the authority to supervise laws, regulations, and administrative decisions to ensure compliance with the rule of law [14, p. 364].

In his seventh principle forming the content of the doctrine of the rule of law, Raz considers the requirement of easy accessibility of courts. It follows from the special place of the courts in ensuring the rule of law. Excessive and lengthy judicial delays "can actually turn the most enlightened law into a dead letter and damage the ability to be guided by the law" [14, p. 364].

In the eighth principle of the rule of law, Raz considers the requirement that the law should not be distorted by the arbitrariness of law enforcement agencies—the police and the prosecutor's office [14, p. 364].

According to Raz, the designated eight principles of the rule of law are divided into two groups. The first three principles aim to ensure that the law meets standards that ensure its ability to guide the behavior of addressees. The following five principles already have as their object a legal mechanism for enforcing laws and are aimed at ensuring that, due to its own defects, it does not deprive the law of its ability to guide and "be able to monitor compliance with the rule of law and provide effective remedies in case of deviation from it" [14, p. 365].

Although the above principles can ensure formal compliance with the rule of law, Raz emphasizes that they do not guarantee the absence of violations of human dignity [14, p. 370]. In his opinion, compliance with these principles of the rule of law is a matter of degree due to the need to balance competing values [14, p. 382].

Joseph Raz's position

The difference with respect to legal principles, which necessarily follow from the requirement that the law should be able to direct the behavior of addressees, partially coincides with Lon L. Fuller's teaching on the principles of the internal morality of law. He once recognized Fuller's list of principles as similar to his own and believed that the analysis of many of the principles of the author of the "procedural" concept of natural law "is filled with common sense" [14, p. 382]. However, elsewhere in his essay, Raz evaluates Fuller's theses as numerous and difficult to isolate, and many of them as weak and unprovable [14, p. 372]. At the same time, he only gives brief assessments but does not specifically analyze the principles of the "internal morality" of Fuller's law and their argumentation, which does not allow for reconstructing his position and understanding the grounds for rather contradictory assessments.

Unlike Fuller, Raz, firstly, does not call the principles of the rule of law the internal morality

of law, adhering to the position of G. Hart, who denied the moral character of Fuller's principles [18, p. 1286; 19, p. 56–58], and, secondly, disagrees with Fuller in his views on conflicts between the norms and rights of one system [14, p. 382].

Defining the rule of law as a standard for positive law, Raz, at the same time, admitted that deviations from the ideal of the rule of law take place and can be significant and even ubiquitous [14, p. 373]. In contrast to Fuller's position, who considered the principles of the internal morality of law as mandatory and necessary for the existence of a legal system as he believed that the principles stemming from the essential position of the rule of law could be observed minimally, allowing gross violations of human rights [14, p. 374]. At the same time, Raz's essay does not disclose the concept of the minimum necessary standard for compliance with the rule of law. It does not contain any criteria by which it is possible to determine it. Such a position, in fact, leads to the fact that it becomes impossible to draw a dividing line between, on the one hand, gross violations of human rights, which allows us to assert that the "minimum standard" of the rule of law is not violated, and, on the other hand, such human rights violations that indicate a violation of the rule of law.

Raz's position regarding the possibility of human rights violations with minimal respect for the principles of the rule of law is also recognized by other British jurists. So, Lord J. Stein argued in an article: "History has shown that ... strict observance of the rule of law is not a guarantee against tyranny… In Nazi Germany, pockets of the principle of legality were sometimes preserved in the conditions of the Holocaust. The defendants sentenced to terms of imprisonment before the Second World War served their sentences, and only when their terms expired the Gestapo sent them to death camps" [20].

Unlike the author of the "procedural" theory of natural law, he denies any moral dignity behind the principles of the rule of law, believing that their value has a negative character and is aimed not at achieving benefits but at preventing evil. Raz believes that the doctrine of the rule of law is designed to minimize the dangers of the most positive law, particularly the threat of broad discretionary powers, ambiguity, instability, and retrospective norms of positive law [14, p. 374]. Raz draws a parallel between the dignity of the rule of law and honesty. In his opinion, the benefit of honesty is that a person capable of deceiving deliberately avoids causing harm by deception [14, pp. 374-375]. If, due to the complete lack of universality, clarity, or perspective of the norms, the legal system is, in principle, incapable of generating arbitrariness or encroaching on freedom and dignity, then it is impossible to see any moral dignity in it. Similarly, the virtue of the rule of law consists in the fact that the legal system capable of causing the specified harm (arbitrary power, ambiguity, instability, retrospectivity, etc.) consciously, by self-restraint, following the principles discussed above, refrains from causing such harm. The benefit of the rule of law, in fact, consists solely in minimizing the harm that the current positive law can cause. Therefore, in observing the principles of the rule of law, Raz does not find a "positive" moral virtue and concludes that "Fuller's attempt to establish an indispensable relationship between law and morality fails" [14, p. 375].

Let's briefly examine the concept of "discretionary power." By the discretionary exercise of powers, the Mind understands actions performed either with indifference to whether the goals that are the only ones capable of justifying the use of such powers will be achieved or with confidence that such goals will not be achieved [14, p. 367]. Such an understanding of officials' discretionary powers can hardly be considered generally accepted. In legal literature, it is not customary to define discretion through elements of the subjective side

of the "composition" of an administrative act (relation to the purpose of the powers). The Russian legal doctrine does not equate administrative discretion with the arbitrariness of an official. At the same time, it believes that various forms of despotic government fall under the concept of discretionary power [14, p. 366]. Apparently, Hart's disciple understands discretionary power as arbitrarily exercised power, which cannot be considered the only or dominant position in the legal literature [21, pp. 76–78].

Raz's position on the issue of the ability of the rule of law doctrine to exclude the use of discretionary power is that the implementation of the stated principles following the essential idea of the rule of law is not able to exclude all manifestations of arbitrary power. He admits that some such manifestations are compatible with the principles of the rule of law. At the same time, implementing the principles of the rule of law dramatically reduces the possibility of using discretionary powers for personal purposes when adopting individual legal acts by executive officials [14, p. 366].

In relation to the principles of the rule of law's ability to exclude the manifestations of arbitrary power in the relationship between the state and the citizen, one can see a qualitative difference from the ideas of Albert Venn Dicey. If, for the British statesman, the very first meaning of the rule of law was to exclude the broad and arbitrary coercive power of the government [22, p. 209–210], then he does not believe that the implementation of the principles of the rule of law is capable of excluding any manifestations of broad discretionary power. So, for example, the head of state can support the general rules, guided by a whim or personal interest, and this, according to Raz, will not violate the rule of law [14, p. 366]. If, for Dicey, the rule of law and government arbitrariness were mutually exclusive concepts, then he does not consider them as such. For Dicey, the rule of law in the first sense meant a strict regime of legality, strictly observed by both officials of the executive branch of government and ordinary citizens, provided by the "regular" judicial system. Raz's position is devoid of such optimism. The jurist believes that the forms of discretionary power are broader than the rule of law, which means that the latter cannot effectively exclude government arbitrariness, as Dicey believed. Raz writes that following the principles of the rule of law can only "dramatically reduce" the possibilities of discretionary use of power for personal gain, out of a sense of revenge, or for patronage, which is by no means identical to their complete exclusion.

In his essay, Raz directly writes that he has no intention of analyzing the complex concept of discretionary power, although the "classical" understanding of the rule of law for British constitutional law (A. V. Dicey, E. S. Wade, etc.) is directed precisely against such power. On the one hand, Raz states that "many forms of despotic government are compatible with the rule of law" [14, p. 366], but on the other hand, he asserts that "many of the most common manifestations of discretionary power come into conflict with the rule of law" [14, p. 366]. Moreover, the jurist believes that the rule of law does not directly impact the degree of discretionary power [14, p. 367]. However, it was true for Dicey that "where there are broad powers, there is arbitrariness" [22, p. 210–211], which is incompatible with the rule of law. The mentioned points highlight the uncertainty of Raz's position regarding the possibility of drawing a clear line between the forms of manifestation of discretionary power incompatible with the rule of law and such manifestations as can be consistent with the rule of law. In the end, it all boils down to the fact that each specific manifestation of discretionary power should be evaluated from the position of being compatible with the requirements of the rule of law, but since the latter are set out using several evaluative concepts, the final result

will largely depend on the interpretation of the relevant subject. In our opinion, this significantly reduces the practical importance of the requirements of the rule of law as a tool to counteract the arbitrary power of executive bodies and their officials.

Against the background of Raz's more than restrained attitude to the possibility of the principles of the rule of law to exclude manifestations of the arbitrary power of executive bodies, his position regarding limiting the courts' discretion seems inexplicably optimistic. Although the footnote stipulates that the rule of law itself "does not exclude all possibilities of discretionary judicial lawmaking" [14, p. 367], nevertheless, in the main text of the essay, he states that a judge's law enforcement activity is the only area where the rule of law excludes all forms of arbitrary power, ensuring the subordination of courts exclusively to the law and compliance with fairly strict procedures [14, p. 367]. At the same time, it does not demonstrate how the rules ensuring the independence of the courts and the principles of natural justice can lead to such an impressive result. Moreover, inconsistency is seen in the position of the times: if a set of principles and rules as requirements of the rule of law can eliminate judicial arbitrariness, what prevents establishing similar requirements for the professional activities of officials and executive authorities and thereby achieving a comparable result? As it does not explain how judicial activity differs qualitatively from the activities of executive bodies, why can the former be organized so that judges will obey only the law, and the latter is fundamentally beyond the reach of a similar exclusion of the discretionary power of officials?

According to Raz, the value of the rule of law lies in the ability to provide a policy of self-restraint, making it possible to make the law a stable and reliable basis for people to set long-term goals and lifestyle choices. The rule of law not only protects but also expands individual freedom, as it increases the predictability of the external environment [14, p. 368]. At the same time, he distinguishes such an understanding of individual freedom from the traditional meaning of political freedom, considering that the rule of law does not ensure the existence of spheres of activity free from state interference. Accordingly, the rule of law is compatible with gross human rights violations [14, p. 369]. For example, the legal consolidation of slavery, according to Raz, does not violate the rule of law.

Purposeful violation of the rule of law in itself encroaches on human dignity. Raz distinguishes two forms of such a violation: the generation of uncertainty and deception, leading to unjustified expectations [14, p. 370-371]. The law's ambiguity and broad discretionary powers of officials lead to uncertainty and an inability to foresee future changes. Raz rightly believes that people's trust in the current law, which allows them to rely on it in planning their behavior, is based on the certainty of its norms. If the legal system creates opportunities to exercise discretionary (arbitrary) power, then the ability of individuals to plan their future is thereby limited [14, p. 371]. Violations of the rule of law, such as adopting retroactive laws and obstructing proper law enforcement, generate uncertainty and deceived expectations. The vice of a legal system that violates the rule of law in a second way is that it leads a person into a trap: first, it calls on them to rely on the law, and then the assurances lose their force and the very reliance on the law turns into a source of harm to a person. The legal system that ensures the rule of law "sees people as individuals, at least in the sense that it tries to control their behavior by influencing the circumstances in which they act" [14, p. 371].

Raz believes that in real public life, the observance of law always remains a matter of degree. Full compliance with all the principles of the rule of law is impossible, as a certain

ambiguity is inevitable, and its maximum possible compliance is generally undesirable, as the presence of some controlled discretionary powers is better than their complete absence [14, p. 371].

Revealing his understanding of the meaning of the rule of law, Raz divides the goals that the law serves into direct and indirect. The former is achieved by observing the positive law itself; the latter represents additional consequences of observing the law [14, pp. 375–376]. According to the jurist, the achievement of indirect legal goals does not always follow from the observance of the rule of law, but the implementation of the principles of the rule of law is important for achieving direct legal goals of the law. The higher the degree of implementation of the principles of the rule of law in the legal system, the better the law copes with its general function of directing human behavior [14, p. 376]. He emphasizes that, in this sense, the rule of law is a necessary condition for the law to be able to carry out any good purpose in principle. At the same time, compliance with the principles of the rule of law allows the law to serve inappropriate purposes. However, this does not negate its value for the legal system. He argues that the rule of law is not a moral good but a useful property (like the value of the sharpness of a knife), which does not depend on the moral dignity of the goals achieved through it. The lawyer writes: "Observance of the rule of law is the dignity of law as such, the law as a right, regardless of the goals it serves" [14, p. 377].

It can be seen that Raz considers the law from the position of an instrumental concept, where it is exclusively a means that performs certain functions. From this perspective, the law cannot be such if it cannot direct the addressees' behavior. According to Raz, this special dignity of law as an instrument is neutral in relation to moral values and goals. At the same time, he sees the moral significance of the rule of law because it allows the law to perform useful social functions [14, p. 378].

Regarding the value of the rule of law for society, Raz significantly diverges from Hayek's position, which he criticized. So, he does not believe that compliance with the principles of the rule of law is sufficient to protect citizens' freedom. As can be seen from the context of the lengthy quotations from Hayek's work, he sees in the latter's position inflated expectations from the concept under consideration, consisting in the fact that the rule of law is seen as the supreme guarantor of freedom—it is able to approve the rule of laws, not people, i.e., effectively assert freedom from the arbitrariness of another person. As mentioned earlier, Raz does not believe that any form of arbitrariness is incompatible with the implementation of the requirements of the rule of law. He criticizes Hayek's attempt to consider the rule of law as a socially legitimate form of public administration because he believes that "this is a slippery slope leading to the definition of the rule of law as the rule of proper law" [14, p. 380]. Raz does not agree with the substantive understanding of the rule of law when it is associated with the realization of the values of freedom, democracy, legal legality, and human rights—what Raz calls "proper law."

Hayek believes state intervention in the economy by fixing prices is arbitrary and thus violates the rule of law. In the absence of a free market, when supply and demand are not equal to each other, the effectiveness of price regulation will require the use of a discretionary method that will inevitably discriminate against people on an essentially arbitrary basis [14, p. 381]. In contrast to this position, Raz believes that Hayek only managed to show that some political measures are wrong for economic reasons, but Hayek's claim that such measures violate the rule of law is groundless. Raz believes that if individual legal acts (against which the pathos of Hayek's criticism is directed) are based on

certain principles, then their adoption is not a violation of the rule of law.

The fundamental difference between Raz's position and Hayek's point of view regarding the rule of law is that if, for Hayek, following the substantive understanding of the rule of law leads to the domination of the free market and democracy, the value of which seems to be undoubted, then for Raz the rule of law is only one of the competing social values. According to Raz, Hayek was able to show that there is an inevitable conflict of other goals with the rule of law, but such a demonstration "does not belong to the category of arguments that, in principle, could prove that the pursuit of such goals through the law is unlawful" [14, p. 382]. For Raz, the conflict between the rule of law and other values is inevitable, and the very value of the rule of law is relative, not absolute. There may be situations in which the observance of other values is no less important than following the requirements of the rule of law. Therefore, for Raz, it is always a matter of degree, which depends on the correlation of the rule of law with other values and goals.

Raz completes the disclosure of his approach to the rule of law by repeating that it is a negative value, as it is designed to "minimize the damage to freedom and dignity that law can cause by pursuing its goals, no matter how laudable they may be" [14, p. 382]. Raz emphasizes the instrumental nature of the rule of law: it makes the law an appropriate tool for achieving certain goals, but in itself is not the ultimate goal. If certain goals are completely incompatible with the rule of law, then they should not be achieved by legal means. At the same time, to achieve the rule of law, it is impossible to abandon the realization of basic social goals with the help of the law. Absolutizing the rule of law and sacrificing other significant social goals can make the law barren and empty [14, p. 383].

Thus, in Raz's approach concerning the rule of law, the idea common to legal positivism is that the law is primarily a normative social regulator. Its purpose and value are expressed in the ability to guide people's behavior. For a British lawyer, the requirements of the rule of law are standards, compliance with which determines the *effectiveness of* positive law. Moreover, in our opinion, he understands the law not as a formal and legal instrument but from the perspective of sociological jurisprudence, for which it is fundamentally important not that legal norms have legal force but that they *actually determine the behavior of addressees*. The sociological aspect of the British lawyer's concept can also be seen in the fact that the goals of the rule of law are considered from the standpoint of public and individual interests, first of all, the need to plan legal behavior based on the norms of current law.

The positivist attitude of Joseph Raz's approach is also seen in the fact that the principles (requirements) of the rule of law he highlighted represent a special legal perspective concerning the legal form exclusively. Clarity, certainty, public promulgation, promptness of action, subordination of individual acts to normative ones, judicial independence, impartiality, supervisory powers, accessibility, as well as the legality of law enforcement activities—all these requirements are directly related to the proper organization of various types of legal equipment and by themselves do not predetermine the quality of the content of positive law, are able to serve a variety of its value orientation to legal institutions. These principles, in our opinion, *concretize only the targeted effectiveness of law as a social regulator* and can equally contribute to the realization of both individualistic and collectivist values, both liberal and statistical ideas, and both democratic and autocratic regimes. Like many legal positivists before him, Raz seeks to present his vision of the proper functioning of the legal system as value-neutral, which means that he denies any over-positive substantive principles or standards that the current law must comply with.

The formalism of Raz's approach to understanding the rule of law is that he does not consider this doctrine as a means to protect fundamental human rights, individual freedom, or social justice. Raz consistently differentiates his understanding of the rule of law from substantive concepts, within which the rule of law is designed to ensure the operation of certain principles and norms that make the law appropriate and correct from the standpoint of liberal, humanistic, and democratic values. One should also see the attitudes of legal positivism, which seeks to strictly delimit the legal ontology (being), in the determination to distance oneself from the concepts of "proper law," the desire to consider the rule of law not as a value in itself, but only as a tool for achieving certainty and universality of the rule of law from legal axiology (due).

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Результаты процедуры рецензирования статьи

Рецензия скрыта по просьбе автора

Англоязычные метаданные

The Place of E-Government in the Public Administration System

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Abstract. This article examines the place of e-government in the system of public administration. The topic's relevance is due to the universal digitalization of public relations, including the sphere of public administration. E-government is a new format of interaction between the state and society based on the use of modern information and communication technologies, which needs theoretical justification. The methods of scientific analysis and synthesis, deduction, and induction, as well as methods of description, comparison, and analysis of secondary data, are used in the work. The article reflects on the issue of the development of e-government in Russia. The object of this study is the social relations that arise during the creation and functioning of the e-government system. The author formulates the conclusion that e-government in the Russian Federation is in continuous development and is also an important tool for the development of the digital economy, which requires a revision of the digital skills of civil servants. At the moment, there is already a trend toward training personnel for digital public administration. It is revealed that in the Russian Federation, e-government, which is an important tool for the development of the digital economy, is in continuous development. There is already a tendency to transition to electronic records. To get the maximum benefit from digital transformations in public administration, a new approach to the formation of the competencies of a modern civil servant is required because the lack of the necessary level of training can serve as a serious barrier to improving the efficiency of public administration. Information technologies are dynamic and rapidly undergoing changes. As a result, the existing requirements for civil servants cease to be relevant in the period of digital transformation. The legislation of the Russian Federation defines that the requirements for the knowledge, skills, and skills of civil servants are established by official regulations. Therefore, the competence model should be adapted for each specific position, taking into account the specifics of the activities of the authority.

Keywords: Internet, information and communication technologies, scientific and technological progress, information society, public authority, digitalization, e-government, electronic state, electronic democracy, democracy

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Problems of Law Enforcement Agency Interaction to Ensure National Security

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Abstract. Ensuring national security and measures to protect it are at the heart of the prosperity of any State and its people. The Russian Federation's modern national security system, which is a complex, multi-level system, plays a vital role in ensuring state and public

security. The elements of this system are represented by security at various levels, interacting and functioning through direct and feedback links. An important direction of the Russian Federation's National Security Strategy is consolidating law enforcement agencies and civil society institutions to create positive external and internal conditions to implement national interests and priorities.

In this article, the author examines the activities of law enforcement agencies aimed at ensuring national security and issues of interaction. The problem of law enforcement agencies' effectiveness in ensuring the Russian Federation's national security is also considered based on an analysis of regulatory legal acts and the effectiveness of law enforcement agencies. The system of safeguarding and protecting national security is considered in the totality of subjects in interaction, as well as various bodies, forces, and means of ensuring security at a national level, provided through existing legal norms. What determines the necessary relevance of the important issues under consideration in the current situation?

Keywords: national interests, citizens, state, law enforcement agencies, national security, law enforcement activities, threats, safety, society, state security

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On Urban Planning and the Socio-Economic Development of Cities in Russia

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Abstract. This article analyzes features of urban planning and socio-economic development in Russia concerning problems that require legislative resolution. The author uses analysis, synthesis, formal legal, and logical methods to explore urban planning and socio-economic development issues. The dialectical method was applied to analyze legislation and its emerging practice. It was revealed that the change in the functional zones of urban land can

often be carried out unreasonably, which leads to challenging these changes in court. At the same time, the consequences of such contestation by the legislator are not directly indicated, leading to legal uncertainty regarding the possible use of the land. It is proposed to legislate the consequences of declaring disputed changes invalid by the court, including restoring the former functional zone and bringing the territorial zone in line with the functional one by introducing changes to city authorities' land use and development rules.

Based on the study's results on the practice of socio-economic development of cities, it was established that master plans and concepts are being developed in cities, the adoption of which is not provided for by the legislation on urban planning and strategic planning. According to the author, it is necessary to amend the Federal Law "On Strategic Planning in the Russian Federation" and supplement the list of municipal strategic planning documents with master plans and the concept of the city's development, which will correspond to the established practice. It is expected that the proposed ideas will improve the efficiency of urban space management and attract private investment in the formation of a comfortable urban environment.

Keywords: territorial zoning, functional zoning, general plan, concepts of city development, master plans, contestation of the functional zone, socio-economic development of cities, socio-economic development strategies, urban development of cities, strategic planning documents

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The Constitutionality of Legal Measures During the Spread of COVID-19

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Abstract. The emergence of a novel coronavirus infection posed a major challenge to the global community and necessitated urgent and extraordinary measures to minimize the consequences of the pandemic. In the history of modern Russia, this was the first time a national emergency had occurred. Under such circumstances, the State needed an emergency response that also involved a regulatory mechanism. Of course, the regime of legal regulation in emergency situations has significant differences from everyday legal regulation. The author examines in detail the issue of constitutional and legal regulation of emergencies of this kind and analyzes and correlates it with actual legal regulation. Peculiarities of public authorities' organizational activity in pandemic conditions are investigated. Particular attention is paid to human rights during the spread of COVID-19. The author concludes that rather than applying the existing and well-defined regulations outlined in the Federal Constitutional Law "About the State of Emergency" from May 30, 2001 (¹ 3-FKZ), which stipulates the implementation of a state of emergency throughout the country or in specific areas, the ruling authorities have opted for an alternative legal approach. This decision has resulted in a swift modification of the emergency legislation, with its own set of consequences. The main problem, in the author's opinion, lies in the misapplication of the provisions of the Constitution of the Russian Federation, since from the systematic and interrelated interpretation of Articles 55 and 56 of the Constitution of the Russian Federation follows that they regulate the same social relations. However, article 56, unlike article 55, has special grounds for the application, so the principle of lex specialis derogate legi generali should be applied to them—that is, preference should be given to a special norm. In addition, the author proposes the adoption of a single legal act that would unify the different types of emergency situations and provide systematic and orderly legal regulation.

Keywords: pandemic, high alert, state of emergency, restriction of rights, emergency situation, COVID-19, Constitutionalism, human rights, crisis situation, emergency laws

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Understanding the Rule of Law in Joseph Raz's Positivist Doctrine

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Abstract. The subject of the present paper is the interpretation of the doctrine of the rule of law in the teaching of the leading representative of exclusive legal positivism, Joseph Raz (1939–2022). The importance of analyzing the doctrine of the rule of law from this perspective lies in the fact that such a study is able to identify the fundamental ideas of the positivist understanding of the law and the rule of law from the standpoint of the post-Hartian stage of its evolution. The article reveals two main approaches to understanding the rule of law in modern British legal literature: material and formal concepts. Raz's views on the rule of law are compared with the classical ideas of Albert Venn Dicey, the principles of the "inner morality" of law by Lon L. Fuller, and the position of Friedrich August von Hayek. The scientific novelty of the article is that, for the first time, an attempt has been made to reveal the differences between formal and material concepts of the rule of law in British jurisprudence in Russian legal literature. Raz's arguments about the nature and goals of the rule of law are not generally accepted in English constitutional doctrine but are quite indicative of the position of post-Hartian legal positivism on the problem of building a stable and predictable legal order. On the one hand, the principles of the rule of law revealed in Raz's teachings relate exclusively to the legal form, which is generally characteristic of the neo-positivism of the twentieth century. On the other hand, sociological attitudes can also be distinguished in Raz's teaching, which allows us to assert that post-Hartian legal positivism combines a number of ideas of "classical" and "sociological" positivism.

Keywords: F. A. Hayek, analytical jurisprudence, discretionary power, Lon Fuller, Joseph Raz, post-Hartian positivism, law and order, principles of law, rule of law, legal positivism

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