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TÍTULO: El papel del tribunal constitucional de la Federación de Rusia en la formación de la legislación sobre delitos administrativos y garantizar el funcionamiento del principio de legalidad en toda la Federación de Rusia.

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RESUMEN: El artículo está dedicado a la consideración del órgano supremo de control constitucional en la Federación de Rusia, el tribunal constitucional de la Federación de Rusia en la formación de legislación sobre delitos administrativos a fin de garantizar la validez del principio constitucional fundamental: el principio de legalidad. Los autores prestan especial atención a las decisiones del tribunal constitucional de la Federación de Rusia, revelando el lugar y el papel del principio de legalidad, así como a las decisiones que reconocen las disposiciones pertinentes de la legislación sobre delitos administrativos que no corresponden a la Constitución de la Federación de Rusia. Se llega a la conclusión sobre el papel especial del tribunal constitucional de la Federación de Rusia para garantizar el principio de legalidad en la formación y aplicación de la legislación sobre delitos administrativos.

PALABRAS CLAVES: Constitución de la Federación de Rusia, tribunal constitucional de la Federación de Rusia, principio de legalidad, legislación sobre infracciones administrativas, responsabilidad administrativa.

TITLE: The role of the constitutional court of the Russian Federation in the formation of legislation on administrative offences and ensuring the operation of the principle of legality throughout the Russian Federation

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ABSTRACT: The article is devoted to the consideration of the Supreme body of constitutional control in the Russian Federation-the constitutional court of the Russian Federation in the formation of legislation on administrative offenses in order to ensure the validity of the fundamental constitutional principle – the principle of legality. The author pays special attention to the decisions of the constitutional court of the Russian Federation, revealing the place and role of the principle of legality, as well as to the decisions that recognize the relevant provisions of the legislation on administrative offenses not corresponding to the Constitution of the Russian Federation. The conclusion is made about the special role of the constitutional court of the Russian Federation in ensuring the principle of legality in the formation and application of legislation on administrative offenses.

KEY WORDS: Constitution of the Russian Federation, constitutional court of the Russian Federation, principle of legality, legislation on administrative offences, administrative responsibility.

INTRODUCTION.

Clause 1 of Article 1 of the Constitution of the Russian Federation establishes one of the main characteristics of the Russian Federation as a legal state. This characteristic indicates the recognition of the rule of law in the regulation of public relations throughout the Russian Federation. It should be noted that the proclamation of the rule of law in the Constitution of the Russian Federation is additionally ensured by a whole system of principles and guarantees against unreasonable interference by public authorities in self-regulatory civil society and individual rights and freedoms in particular.

In philosophical literature, dictionaries of the Russian language, the principle is understood as the basic starting point of any theory, doctrine, science. In the general theory of law, the principle is traditionally understood as the initial, defining ideas, provisions, and attitudes that make up the moral and organizational basis of the emergence, development, and functioning of law (Zakharov et al., 2019; Kovalenko, 2019; Frolov, 1980). It should be noted that in the science of administrative law, especially in research on administrative cases, the attention is not paid to the presence of regulatory principles of the law on administrative offenses.

In the framework of this article, we would like to dwell on one of the most important principles of this legislation (Belkin, 1997), based on the provisions of the Constitution of the Russian Federation - the principle of legality (Baytin, 2001). The indicated principle is enshrined in the Constitution of the Russian Federation and, by virtue of its universality, is considered not only the universal principle of all types of legal responsibility, but also has the highest legal force in the hierarchy of legal principles.

This conclusion is confirmed, including by the legal positions of the Constitutional Court of the Russian Federation (Avakyan, 2004). Thus, in the Decree of the Constitutional Court of the Russian Federation of June 16, 2009 No. 9-P, the supreme body of constitutional review indicated the following: Provisions of Articles 22 and 55 (part 3) of the Constitution of the Russian Federation in conjunction with paragraph 1 of Article 5 of the Convention for the Protection of Human Rights and Fundamental liberties in its official interpretation by the European Court of Human Rights determine the nature and limits of permissible restrictions on the right to liberty and security of person, established by the federal legislator in the regulation of coercive measures to ensure duction in cases of administrative offenses. Accordingly, coercive measures to ensure proceedings in cases of administrative offenses, since they are related to the restriction of the right to liberty and security of person, cannot be applied in contradiction with the specified requirements.

Another example, testifying to the special nature of the principle of legality in relation to other principles, is the legal position of the Constitutional Court of the Russian Federation set forth in Decisions of July 15, 1999 No. 11-P, dated May 27, 2003 No. 9-P and May 27 2008 No. 8-P. In these decisions, the Constitutional Court of the Russian Federation emphasized that when establishing criminal and administrative liability for unlawful acts in the customs sphere, it is necessary to proceed from the fact that any crime or administrative offense, as well as sanctions for their commission, must be clearly defined in the law, and thus in such a way that, based on the text of the relevant norm - if necessary, with the help of the interpretation given to it by the courts, everyone could foresee the criminal or administrative-legal consequences of actions (inaction).

Inaccuracy, ambiguity and uncertainty of the law give rise to the possibility of ambiguous interpretation and, consequently, its arbitrary application, which contradicts the constitutional principles of equality and justice, from which the requirement of certainty, clarity, unambiguity of

legal norms and their coherence in the system of existing legal regulation follows, addressed to the legislator (Gadzhiev et al.,1998).

DEVELOPMENT.

Methodology.

The methodological basis of the research consists of general scientific, private scientific and special methods of cognition. The analysis method was used in the interpretation of regulatory legal acts, the study of special legal literature and the study of materials of judicial practice. The system-structural approach was applied to the totality of the constitutional rights of people as a holistic system consisting of interacting structural elements.

Discussion and results.

The conformity or inconsistency of the text of the rule of law with the principle of legality when considering specific cases by the Constitutional Court of the Russian Federation is indicated in the operative part of each decision of the Constitutional Court of the Russian Federation by forming a conclusion on the compliance of the rule being checked with the provisions of the Constitution of the Russian Federation with the interpretation that the Constitutional Court of the Russian Federation sets out in the reasoning part of its decision or not complies with the Constitution of the Russian Federation, then the law-making or enforcement body is obliged to bring the provisions of the rights Act in accordance with the Constitution of the Russian Federation, ie restore the universal principle of legality.

Regarding the provisions of the legislation of the Russian Federation on administrative offenses, it should be noted that Article 1.6 of the Code of the Russian Federation on Administrative Offenses of the Russian Federation establishes three fundamental provisions for ensuring legality when applying administrative coercion measures in connection with an administrative offense:

1. The impossibility of applying administrative punishment and measures to ensure the proceedings of an administrative offense other than on the grounds and in the manner prescribed by the legislation on administrative offenses.
2. The application of administrative punishment and measures to ensure the production of an administrative case is carried out only by an authorized body or official and the extent of their competence.
3. When applying administrative coercive measures, decisions and actions (inaction) that degrade human dignity are not allowed.

Thus, the enforcement of the principle of legality is directly dependent on the volume, quality and content of the rules that make up the law on administrative offenses.

The said legislation in accordance with the provisions of Art. 1.1 of the Code of the Russian Federation on administrative offenses consists of the Code of the Russian Federation on administrative offenses and the laws of the constituent entities of the Russian Federation on administrative offenses adopted in accordance with it. Moreover, all the provisions of these acts must comply with the letter and spirit of the fundamental law of our state - the Constitution of the Russian Federation.

Ensuring the indicated supremacy of the Constitution of the Russian Federation in relation to the norms of the legislation on administrative offenses is one of the tasks and functions of the Constitutional Court of the Russian Federation. Only the Constitutional Court of the Russian Federation, and not any other judicial and law enforcement body, gives a generally binding, normative interpretation of the Constitution of the Russian Federation, terminates the normative acts recognized by it as incompatible with the Constitution or, recognizing the law as not contradicting the Constitution, gives such an interpretation (by identifying its constitutional and legal meaning), which

serves as an indispensable condition for its constitutionality and, therefore, has normative value for all law enforcers.

CONCLUSIONS.

Thus, recently, the Constitutional Court of the Russian Federation quite often recognizes the provisions of the legislation on administrative offenses in the interpretation of law enforcement bodies that do not comply with the Constitution of the Russian Federation, and therefore violate the principle of legality.

This is only a small fraction of examples where only the intervention of the Constitutional Court of the Russian Federation allowed citizens and their associations to protect their rights and legitimate interests, to identify defects in both the norms of the legislation on administrative offenses and defects in law enforcement practice, which together did not meet the principle of legality in the legislation on administrative offenses.

In conclusion, we would like to once again note that by virtue of Art. 79 and 80 of the Federal Constitutional Law of July 21, 1994 No. 1-FCL “On the Constitutional Court of the Russian Federation”, the decision of the Constitutional Court of the Russian Federation is final and not subject to appeal; comes into force immediately after proclamation; acts directly and does not require confirmation by other bodies and officials.

The Constitutional Court of the Russian Federation, exercising its powers, takes a direct part both in the formation of legislation on administrative offenses and in the strict observance of the principle of legality, universal for any type of legal liability, in the territory of the Russian Federation.

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