



# Modern Trends of Administrative Law

Ekaterina I. Marchenko<sup>✉</sup> and Olga A. Nenakhova<sup>✉</sup>

## Abstract

**Purpose** The purpose of the chapter is to consider the current trends in the development of administrative law. **Design/Methodology/Approach** The author notes that the need for changes in administrative law is determined by the trends and dynamics of social and economic development. Globalization, the development of digital and information technologies, integration processes, and the objective need to expand the areas of public control require a regulatory framework. The author focuses on, that at the present stage, one of the key features of the development of law which is the allocation of new industries, and information, tax, budget, and environmental law are actively developing. As the main research methods, general scientific and special methods of cognition of social and legal reality were used: dialectical, system analysis. **Findings** An important aspect is the complication of socioeconomic processes, which entails the need to expand regulatory standards. Such problems in the field of illegal migration are especially acute, which affects the interests of a wide range of people: ordinary citizens, business entities, and the state. The article notes that to ensure the effective protection of their rights and interests is possible only if the development of administrative law will develop in the same vein and meet modern public needs. **Originality/Value** The article analyzes the modern trends in the development of administrative law in force in 2020.

## Keywords

Administrative law • Administrative and legal regulation • Administrative and legal responsibility • Globalization • Social development trends

## JEL Classification

R01 • F22 • F63 • J15 • J61 • O15 • R11 • R23 • R58 • Z13 • Z18

## 1 Introduction

Today, everyone knows words like globalization and integration. Even without delving into their meaning and not realizing all their significance, a person knows that these two phenomena are the leading mechanisms of modern development. Globalization led to the intensive development of digital technologies, which served as an impetus for the development of electronic commerce, the boundaries of economic relations are becoming more blurred, and the interests and rights of participants in such economic relations are becoming increasingly vulnerable.

The large-scale development of the Internet has led to a decrease in the ability to control access to information and its protection. Information today is a guarantee of competitiveness, it is a path to success and at the same time a factor of vulnerability, like its lack or loss, or the capture of its competitors can lead to the collapse of any company.

E-commerce, electronic document management, electronic budget and electronic transfers—all these aspects are not new, they are actively developing, becoming more complex, and transforming, and each of the considered aspects requires adequate and effective legal regulation.

The mechanisms of state and municipal service are becoming more complicated, and the need for fixing the characteristics of relationships, passing tests, and the

The original version of this chapter was revised: The affiliation of the authors has been corrected. An correction to this chapter can be found at [https://doi.org/10.1007/978-3-030-90324-4\\_203](https://doi.org/10.1007/978-3-030-90324-4_203)

E. I. Marchenko (✉)  
Rostov State Transport University, Rostov-on-Don, Russia

O. A. Nenakhova  
Don State Technical University, Rostov-on-Don, Russia

procedure for assessing competence and effectiveness is growing—these aspects lie in the argumentation of the allocation of service law.

It is difficult to find a person who does not know what the problem of shared construction, the problem of dilapidated housing, and the lack of repair are. The range of problems in the construction industry is expanding every year, requiring a review, streamlining of legal norms and filling in legal gaps. An important aspect is the separation of such an industry as restoration, the market for restoration services is becoming increasingly isolated from the construction market; however, its development is hampered by the lack of legal regulation of many important aspects of the market, such as the prohibition of the use of certain materials, the procedure for the purchase and use of expensive and unique components, and the procedure and conditions of restoration. All this requires isolation of construction law.

The objective need to reduce the stratification of society requires new forms and directions of social protection; the implementation of pension reform aggravates the problem, which leads to an ever-increasing isolation of the right to social protection.

One cannot fail to note the complication of relations in the healthcare sector. The development of paid services and the transition to project management expand the range of legal relations in which healthcare institutions participate, which in turn requires the expansion and improvement of the legal base of these relations (Tonkov & Sinenko, 2016).

Reform in the field of education necessitated the development of institutions of public administration, regulation of paid services, and development of a legal framework for resolving disputed issues and contradictions in this area. Another trend in this area is the activation of academic international mobility, which also requires the development of a legal framework. Administrative law, relying on general norms, no longer satisfies the full breadth of the spectrum of interaction between the education system and state institutions of power.

---

## 2 Materials and Method

As the main research methods, general scientific and special methods of cognition of social and legal reality were used: dialectical, system analysis.

The use of systemic and dialectical analysis in the framework of this article allowed us to consider administrative law as a single system, developing under the influence of external and internal factors and reflecting modern trends in its development. In turn, the general development of administrative law is formed from individual elements that form a holistic system as a result.

The whole variety of relations between citizens and business entities with executive authorities, the activities of state authorities, and local self-government are regulated by administrative law (Belyntseva, 2016; Serkov, 2016).

Even 30 years ago, the very possibility of codifying the norms of administrative law was undoubtedly a progressive step. However, the set of legal norms governing administrative issues is increasing every year, which leads to the expansion of the legal base of administrative legislation and its going beyond the framework of the Code of Administrative Offenses of the Russian Federation (The Code of the Russian Federation..., 2001).

---

## 3 Results

One of the modern trends is the isolation of new branches of law. An example is constitutional law, which was highlighted in a separate industry not so long ago. Today, the processes of separation of new industries are proceeding at a faster pace, the dynamism of development is so high that it is no longer possible to compensate for the needs of society in the legal regulation of administrative law.

There are two ways to solve this problem:

- through the allocation of new branches of law with the codification of their norms;
- through the restructuring of administrative law.

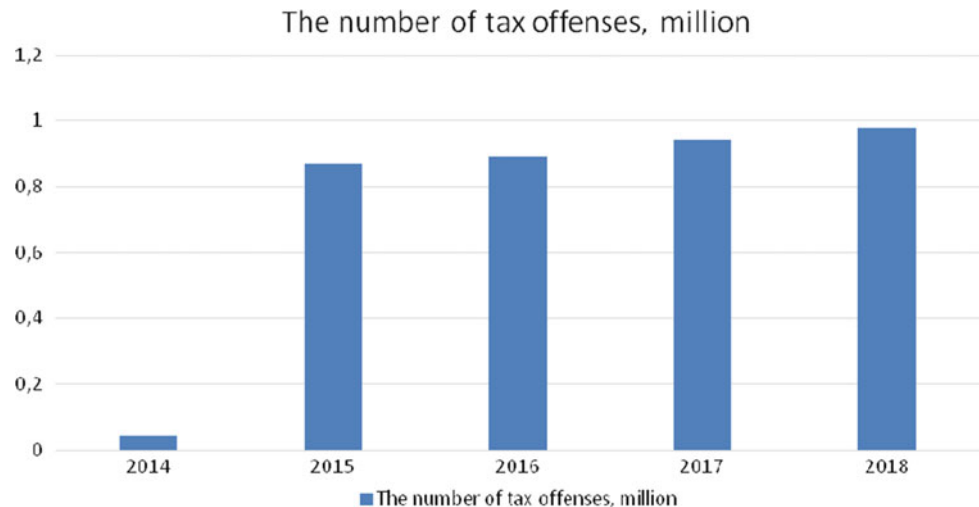
As part of the first area, informational, environmental, budgetary, financial, official, and social law will be allocated from administrative law. However, the process of isolating a new branch of law should be accompanied by the unification of legislation and the elimination of duplicate norms. A striking example characterizing this problem is the problem of distinguishing administrative and tax liability.

Tax revenues form the state budget. Violations in the tax sphere entail significant losses in the amount exceeding tens of millions of rubles. Currently, there is a tendency to increase the number of offenses in the field of taxation. For example, in 2014, their number was 840 thousand, and in 2018, it increased to 980 thousand (Fig. 1).

Violations in the field of tax legislation, for which administrative responsibility is provided, can be classified into the following groups:

- violation of legally prescribed time limits for submitting declarations;
- failure to provide the necessary information to the tax control authorities;
- submission of accounting documents containing gross errors.

**Fig. 1** Number of tax offenses in Russia for the period from 2014 to 2018, million. *Source* Compiled by the authors based on the data of (Ministry of Internal Affairs website)



The commission of above-mentioned actions is the basis for liability.

The current legislation provides two types of liability for committing offenses in this area: administrative and tax (Anikaeva, 2018).

The Code of Administrative Offenses of the Russian Federation provides for a number of rules on liability for offenses in tax area. They are contained in articles 15.3–15.11.

The fiscal responsibility is provided for Chaps. 16 and 18 of the Tax Code of the Russian Federation [hereinafter referred to as the Tax Code (The Tax Code of the Russian Federation..., 1998)]. One of the features of the tax legislation on liability is that article 106 of the Tax Code of the Russian Federation specifies that liability for violation of tax legislation is “established by this Code”, but the type of liability is not specified.

The rules on liability for tax offenses contained in the Tax Code of the Russian Federation and the Code of Administrative Offenses of the Russian Federation are largely similar. For example, the rules on liability for violation of the deadlines for submitting declarations or calculating insurance premiums are contained in the Code of Administrative Offenses of the Russian Federation. For such violations, liability is provided in the form of a fine. The amount varies from 300 to 500 rubles.

The Tax Code also provides liability for similar violations; it is governed by the provisions of article 119 of the Tax Code. The difference lies in the amount of liability provided. It is 5% of the unpaid sum within the legally established time limits.

The same problems can be traced in the analysis of liability for violation of the terms of registration with the tax authority, provided for by Art. 15.3 Administrative Code of the Russian Federation. The offense under Article. 116 of the Tax Code is wider, but it duplicates in its composition an

offense under Art. 15.3 Administrative Code of the Russian Federation (Kaykharov, 2017).

Among domestic lawyers, there is no consensus on the appropriateness of allocating tax liability as an independent type of responsibility. As a result, the nature of administrative responsibility for tax offenses carries a certain duality, which consists in duplicating the corpus delicti in the Tax Code (The Code of Administrative Procedure of the Russian Federation, 2020) and the Code of Administrative Offenses (The Code of the Russian..., 2001) and the presence of sanctions in the form of a fine for these offenses. The difference lies in the fact that the Code of Administrative Offenses of the Russian Federation sanctions are applied to officials, the Tax Code sanctions against individuals (individual entrepreneurs), and when a legal entity becomes liable, the norms of both the Code of Administrative Offenses of the Russian Federation and the Tax Code apply. It should also be noted that the norms of the Tax Code of the Russian Federation regulate a wider range of offenses.

It should be noted that the use of administrative responsibility prevails in the structure of liability for tax offenses (Fig. 2).

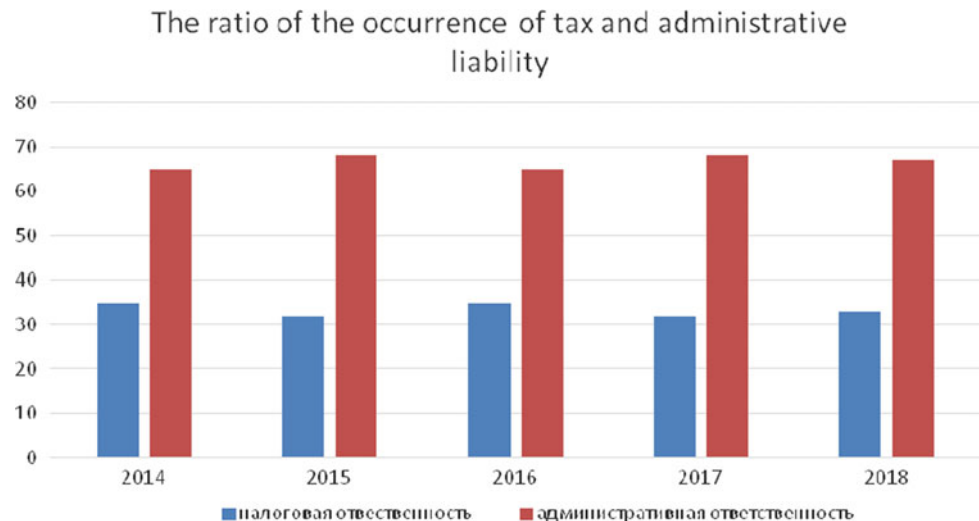
It should be noted that the use of administrative responsibility prevails in the structure of liability for tax offenses.

To solve this problem, it is necessary to eliminate duplicate norms and provide in the wording of the sanction for an offense in the Tax Code a direct indication of what liability, tax or administrative, is provided for the offense. This approach will allow to distinguish between tax and administrative liability for tax offenses.

The considered example shows that the allocation of new branches of law should not occur mechanically, it should be a clearly regulated process.

Considering the problems of the allocation of new branches of law, one cannot but touch upon such a problematic branch as illegal migration. The main trends in this area are

**Fig. 2** Ratio of the occurrence of tax and administrative liability.  
*Source* Compiled by the authors based on the official data Web site of (Federal Tax Service of Russia)



the isolation of migration law and the tightening of responsibility for illegal migration.

Illegal migration at the present stage has acquired the status of a threat to national security both for Russia and for many foreign countries. The consequences of the negative impact of illegal migration on the social situation of the host country include the following:

- growth of social tension;
- increasing the criminalization of society;
- aggravation of interethnic relations;
- the growth of shadow processes in the economy.

One of the most important threats posed by illegal migration is the activation of illegal trafficking in narcotic drugs and psychotropic substances, weapons, ammunition, explosives, and human trafficking (Verbitskaya, 2015).

Despite the fact that the crime rate has been reduced in Russia in 2019 (Fig. 3), the proportion of the above crimes remains high, and more than 200 thousand crimes related to illegal drug trafficking are committed every year.

The number of crimes committed by foreign citizens and stateless persons in 2019 amounted to 31.4 thousand, which is 9.9 thousand crimes lower than the level of 2017.

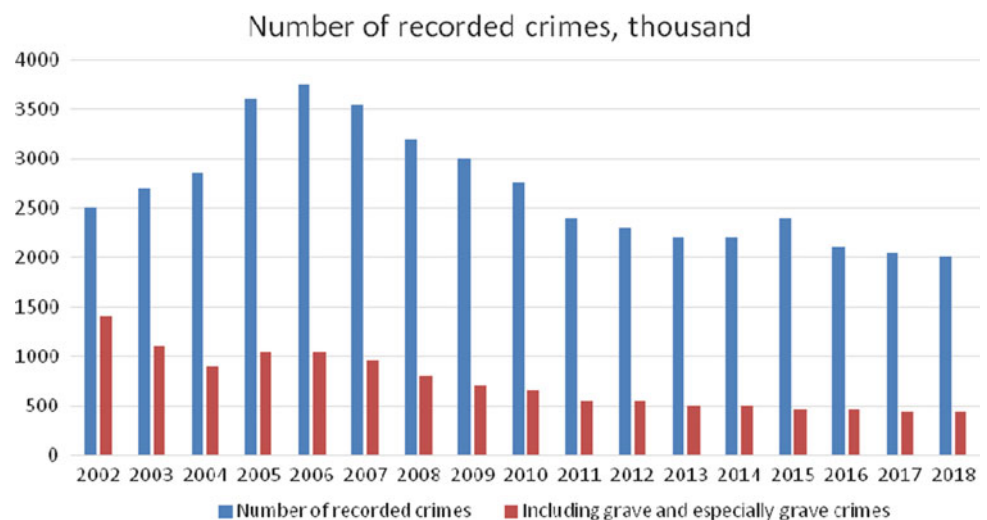
The structure of crimes committed by foreign citizens and stateless persons is dominated by theft, fraud, robbery, rape, theft of vehicles, and hooliganism. Of particular concern is the rise in extremist crimes. The danger of this phenomenon is caused by the fact that the extreme manifestation of political extremism is political terror, which is built on aggressive and violent methods of governance (Gavrikov, 2018).

Among illegal migrants, participation in nationalist extremism is especially pronounced, which is based on aggression and intolerant behavior against other nationalities, national, and racial discrimination.

From 2011 to 2018, the number of extremist crimes increased from 580 to 1,416, which indicates its spread in Russia.

Illegal migration is also causing a great damage to the Russian economy. Attracting illegal migrants to work contributes to the growth of the shadow economy. Today, the volumes of the shadow economy in Russia are estimated at

**Fig. 3** Dynamics of crimes in Russia in the period from 2002 to 2018



21.8 trillion rubles, despite the fact that compared to 2016, a decrease in its volumes is observed, and the indicator remains very high and poses a threat to Russia's economic security (Report on the Activities..., 2018).

Hiring illegal migrants leads to underpayment of personal income tax to the budget, and this tax accounts for more than 34% of all revenues of the country's consolidated budget.

The trends discussed above show how much damage is caused by illegal migration and actualize the need to improve administrative and legal regulation in the field of illegal migration.

The number of illegal migrants in Russia ranges from 8 to 10 million. On the one hand, this entails an aggravation of social tension on the part of the Russian population, and on the other, the rights of foreign citizens themselves are also violated. The number of people staying in Russia for more than 90 days without paperwork is 3.4 million, of which 81.4% are accounted for by citizens of the CIS member states (Report on the Activities..., 2018).

The increase in the number of illegal migrants indicates the presence of significant shortcomings in the migration management system. In this area, the main trends are the separation of migration law and the objective need to tighten penalties in the field of illegal migration.

Opponents of separating the above types of law into separate industries appeal to the fact that such an approach will lead to the complication and excessive "bulkiness" of law.

As part of the second approach, it is proposed to structure a special part of administrative law, highlighting separately such elements as follows: construction law, social protection law, information law, service law, tax law, financial law, budget law, road law, medical law, educational law, environmental law, and migration law. In this case, in contrast to the first area, there occurs the separation of not independent branches, but sub-branches of administrative law.

Another important trend of our time is the development of administrative proceedings. The adoption of the "Code of Administrative Procedure of the Russian Federation" (The Code of Administrative Procedure of the Russian Federation, 2020) was an important step toward increasing the effectiveness of legal regulation in Russia. However, despite the fact that it was adopted more than 5 years ago, disputes about its necessity and expediency of adoption do not subside.

The Code of Administrative Procedure of the Russian Federation, which entered into force on September 15, 2015, is evaluated by Russian scholars and practicing lawyers very contradictory. The author adheres to the position of the objective necessity of adopting this code, as it was laid down in Art. 118 of the Constitution of the Russian Federation, which establishes such forms of exercising judicial power in Russia as constitutional, civil, administrative, and criminal proceedings (Lepekhn, 2018).

In addition to this objective conditionality, as the reason for the adoption of the Code of Administrative Procedure of the Russian Federation, it is possible to single out the need for streamlining and consolidating procedural rules in one regulatory legal act regulating the procedure for the court to consider cases related to administrative and other public legal relations (Belyntseva, 2016).

In the case of the restructuring of the special part of administrative law and the allocation of sub-sectors in it, it will also be necessary to finalize the Code of Administrative Procedure of the Russian Federation, which will ensure the consolidation of administrative law and administrative proceedings.

If the above types of law are distinguished into separate branches, their correlation with the current procedural codes will be required, since the allocation of such a number of procedural codes is unpromising.

---

## 4 Conclusion

The study allowed us to identify key trends in the development of administrative law:

- expansion of legal norms as a response to expanding the spectrum of regulated legal relations;
- isolation of certain areas of law;
- codification of administrative proceedings.

The problem of expanding the spectrum of regulated relations and the isolation of individual areas of law, as noted above, can be solved in two ways. More promising is the allocation of these types of law in separate areas. This is due to the fact that further complication and expansion of legal relations in these areas are an inevitable and objective consequence of modern social development. The author adheres to the position of complete isolation of the branches of educational, informational, medical, tax, budgetary, construction, road, migration law, and social protection law. Streamlining and eliminating duplicate norms will significantly increase the effectiveness of legal regulation. At the same time, a separate codification of legal proceedings in new branches of law seems inexpedient due to the complexity and unjustified clutter of the regulatory framework.

---

## References

- Anikaeva, T. (2018). The legal nature of liability for tax offenses. Scientific forum: Jurisprudence, history, sociology, political science and philosophy: Sat. Art. Based on the Materials of the XVI International Scientific-Practical Conference, 3(16), 123–127.

- Belyntseva, A. (2016). Administrative proceedings. URL: <http://web.snauka.ru/issues/2016/05/68340>. Accessed June 05, 2020.
- Federal Tax Service of Russia: <https://www.nalog.ru/opendata/7707329152-taxoffence/>
- Gavrikov, V. (2018). The problem field of labor migration regulation in Russia, 4,109–114.
- Kaykharov, M. (2017). The mechanism of bringing the subject of tax legal relations to liability for tax offenses. *Science of the XXI Century*, 6, 34–37.
- Lepekhin, A. (2018). Discussion questions about the code of administrative procedure of the Russian Federation young scientist, 50 (236), 243–245. URL: <https://moluch.ru/archive/236/54541/>. Accessed June 19, 2020.
- Ministry of Internal Affairs website: <https://mvd.rf/reports>
- Report on the activities of the Commissioner for Human Rights in the Russian Federation for 2018. (2018). *Russian newspaper*. URL: <http://bit.ly/2mkAxpM>. Accessed June 25, 2020.
- Serkov, P. (2016). Administrative law, administrative proceedings and the mechanism of legal relations. *Journal of Administrative Proceedings*, 1, 14–19.
- The Tax Code of the Russian Federation (part one). (1998). Dated July 31, 1998 No. 146-FZ. *Rossiyskaya Gazeta*, 148–149.
- The Code of the Russian Federation on administrative offenses. (2001). Dated December 30, 2001 No. 195-FZ. *Russian newspaper*. 256.
- The Code of Administrative Procedure of the Russian Federation. (2020). Dated 08.03.2015 N 21-FL (as amended on 12.27.2019, as amended on 03.24.2020). ATP Consultant Plus.
- Tonkov, E., & Sinenko, V. (2016). Integrated branches of law. A fruitful idea or a rejection of formal certainty in legal science? *Bulletin of the Voronezh State University*, 2, 62.
- Verbitskaya, O. (2015). *Migration processes in Russia, their significance and socio-economic consequences. Collection of scientific articles of the faculty of economics, management, and business of FSBEI HPE KubGTU* (pp. 233–234).