THEORETICAL AND LEGAL FOUNDATIONS OF THE INSTITUTE OF ADMINISTRATIVE PREJUDICE

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Abstract:*This article provides a comprehensive analysis of the theoretical and legal foundations of the institute of administrative prejudice. It examines the origin of the institute, its roots in Roman law, the significance of the principle "res judicata pro veritate habetur," its place in the modern legal system, and interpretations based on various scientific approaches. The legal nature of administrative prejudice, its functions, and its role in ensuring the interrelation between criminal and administrative law are highlighted. The author substantiates the elements of compulsory and factual effect of the institute and clarifies its role in the practice of law enforcement. Furthermore, the author proposes an original definition of the concept of administrative prejudice, which scientifically elucidates the legal essence of the institute, its functions, and its mechanism of practical application.*

Keywords: *administrative prejudice, res judicata, criminal liability, legal instrument, legal construction, recidivism, legal mechanism, differentiated approach, corpus delicti, objective aspect, criminal liability.*

ТЕОРЕТИЧЕСКИЕ И ПРАВОВЫЕ ОСНОВЫ ИНСТИТУТА АДМИНИСТРАТИВНОГО УЩЕРБА

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Аннотация: *В данной статье комплексно проанализированы теоретико-правовые основы института административной преюдиции. Рассмотрены происхождение института, его корни в римском праве, значение принципа "res judicata pro veritate habetur" и место в современной правовой системе, а также интерпретации на основе различных научных подходов. Особое внимание уделено правовой природе административной преюдиции, её функциям и роли в обеспечении взаимосвязи между уголовным и административным правом. Автором обоснованы элементы обязательности и фактического воздействия*

института, а также раскрыта его роль в практике применения права. Кроме того, автором предложено авторское определение понятия административной преюдиции, которое позволяет научно обосновать правовую сущность института, его функции и механизм практического применения.

Ключевые слова: *административная преюдиция, res judicata, уголовная ответственность, юридическое средство, юридическая конструкция, повторность, правовой механизм, дифференцированный подход, состав преступления, объективная сторона, уголовная ответственность.*

MA'MURIY PREYUDITSIYA INSTITUTINING NAZARIY-HUQUQIY ASOSALARI

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Annotatsiya: *Mazkur maqolada ma'muriy preyuditsiya institutining nazariy-huquqiy asoslari kompleks tarzda tahlil qilingan. Unda ushbu institutning kelib chiqishi, Rim huquqidagi ildizlari, "res judicata pro veritate habetur" tamoyilining ahamiyati va zamonaviy huquq tizimidagi o'rni hamda turli ilmiy yondashuvlar asosida talqin qilinishi o'rganilgan. Shuningdek, ma'muriy preyuditsiyaning huquqiy tabiati, funksiyalari hamda jinoyat va ma'muriy huquq o'rtasidagi o'zaro bog'liqlikni ta'minlashdagi ahamiyati yoritilgan. Muallif tomonidan institutning majburiylik va faktik ta'sir elementlari asoslab berilgan hamda uning huquqni qo'llash amaliyotidagi roli ochib berilgan. Shu bilan birga, muallif tomonidan ma'muriy preyuditsiya tushunchasiga mualliflik taklifi ishlab chiqilgan bo'lib, u institutning huquqiy mohiyatini, funksiyalariniva amaliy qo'llanilish mexanizmini ilmiy asoslangan tarzda ochib beradi.*

Kalit so'zlar: *ma'muriy preyuditsiya,res judicata, jinoyiy javobgarlik, yuridik vosita, yuridik konstruksiya,takroriylik, huquqiy mexanizm,differensial yondashuv, jinoyat tarkibi, obyektiv tomon, jinoiy javobgarlik.*

In the modern legal system, ensuring the interrelationship between the norms of criminal and administrative law is of great importance. In this regard, the institution of administrative prejudice acts as an important tool for strengthening the rule of law, forming a unified approach in judicial practice, and preventing offenses.

In modern doctrine of criminal law, the concept of administrative prejudice occupies a special place in the classification of offenses and the differentiation of criminal liability.

Historically, the institution of prejudice originates from Roman law, and the Latin word praejudicium encompasses the meanings of "judgment in advance" (praeiudico)

and "being in advance" (praecedo) [4]. In the Roman legal system, praejudicium meant the preliminary resolution of a specific issue based on a previously legally binding court decision.

According to the principle of "res judicata pro veritate habetur," put forward by Roman jurists and retaining its relevance to this day, a court decision that has entered into legal force is recognized as true. This principle forms the theoretical basis of the institution of prejudice. From this point of view, prejudice is interpreted not only as a legal norm affecting subsequent judicial proceedings on the same subject, i.e., representing the concept of res judicata (the case is resolved), but also as a preliminary judicial act (ruling or decision) serving to establish factual circumstances directly related to the resolution of other legal issues.

The institution of prejudice is one of the widely used legal concepts in world jurisprudence, and this principle ensures, in particular, normative stability, consistency, and justice in the system of criminal and administrative law.

Issues related to the essence and legal nature of administrative prejudice have been interpreted differently among legal scholars. The absence of a single and universally recognized definition of this institution in the scientific literature indicates that it is a complex and multifaceted legal phenomenon. Therefore, administrative prejudice is interpreted differently based on different theoretical approaches.

In particular, some scholars interpret administrative prejudice as a legal category. In this case, it is evaluated as a theoretical concept that generalizes legal phenomena and is considered as a means of expressing the interdependence and consistency of relations in the legal system.

According to another approach, administrative prejudice acts as a legal instrument. From this point of view, it serves as an effective mechanism aimed at ensuring legal certainty, stability, and consistency in law enforcement activities.

In jurisprudence, the concept of "means" has a broad and multifaceted meaning, which is interpreted differently within the framework of different scientific approaches. This concept has important methodological significance in the interpretation of legal phenomena and is one of the main categories in revealing the essence and functions of law.

In particular, some scholars use the concept of "means" in relation to law itself. In particular, R.O. Khalfina assesses law as the main tool for regulating social relations[5]. According to this approach, law is considered as a universal mechanism that serves to coordinate, regulate, and ensure the sustainable development of social relations in society. Here, the concept of "means" is used in a broad sense, expressing the general functions of law.

In the literature, legal (legal) means are proposed to be understood as legal phenomena expressed in means and methods that ensure the satisfaction of the interests of legal entities, the achievement of socially useful goals. For example, A.G.

[4] Barry Nicholas. An Introduction to Roman Law. – Oxford: Clarendon Press, 1962. – P. 86–88;Zimmermann R. The Law of Obligations: Roman Foundations of the Civilian Tradition. – Oxford University Press, 1996. – P. 12–15.
[5] Malko A.V. Goals and means in law and legal policy. Saratov: Publishing House of the Saratov State Academy of Law, 2003. P. 107.

Bezverkhov called administrative prejudice a legal instrument with high preventive potential in relation to several crimes and related administrative offenses.[6].

A.V. Kozlov assesses administrative prejudice as a method of legal technique, and this approach is considered to be justified to a certain extent[7]. Because through this institution, the legislator expresses its will through a step-by-step system of responsibility.In this case, some acts are initially qualified as an administrative offense, but their repeated commission leads to a criminal-legal assessment and, accordingly, to criminal liability. Such an approach ensures the consistent application of the principle of differentiation in legal regulation. From this point of view, administrative prejudice, along with being a normative-technical tool, manifests itself as an institutionally and functionally effective mechanism for implementing legal policy.

Also, some authors assess administrative prejudice as a legal construct. In this case, it is considered as a complex system consisting of interconnected legal elements and serves to ensure the functional connection between different legal norms.

In scientific literature, administrative prejudice is often interpreted as an "institute of criminal law." According to this approach, it is recognized as an independent legal institution that creates criminal liability as a result of repeated commission of an act that was initially assessed as an administrative offense. In this regard, administrative prejudice is scientifically substantiated as a mechanism that expresses the relationship between the norms of administrative and criminal law and provides a step-by-step legal assessment of offenses depending on the degree of their social danger.

V.I. Kolosova calls administrative prejudice a rule according to which an act is considered a crime only if the person who committed it was previously brought to administrative responsibility for the same offense[8].

P.P. Bobrovich understands administrative prejudice as a method for determining one of the main qualifying features of the legal composition of offenses (crimes) [9].

We believe that N.A. Lopashenko[10], calling administrative prejudice an artificially created legal structure by the legislator, based on the repetition of administrative offenses, somewhat narrowed the content of the object under study, since he defined the legal essence of the disclosed concept only from the point of view of the legislator's constitution of a crime with administrative prejudice.

If the objective side of the corpus delicti based on administrative prejudice is analyzed, then its qualification as a legal construct is scientifically justified. Because the composition of such a crime is not limited to a simple, single action or consequence, but consists of a systematic combination of several interconnected elements. In particular, the presence of an act initially assessed as an administrative offense, the application of appropriate administrative penalties to the person for it, and the repeated commission

[6] Bezverkhov A.G. Return of "administrative prejudice" to the criminal legislation of Russia // Russian Justice. 2012. No. 1. P. 50.
[7] Kozlov A.V. On the Admissibility of Administrative Prejudice in Criminal Law // Bulletin of the Far Eastern Legal Institute of the Ministry of Internal Affairs of Russia. 2012. No. 1. P. 49.
[8] Kolosova V.I. Administrative Prejudice as a Means of Prevention and Improvement of Criminal Legislation / Bulletin of the Nizhny Novgorod University named after N.I. Lobachevsky. 2011. No. 5 (1). P. 247.
[9] Bobrovich P.P. Administrative Prejudice in Criminal Law // Forensic Librarian's Library. 2013. No. 2. P. 47.
[10] Lopashenko N. A. Administrative Prejudice in Criminal Law // Bulletin of the Academy of the General Prosecutor's Office of the Russian Federation. 2011. No 3. P. 71.

of the same type of act within a certain period of time are of great importance.

In this sense, the objective side is determined not only by a socially dangerous act (or inaction), but also by the previous legal situation, that is, the fact of bringing a person to administrative responsibility. This transforms the objective side of the corpus delicti into a complex, multi-stage, and conditioned system. As a result, not only the current act, but also the preceding legal facts are comprehensively assessed to determine the presence of a crime.

These aspects justify the need to recognize this object as a legal construct. After all, here the elements of the corpus delicti do not consist of a simple sum, but represent a normativeally pre-modeled, interdependent, and logically connected legal structure. Therefore, the interpretation of the objective side of the crime with administrative prejudice as a theoretically complex legal construct is fully justified from a scientific point of view.

Thus, the different interpretations of administrative prejudice once again confirm that it is a complex, multifunctional, and multifaceted legal phenomenon. These approaches necessitate a deeper study of this institution, improvement of its theoretical foundations, and clarification of its practical application.

Based on the above-mentioned scientific approaches and theoretical views, we have developed the following author's definition of administrative prejudice. According to this definition, administrative prejudice is a legal mechanism that creates criminal liability as a result of repeated commission of the same type of act after a person was previously held liable for an administrative offense in the prescribed manner.

This definition is distinguished by the fact that it embodies the main features of administrative prejudice. In particular, the author's definition reflects such important aspects as: recognition of a person's previous administrative responsibility as a legal fact; repeated commission of the same act and, as a result, the transition of legal assessment from the administrative level to the criminal level.

The legal nature of administrative prejudice is primarily determined by its functional significance in the legal system and is manifested through two main aspects.

Firstly, the element of obligation is one of the main features of preclusion. According to it, decisions previously made by the authorized body are binding within the framework of similar legal relations considered later.

Such an approach serves to ensure stability in judicial and administrative practice, as well as the formation of a unified and consistent position in the application of law. As a result, the probability of making different decisions on the same cases is reduced, and legal certainty is ensured.

Secondly, the element of regulatory (factual) influence reveals the practical significance of prejudice. In this respect, the facts established in previous decisions are considered as circumstances that do not require further proof in the process of consideration of subsequent cases.

This will simplify the law enforcement process, reduce unnecessary procedural actions, and contribute to the prompt and effective resolution of cases. In this sense,

prejudice serves not only as the result of a decision made in a particular case, but also as a methodological basis and guide for subsequent legal assessments.

Thus, administrative prejudice acts simultaneously as an institution ensuring legal stability and an effective mechanism for optimizing law enforcement practice.

In conclusion, the institution of administrative prejudice is an important legal mechanism that ensures the close connection between criminal and administrative law. Its formation goes back to Roman law, and these historical roots remain relevant to this day. Through this institution, an assessment of offenses is carried out in stages, first of all, the application of administrative liability measures is ensured, and in cases of repeated commission, criminal liability is provided.

As a result, this approach not only allows for the differentiation of responsibility, but also serves to prevent offenses, encourage individuals to comply with the law, and strengthen the general legal order.

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