

# Leading Approaches to the Administrative Law in the Personnel Management System

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**Abstract** Our paper discusses the leading modern approaches to administrative and legal regulation in the organization's personnel management system, considering its digitalization. In particular, the article analyses the practice of digitalization of administrative and legal regulation in the personnel management system of organizations of the EU member States and the possibility of its development in Russia. The personnel management system is one of the most important subsystems of organization management in any country, as it determines its economical and sometimes political components. Its complexity is determined by the subject-object essence of the personnel organization, which includes the need taking into account and creating a harmony of its activities according to individual social and organizational and productivity factors in management, combined with approaches to administrative and legal regulation. The results of the research on this topic showed that the formation and further development of digitalization in the system of administrative and legal regulation in the personnel management of organizations will tend to increase and improve. However, each country will fight against possible violations in the sphere of digitalization of the legal space. Administrative and legal regulation in the personnel management of organizations and methods of their impact must have professional instructions developed for an employee or group of employees of the organization, according to the activity they are considering. At the same time, the Manager focuses on setting the tasks, specifying the order of their implementation, as well as the terms, conditions and necessary resources.

**Keywords:** *administrative law, personnel management system, leadership, digitalization*

## 1 Introduction

Generally, one can see that the concept of administrative law in the European area was partially transferred from the foundations of Roman law. Thereafter, through developments in civil law of reflected in the administrative law of a number of European countries. Nowadays, this term is applied in the form of the concept of the defined as the "subjective law". However, it has gained essential significance in Germany and Italy (Kahl 2014), in a lesser extent in France, and almost none in a country like the United Kingdom (de Pretis 2014).

The creation of the European Union in the last two decades has practically led to the ration of modernized European law. It extended its influence to the main tactical sectors of the economy and their infrastructure: energy, transport, telecommunications and a number of services that have the essential strategic importance, therefore, it reflected to the very organization of the administrative management system of EU Member States (European Parliament 2016).

This is expressed in the provisions that set the boundaries for the implementation of organizational and administrative powers by the participating States and the need for the presence of independent regulatory authorities for the above-mentioned sectors of economy. It follows from the provisions of the European Union that

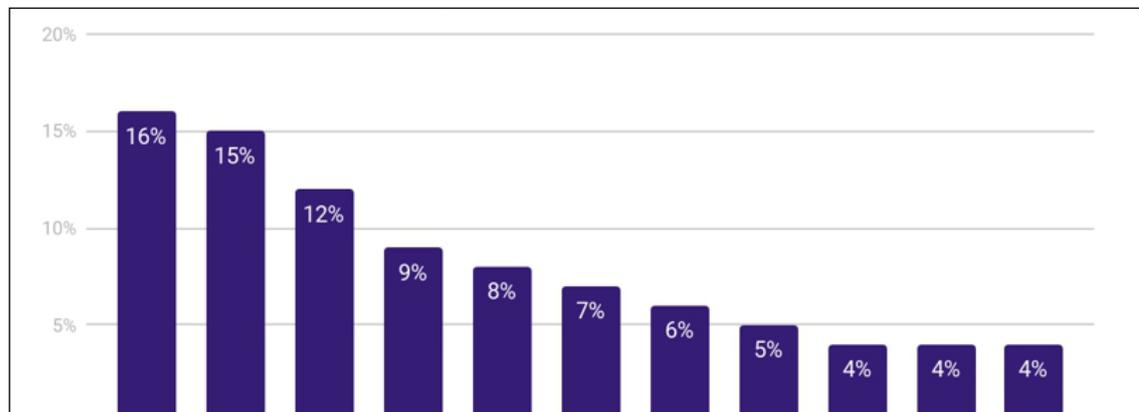
national regulatory authorities should manage systematic uniform application of the common rules within the communities

The modernization that is currently taking place in developed countries is aimed at transforming the entire society into an information space (Vasylchak and Halachenko 2016). In such a case, the majority of people are engaged in the production, collection, storage, processing and use of information. This situation has led to a "sipping" of countries that are lagging behind in this direction.

High technologies penetrate all spheres of activity, develop and change the way organizations work, both in the external space and within them. Information technologies have also affected individuals, changing their way of life and attitude to work in information systems (Zielinska 2016; Strielkowski et al. 2017).

In the summer of 2018, KPMG, that specializes in providing three types of services -audit, tax and consulting, conducted a large-scale study called "the Future of HR". This company includes representatives from the UK, Germany, Switzerland, Spain, Belgium, the Netherlands, Luxembourg, the CIS (Russia, Ukraine, Kyrgyzstan, Kazakhstan, Armenia and Georgia), Turkey, Norway and Saudi Arabia. Its international headquarters is in Amstelveen, the Netherlands.

The survey of experts was conducted among 1201 HR managers from 64 countries. Respondents were organizations operating in 31 industries that operate in the Asia-Pacific region, Europe, North America, Africa, Latin America and the middle East.



**Fig.1.** Distribution of research participants by industry  
Source: KPMG (2019)

In the study, 43% of organizations had a staff of 5,000 or more employees. According to the data presented in Figure 1 the study participants were divided in the following ways:

- 16 % of the offer in public services;
- 15% are represented by everyday goods or consumer products;
- 12% in production;
- 9% in information technology;
- 8% in professional services,
- 7% in healthcare;
- 6% in energy;
- 5% in transport;
- 4% each - education and non-profit organizations, the public sector, recreation, and entertainment.

The respondents participating in the study are eager to increase financial resources in the near future in three main areas related to predictive Analytics, in the field of automation of production processes and in artificial intelligence. The first component is represented by 40% out of 100%.

However, in practice, only 5% of the companies represented in the study believe that they will use data analysis in relation to personnel management in the nearest future, and just over 10% of top managers are interested in conducting Analytics by using digitalization.

Bolton, Head of People and Change Centre of Excellence, Partner, KPMG in the UK says: "What's worrisome is that as the paradigm shift we are in continually accelerates the pace of change, one or two years in this digital age might compare to a decade or two in the analogue era. You can fall perilously behind before you realize what's happening" KPMG (2019).

Other authors who study this problem state that the special attention should be paid to ensuring effective management of this resource at all stages of their life cycle - it is the effectiveness of management in the field of Informatization that largely determines the pace of scientific and technical progress (Bogushevich and Kotov 2012). This statement is related to the fact that currently there are complications in the external environment of organizations represented in different countries, which requires finding hidden organizational resources that potentially increase work efficiency.

Digital technologies have a special role in hiring staff. They are a trend of recent years and make it possible to automate all routine processes that do not require deep analysis and calculations, which are related to document management and selection of candidates for vacant positions, since they can process large amounts of information. However, organizations do not intend to stop only at this point.

## **2. Administrative law in the personnel management system**

All the provisions and categories of EU law apply to the structure of the administrative law in EU, which are based on the conceptual features. They are incorporated in different States of the given space and can be mixed in such a way that they practically become little recognizable in their countries of origin. Currently, the administrative law of the European Union has developed its own concepts and categories, the basis of which is presented in the provisions of the statutory agreements of organizations and they may differ from the national law of the EU member States. This situation could have been formed with the appearance of many migrants in these territories, which corrected the usual legal relations (De Luna Gallardo et al. 2016). However, this can only provide an opportunity to see the further uniqueness and characteristics of the EU administrative law, but not how to replace it. This can be partially analysed in the document on the free movement of citizens and employment (Report for the European Commission 2010).

The influence of EU law also extends to the organization of administrative management of the EU state members, that practically controls and regulates public procurement and orders, and which can be traced from the autonomy of public institutions or organizations in relation to the state and territorial units. Based on the legal acts of the European Union, if these services are not provided by the state or its territorial units, then the choice of the supplier or manufacturer of these services must take into account the General rules that regulate competition in the market (Court of the EU 2005).

In this aspect of the administrative law of the EU countries in the personnel management system, it is possible to identify areas where administrative methods of influence using digitalization are used (Bialowas 2018). It was investigated, that the main in this case is the regulation of the organization's employees. In order to achieve the desired result in a response in certain activities or receive necessary information, there are always certain relationships between specific actors, for example – customer and contractor. Thus, this means that they must be regulated in the same form as the actions taken that led to certain legal relations.

The next problematic aspect is related to the subjects of law. This is the emergence of new subjects associated with technological innovation and change. For example, in the European Parliament, robots and everything related to this area are currently approved in civil law (February 16, 2017). Based on this, we can say that along with the person there was a "digital subject", a new subject of law. In this case, there is a question of responsibility for their actions on the part of all those who take part in it. This is essentially important for law.

A project on the "ethical robot license" is being discussed in Western countries. There is a discussion about their legal personality and responsibility (Calo et al. 2016). The initiative to regulate the status of robots was also shown in Russia (Arkhipov and Naumov 2017)

This problem is relevant in all countries. The consequence is the Digital Economy program. It is necessary to regulate legal issues on robotics and artificial intelligence.

In 2014, France and BPI-Groupe signed a Convention on the future investment program, which provides investments in automation and robotics of the industry.

## **3. Modern approaches to administrative and legal regulation in the personnel management system**

Within the framework of economic activity of a modern organization, various management methods are used, such as: administrative, economic, and social and psychological. At the same time, each organization, depending on the type of activity and complexity of the labour process, uses them in various combinations, based on practical experience of effective approaches within the framework of team management. Researches in this area have shown that it is inexpedient to use administrative methods without economic ones. As for socio-psychological methods and techniques, they are used to create optimal conditions for the work of the team and the ability to perform effective work of each employee of the organization with maximum efficiency.

Administrative methods of managing the organization's personnel have certain features, such as, for example, ways to coordinate the activities of employees who are endowed with a certain level of authority and subordination. In this case, we are not talking about incentives, which may be ideal for economic methods. The fundamental one will be a clearly expressed order of the head, which sets a certain framework in the activities of the subordinate, defining a clearly set task for him.

If the considered methods are used by a qualified Head, they contribute to maintaining the required level of discipline and socio-psychological environment, as well as to achieving the goals which are set in the organization.

In the conditions of digitalization, it is necessary to estimate the possibility of penetration of access to personal data of any citizen virtually, and therefore find ways to influence the situation, for example, with the signing of various types of contracts, including financial ones, without his knowledge and direct participation (Savelyev 2016).

Consequently, the emergence of a digital space within the framework of administrative and legal regulation of personnel management of organizations can not only simplify the interaction between the subjects of relationships, but also threaten their activities in the conditions of digitalization. Therefore, in this regard, it is necessary to develop general measures for the protection of individuals and legal entities, regardless of their place of residence.

This is also due to the resulting contradictions in the freedom of the information flow and the protection of the rights of a particular citizen in the digital space (Korneeva et al. 2019).

Currently, organizations can use technologies that reflect both problems at once, such as Big Data technology, but it requires expensive hardware, software and specialists to serve it.

However, despite certain difficulties in organizing this process, it is not necessary to have all this on your firm - you can connect to the so-called "cloud platform" and at the same time perform data analysis on a ready-to-use infrastructure.

The technology used is able to collect massive data, work with it, analyse it, draw conclusions, and make the right management decision based on it. In this case, the statistics analysis that was previously performed manually is replaced with Big Data, where the data is collected offline, quickly digitized and online, analysed, and then sent to an artificial neural network for optimal decision-making by managers at various levels.

The examples given in various areas of activity in the field of digitalization show how actively a new direction is being created all over the world in the form of a digital space that will further define our lives.

The results of the study entitled "International trends in the sphere of human capital for 2019" showed that the issue of automation of all recruitment functions using "cloud solutions" is in the top 5. The table that follows (Table 1) systematizes data on the level of Russian HR in 2019.

**Table 1.** Russian HR automation level

<b>How the technology is used</b>	<b>Percentage of respondents</b>
Apply knowledge management tools using artificial intelligence or crowdsourcing	2
Use predictive Analytics based on machine learning	3
Use chat-bots	4
Use chatbots for recruitment	6
Store HR data in one integrated system	15
Use VR and AR for training	7
Implement Wellbeing based on employee health data	4
Use the IT system to calculate the career prospects of employees	7

Source: Deloitte and SAP CIS (2019)

As can be seen from the presented material, the main part of Russian organizations is assigned to storing HR data in one integrated system. The presented information in the table proves that Russian HR automation is not developed. All this is connected with the Federal law of 01.07.2017 No. 156-FZ "on amendments to the law of information, technologies of information and data protection" (Federal law 2017), where many terms and concepts are generalized and can be interpreted in two ways and the Federal law of July 27, 2006 No. 152-FZ "on personal data" (Federal law 2006) which provides any information that may relate directly or indirectly to a particular or identifiable individual.

As a rule, personal data is presented in such variations as: surname, first name, year, month, date and place of birth, address, family, social and property status, education, profession, income, etc. Almost the same approach is applied to data transmission in the Internet environment. Currently, the Internet environment has the ability to identify an indirect person comparing data, which ultimately identifies the person, but does not formally violate

the rules for automatic processing of one's data. Using technical language, you can say that "everything which is encrypted can be easily decrypted".

The same problem is related to the official image, namely the employment of civil servants, when the information and telecommunications network "Internet" contains publicly available information for filling a vacant position, as well as all the data that allows them to be identified, for example, when using social networks.

Identification of individuals in the Internet environment in the field of digitalization has become a multi-faceted problem due to the possibility of violations of the rights of many people and organizations. The authors who raise this problem propose to solve it in different ways, for example, creating a «fundamentally new situation for theoretical understanding, in which the life cycle of a legal relationship can occur without legally significant identification of its subjects». This situation can be made almost impossible if in the decentralized networks the principle of anonymity in the encryption algorithms is used" (Azizov 2017), or to recognize personal data as a civil law object that can be commercialized and, therefore, is alienable (Savelyev 2015).

Currently, the government of the Russian Federation "on amendments to the Rules for creating, forming and maintaining an automated information system, «Register of violators of the rights of personal data subjects» is in force (Alekseyeva 2018) This document restricts access to information resources, including sites where information is processed in violation of the legislation of the Russian Federation in the field of personal data.

Based on the presented options, we can conclude that life itself adjusts the legislative framework. As mentioned above, the main purpose of administrative methods of influence is to regulate the activities of employees of the organization. In this case, this is manifested in the form of various types of tasks, orders. At the same time, information communicated to employees of the organization, regardless of the chosen method, must necessarily be reflected in certain actions on the part of inferiors, considering the implementation of all directives emanating from the management.

According to Bolton's warning: "HR is at a crossroads, the likes of which we've never seen. In fact, we are now seeing CFOs and CIOs making a play for HR's territory," warns Bolton. "CFOs are owning analytics and CIOs are owning total workforce learning and the insights agenda. HR leaders need to act now, or they will be reduced to transactional and administrative tasks" (Bolton et al. 2016).

Taking into consideration this statement, Data and analytics capabilities are critical to shaping and intelligently managing the workforce of the future. Forward-looking businesses are already exploiting data's unprecedented capability to dramatically improve decision-making and predict behaviours and outcomes.

The transition to the sphere of digitalization and the use of the digital format from the position of administrative and legal regulation in the management of personnel of the organizations involves certain requirements applied in legal relations between all its participants-subjects. Trends of digitization show that it is possible to apply new ways of selecting candidates. The leading technologies in this area are headhunting and electronic recruitment. Headhunting is presented as a direct search for candidates for key positions of middle and senior managers. Electronic recruitment offers a system of recruitment using Internet resources and automation of all stages of work with candidates for the position.

## 4. Conclusions

Overall, it becomes clear that the digital transformation really covers the entire world space. According to the data presented in the study, digitalization has permeated all of our daily lives, from administrative and legal regulation within the framework of organizations to the needs of an individual, which means that it has covered all areas of life. This direction has already been formed and has a prospect in the future. A special area of application in this context is such a direction as recruitment and the possibility of its digitalization.

According to KPMG research in 2018, two-thirds of surveyed organizations believe that the functions of HR professionals have already changed or are changing in the current period under the influence of global digitalization. At the same time, as shown by the KPMG group of experts, 49% of HR specialists invested in IT products for human capital management, and 32%-in various cloud solutions.

In General, our results confirm that the importance of digitalization for the system of administrative and legal regulation in the personnel management of organizations, as well as the advantages and emerging risks in the use of digital technologies require the adaptation of existing legal norms and the development of new ones.

Automation of personnel selection significantly reduces the time for searching them makes it possible to store and manage data, structure and quickly find them. According to the viability of the technologies used, there are two types, while the first of them solves a tactical problem, for example, the use of systems for automating hiring, the next ones can work in the long term and predict market needs that may be in the near future.

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