

## Features Personal Constitutional and Legal Responsibility of the Russian Government Officials

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### Abstract

This paper deals with one of the key concepts – that components of the constitutional and legal responsibility – the personal responsibility of government officials. The author considers domestic and foreign research on the content of the concept of personal responsibility. On the basis of their analysis, on the example of the legislation of the Russian Federation, the author reveals some features of personal responsibility of officials of the Government of the Russian Federation, analyzes the problem aspects of its legal regulation and implementation. The author touches on the problems associated with the absence of a specific legal mechanism for the implementation of constitutional and legal responsibility between the Government of the Russian Federation and the Federal Assembly, as a result of which there are no clear levers of influence on officials of the Government of the Russian Federation. The author believes that the President of the Russian Federation has a leading position regarding the personal responsibility of officials of the Government of the Russian Federation, thereby accentuating his dominant position in the sphere of influence on the executive branch. The author formulates the conclusion that the personal constitutional and legal responsibility of officials of the Government of the Russian Federation is a sufficiently large, but little understood concept that does not have sufficient legislative regulation that allows them to perform their duties in a clear manner.

**Keywords:** President of the Russian federation; Government of the Russian federation; Constitutional and legal responsibility; Resignation; Officials.



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### 1. Introduction

In the Russian Federation, as well as in foreign countries, the practical value and theoretical relevance of the legal institution of personal constitutional and legal responsibility of government officials is becoming increasingly important, given that in today's conditions for the formation of the rule of law, substantial and complex requirements are imposed on the management mechanism. In the rule-of-law state, each official and each management body must well perform their functions and powers for the effective functioning of the entire system of state power. To ensure it, officials should bear personal responsibility for the performed activities before the higher bodies and before the branches of the representative and judicial state power. However, the absence of specific legislative consolidation of personal responsibility, as well as its legal mechanism ensuring effective implementation of the constitutional and legal duties of government officials, can lead to ambiguity and declarative compliance with the Constitution and laws. The relevance of the personal responsibility of officials also follows from the requirements for legislative acts that determine their legal status. To investigate this issue, we should turn to some of the fundamentals of constitutional and legal responsibility and the peculiarities of the status of officials of the Government of the Russian Federation. It seems necessary to clarify the legal nature of the measures of influence applied personally to ministers subject to constitutional rules of law. For complete and objective research, it seems possible to use the experience of foreign researchers regarding the personal constitutional and legal responsibility of officials of the executive branch and its constitutional and legal implementation mechanisms.

### 2. Methods

The methodological basis of the research is represented by a system of general and private scientific methods of cognition, which ensured the most objective examination of the subject of research from the standpoint of its internal logic. The use of dialectical, historical, sociological, system-structural method allowed us to analyze and generalize the theory of personal responsibility, and then build the author's concept of personal constitutional and legal responsibility of government officials.

The theoretical-prognostic and legal modeling and the comparative legal plan were widely used as private legal methods. They helped compare different points of view regarding personal responsibility and allowed us to analyze the legislative norms of both the Russian Federation and foreign states in this area.

In the course of research on various aspects of this study, general scientific methods of cognition, such as deduction and induction, were used that contributed to the creation of an optimal research concept; analysis and synthesis, which made it possible to investigate the nature and structure of personal responsibility of government officials in a comprehensive and integrated manner. At the same time it was guided by the requirements of the principles of unity in historical and logical knowledge of the essence and system of state power.

### 3. Results and Discussions

The global constitutional-legal practice includes the concepts of "collective (collegial) responsibility" of the government and "personal (individual) responsibility" of its official. The question of the collective (collegial) responsibility of the government requires an independent investigation, we note only that in the case of collective responsibility, the government that has allowed a significant omission or miscalculation in its work must resign in full force. Each member of the group of authorized persons (board), in carrying out the activities of the government, must bear personal responsibility for a certain field of activity. Thus, along with collective responsibility, each official should bear personal responsibility for the state of affairs in his/her department. If there is a significant flaw in his/her work, the official, as a rule, should retire (Gafurov, 2018).

The personal responsibility of officials is the cornerstone of research on constitutional and legal responsibility. In terms of research problems, there are a number of domestic and foreign works, which reveal the main aspects of personal responsibility of officials. We shall begin considering the domestic legal literature. M.V. Baglai argues that each government official is assigned individual responsibility for both his activities and the state of affairs in the department, and, in the event of serious shortcomings in the course of work, gives grounds for the resignation of the minister (Baglai, 2015). A.V. Krysanov represents personal constitutional and legal responsibility by its implementation in the form of the resignation of each individual member of the Government (Krysanov, 2014). A.V. Nazarov believes that personal responsibility is based on the fact that a real administrative process involves not systems, organizational structures or their links, but specific people (Nazarov, 1998).

Foreign practice of constitutional and legal responsibility also disclose certain aspects of personal responsibility. The English scientist Michael Dougherty believes that the concept of responsibility of ministers as a whole can be divided into individual and collective. Collective responsibility implies the fact that if the government does not have the proper support of the parliament, then it should resign. However, at the moment, the concept is more accepted based supposing the practice of government unanimity: ministers should not publicly disagree with the government line. If any minister does not share responsibility for government policy, then he/she must resign (Doherty, 1988). John McGarry notes that ministers are individually accountable to Parliament and the public for their conduct, for the actions of their departments and for their civil servants (McGarry, 2014). According to Joyce Peter, the personal responsibility of the government is attributed to the relations between the individual minister and the legislature. Legislators have the right to seek the resignation of the minister if he/she has been found to do mistakes and/or have deficiencies in his/her activity, or errors and/or shortcomings have been discovered in government employees acting on his behalf (Joyce, 2002). A similar point of view is expressed by Nick Howard, arguing that the convention on personal responsibility of ministers arose to ensure that the elected ministers of the Government were accountable to the parliament for the actions of their departments, which in turn are staffed by public servants not elected by the parliament (Howard, 2013). Barbara Peich, setting forth cases of the responsibility of ministers in Australia, suggests such a classification of the bases for personal responsibility of ministers: first, "ministerial acts", which include improper performance of duties, including abuse of ministerial powers; secondly, "ministerial quality", that is, politico-legal mistakes of ministers; thirdly, "private quality", implying violations by ministers of moral and ethical norms, personal discrepancy of the dismissed person with a title of minister (Page, 1990).

Thus, we can state that there is a conceptual unity in the views of Russian and foreign scholars regarding the content of the concept of personal responsibility of officials. The opinions of the theorists also agree that the personal responsibility of government officials is in unison with the collective responsibility of the entire government. However, the differences in the legal systems of states stipulate certain features of personal responsibility. Thus, in the parliamentary republics and monarchies, the head of state has rather limited rights to decide independently on the future of the government; in this regard, the parliament has more extensive opportunities. But in the presidential republics, government officials are primarily accountable to the president, who heads the executive branch. Therefore, it is assumed that the most optimal vision of the personal responsibility of government officials as a set of duties of an official for the optimal conduct of business in his/her field of activity, whose performance officially assessed by a competent state body authorized to do so. With a negative evaluation, a specific official will be adversely affected. The main conditions for the implementation of the personal responsibility of the official will be the establishment of a clear organizational structure, the detailed development of provisions on its individual links, the determination of proportional rights and duties of managers and executors, clarifying the interconnections and relationships between them, ultimately establishing and clearly distributing the nature and types of responsibility of each official, as well as the mechanism for its implementation.

In Russia, to address the issue of the relation of personal constitutional and legal responsibility to officials of the Government of the Russian Federation, it is necessary to turn to the basics of their constitutional and legal status. Thus, Article 110 of the Constitution of the Russian Federation confirms the composition of the Government of the Russian Federation: Deputy Prime Minister of the Russian Federation and federal ministers, while leaving their number undefined. Nevertheless, at present the Government of the Russian Federation is represented in the composition of the Chairman of the Government of the Russian Federation, ten of his deputies, and twenty-two federal ministers.

Each official of the Government of the Russian Federation has the powers set in law in the spheres entrusted thereto. Thus, the Chairman of the Government of the Russian Federation heads the Government of the Russian Federation. Its functions include: determining the main lines of business and organizing the activity of the Government; signing of acts of the Government of the Russian Federation; systematically notify the President of the Russian Federation of the work of the Government of the Russian Federation, etc. Deputy Prime Ministers of the

Russian Federation carry out activities to coordinate the work of federal executive bodies, charge them with various tasks, etc. The federal ministers are entitled to participate in the development and implementation of the general policy of the Government of the Russian Federation, supervise the subordinate federal ministries, coordinate and manage the activities of subordinate federal executive bodies (agencies, services).

These powers are an integral part of the constitutional and legal status of officials of the Government of the Russian Federation. In case of failure to perform or improper performance of the relevant powers by any official, any chamber of the Federal Assembly can initiate an issue concerning his/her removal from office. Thus, we can see the personal responsibility of each official of the Government of the Russian Federation for his/her activities and for the state of affairs under his/her jurisdiction. The personal constitutional and legal responsibility of officials of the Government of the Russian Federation is one of the elements of relations with the legislative body, which by means of applying measures of responsibility to officials can neutralize "improper" behavior and possible consequences by exercising constitutional powers. Thus, the resignation of an official of the Government of the Russian Federation may occur as a result of mistakes or shortcomings noted by the Parliament in the activities of both the official himself and the civil servants acting on his/her behalf.

The Federal Law "On Parliamentary Control" indicates some forms of control over the activities of officials of the Government of the Russian Federation, which are carried out by the chambers of the Federal Assembly. They can apply to the President of the Russian Federation with proposals for the resignation of an official of the Government of the Russian Federation in view of his unsatisfactory nature of activities. However, as practice shows, the chambers of the Federal Assembly have a rather weak position in terms of independent decision-making regarding officials of the Government of the Russian Federation, their appeals are recommendatory and informative. We should agree with A.V. Bezrukov's statement that the President of the Russian Federation has quite extensive powers in the system of separation of powers, which indicates a distortion in the system of checks and balances and does not allow establishing the necessary balance of powers between legislative and executive bodies (Bezrukov, 2013). On the basis of Article 15 of the Federal Law "On Parliamentary Control", the chambers of the Federal Assembly have the right to appeal to the President of the Russian Federation with a proposal either to dismiss members of the Government of the Russian Federation whose activities were unsatisfactory, or to make representations about their removal from office. However, Article 7 of the Federal Constitutional Law "On the Government of the Russian Federation" sets an exhaustive list of grounds for the resignation of the Chairman of the Government of the Russian Federation and establishes his release from office by the President of the Russian Federation: first, in cases of a request by the Prime Minister of the Russian Federation to resign their powers. It is believed that this list does not have grounds for dismissal of the Chairman of the Government of the Russian Federation, for which the President of the Russian Federation could apply the proposal of the chambers of the Federal Assembly. Hence it follows that the legislation does not have individual measures of constitutional and legal responsibility between the chambers of the Federal Assembly and the Chairman of the Government of the Russian Federation: the main decision is taken by the President of the Russian Federation. In case of initiation by the chambers of the Federal Assembly of the procedure for the resignation of other officials of the Government of the Russian Federation, the President of the Russian Federation may also disagree with their opinion and leave these officials in the current composition of the Government of the Russian Federation. Moreover, according to Art. 83 of the Constitution of the Russian Federation, dismissal of Deputy Prime Ministers of the

Russian Federation and federal ministers is possible based on the proposal of the Chairman of the Government of the Russian Federation. At the same time, the Minister of Foreign Affairs, the "power" ministers, as well as some heads of agencies and services, are accountable directly to the President of the Russian Federation and, accordingly, are responsible precisely to him. The rest of the ministers are also responsible to the President of the Russian Federation, although their activities are managed by the Chairman of the Government of the Russian Federation. Thus, the President of the Russian Federation also has the leading role in the appointment, replacement and dismissal of the Deputy Prime Minister and the federal ministers.

#### 4. Summary

1. The theory of constitutional and legal responsibility needs a more accurate and correct understanding of the category of personal constitutional and legal responsibility. Legislative improvement of its regulation is a necessary step for the process of legal registration of constitutional and legal responsibility as a full-fledged type of legal responsibility in the Russian Federation.

2. As foreign experience shows, the consolidation of personal responsibility of government officials is a combination of measures taken by the relevant authorities for a set of committed actions related to the unfair implementation of the functions of public administration. Officials of foreign governments are responsible under a special procedure, determined by constitutional norms and to special bodies. It may happen that in Russian reality, the basis for the responsibility of officials is not only the commission of offenses, but also the improper exercise of authority, making of mistakes and omissions in the process of exercising the functions of state administration.

3. In the Russian Federation, the President of the Russian Federation and the chambers of the Federal Assembly may influence the officials of the Government of the Russian Federation. The personal constitutional and legal responsibility of officials of the Government of the

Russian Federation is thus mediated by the mechanism of parliamentary control. However, the President of the Russian Federation has unconditional powers in terms of implementing a set of measures of constitutional and legal responsibility against officials of the Government of the Russian Federation. The chambers of the Federal Assembly

do not have a sufficient position that would allow them to independently decide on the resignation of an official of the Government of the Russian Federation.

It would be more accurate to determine a specific number of grounds for personal responsibility of officials of the Government of the Russian Federation that do not go beyond the boundaries of violations of the Constitution of the Russian Federation, federal laws and other regulatory acts. These reasons should have no additional vague and subjective conditions that may entail their abuse by the authorities.

## 5. Conclusions

The lack of a precise outline of the management functions, tasks and powers of officials, as well as the mechanism for implementing personal constitutional and legal responsibility, is a traditional drawback of the legislative acts of the Russian Federation regulating the status of officials. In the Russian legal system, registration of personal constitutional and legal responsibility of officials of the Government of the Russian Federation, and ordering of its application needs legislative improvement. Thus, the legislative consolidation of the personal responsibility of each official of the Government of the Russian Federation for breach of the Constitution of the Russian Federation, laws and judicial decisions is seen as an actual and necessary step in its legal ordering and implementation.

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