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**Control over the implementation of the powers of the Russian Federation
transferred to the government bodies of the subjects of the
Russian Federation: administrative and legal aspect**

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5.1.2. Public Law (State Law) Sciences

GENERAL DESCRIPTION OF WORK

Relevance of the research topic. Various transformations in public administration, which include such aspects as the formation of a unified system of public authority based on constitutional amendments since 2020, the introduction of new principles for the functioning of public authorities, which represent a unified system, have determined the importance and relevance of scientific research on the issues of transferring powers of the Russian Federation to state authorities of the constituent entities of the Russian Federation and, above all, control over their implementation.

According to statistics from the Ministry of Justice of the Russian Federation, there is an annual increase in the number of powers transferred by federal executive bodies to the constituent entities of the Russian Federation. In addition, in recent years, there has been an increasing role of control over the implementation of powers of the Russian Federation transferred to state authorities of the constituent entities of the Russian Federation. The above changes are also recorded in the information and analytical materials of the Council of Legislators of the Russian Federation under the Federal Assembly of the Russian Federation concerning the implementation of the Federal Law of December 21, 2021 No. 414-FZ "On General Principles of Organizing Public Authority in the Subjects of the Russian Federation" (hereinafter referred to as the Federal Law "On General Principles of Organizing Public Authority"), as well as the Commission of the Council of Legislators on Interbudgetary Relations and Tax Legislation.

The analysis of information on the financial support of certain state powers of the Russian Federation transferred to state authorities of the constituent entities of the Russian Federation, carried out within the framework of this study, indicates an increase in the number of problems facing regions in their implementation, in particular related to the problems of a lack of financial resources caused by imperfections in the methodology for calculating subventions. As a result of the emergence of such systemic problems, the quality of the implementation of delegated powers drops significantly, which is associated with a lack of financial resources. This trend further leads to the need to apply jurisdictional proceedings and an increase in the number of court cases challenging the

results of control measures. Control over the implementation of delegated powers is not only a means of ensuring the principles of legality and expediency, but also a mechanism of public administration aimed at the internal development of economic systems of individual regions of the Russian Federation. The Strategy for Spatial Development of the Russian Federation for the period up to 2025 defines as the main goal ensuring sustainable and balanced spatial development of the Russian Federation aimed at reducing interregional differences in the standard and quality of life of the population, accelerating the pace of economic growth.

In order to implement additional measures in the field of clarifying the powers of federal executive bodies, state authorities of the constituent entities of the Russian Federation and local governments, ensuring the effectiveness of control over the implementation of the powers of the Russian Federation transferred to state authorities of the constituent entities of the Russian Federation, as well as improving financial support, it is envisaged to develop in accordance with the Decree of the President of the Russian Federation dated May 7, 2024 No. 309 (clause 9, subparagraph c).

At the same time, control over the implementation of delegated powers is the key to their high-quality and effective implementation, since it ensures the achievement of established indicators in a particular area of society, depending on the nature of the delegated power.

The need to develop and improve control over the implementation of the powers of the Russian Federation transferred to the state authorities of the subjects of the Russian Federation is directly due to the need to significantly increase the efficiency of public administration, including the quality of decisions taken, overcoming negative manifestations in various spheres of life, as well as the desire to guarantee socially significant needs of society and ensure the legitimate interests of our citizens.

The above changes and facts indicate that today there is a need for a scientific study of the problem of control over the implementation of the powers of the Russian Federation transferred to the state authorities of the subjects of the Russian Federation, both in administrative and legal aspects.

The degree of development of the research topic. To date, there are no comprehensive developments and scientific studies of theoretical problems related to control and legal regulation of the process of transferring powers to state authorities of the constituent entities of the Russian Federation. Also, the features of the object, subject, means and methods of control over the implementation of transferred powers have not been studied. Within the framework of this dissertation research, a comprehensive work was carried out to study and develop these issues, on the basis of which practical solutions are presented and directions for improving the legislation on this issue are determined.

The issues of control over the implementation of transferred powers have not yet found a comprehensive reflection in the dissertations of Russian scientists. Individual aspects of the transfer of powers were studied in the dissertation work of E.M. Andreeva on the topic "Financial and legal foundations for mutual delegation of powers of public authorities in the Russian Federation". Scientific articles have examined individual issues of delimitation and transfer of powers in the system of power relations (E.V. Gritsenko, V.A. Cherepanov), the limits of delegation of rule-making powers (I.A. Krivykh), and issues of distribution of competence between the Russian Federation and its subjects (A.V. Chaplinsky, A.A. Merkulenko).

However, the innovations of the Federal Law "The General Principles of Organization of Public Authority in the Subjects of the Russian Federation" necessitate establishing the administrative and legal characteristics of the institution of control over the implementation of the powers of the Russian Federation transferred to the subjects of the Russian Federation, in connection with which it is necessary to update the previously developed theoretical provisions devoted to the institution of control over the implementation of the powers of the Russian Federation transferred to the state authorities of the subjects of the Russian Federation.

The study of the problems of transfer of powers, delimitation of the subjects of jurisdiction of the Russian Federation and its subjects is constantly in the spotlight, for example, in scientific works: S.A. Avakyan, M.V. Baglai, N.S. Bondar, T.M. Byalkina, M. V. Gligich-Zolotareva, M.F. Kazantsev, G.N. Komkova, I.A. Konyukhova (Umnova),

B.S. Krylov, M.A. Lipchanskaya, V.N. Lysenko, S.V. Naruto, S.A. Osipyan, M.S. Salikov, S.M. Shakhrai, B.S. Ebzeev, T.Ya. Khabrieva, V.E. Chirkin, and other scientists.

In the framework of our study, the dissertation work presented by R.M. Erzin is of particular importance, which presents a scientific development and substantiation of the problematic concerning the constitutional aspects of the process of transferring powers of the Russian Federation to an interstate association.

The financial and legal foundations of mutual delegation of powers of public authorities in the Russian Federation were studied in the doctoral dissertation of E.M. Andreeva. The issues of delegation of powers in the sphere of interaction of state authorities and local self-government in the Russian Federation were studied in the candidate dissertation of N.V. Kuznetsova. A significant contribution to the study of theoretical problems of control was made by: S.S. Alekseev, G.V. Atamanchuk, I.L. Bachilo, D.N. Bakhrakh, V.M. Goshenev, M.I. Eropkin, E.A. Makshtakova, V.M. Gorshenev, A.B. Zelentsov, S.M. Zyryanov, A.P. Korenev, B.M. Lazarev, V.I. Mayorov, A.V. Martynov, F.S. Razarev, B.V. Rossinsky, N.G. Salishcheva, Yu.N. Starilov, A.S. Starostin, M.S. Studenikina, A.M. Tarasov, Yu.A. Tikhomirov, I.B. Shakhov, A.P. Shergin, E.V. Shorina, V.A. Yusupov, Ts.A. Yampolskaya, and others. The absence of individual scientific studies on issues of control over the implementation of powers of the Russian Federation transferred to state authorities of the constituent entities of the Russian Federation indicates an insufficient degree of scientific development of the topic of our research.

The object of the study is public relations that develop in the process of implementing the activities of government bodies and their officials in connection with the exercise of control over the powers of the Russian Federation transferred to government bodies of the constituent entities of the Russian Federation.

The subject of the research is the theoretical provisions related to the concept and features of control over the implementation of powers of the Russian Federation transferred to state authorities of the constituent entities of the Russian Federation, the regulatory framework, as well as law enforcement practice of control over the execution of transferred powers.

The purpose of this dissertation is to develop theoretical provisions and deepen scientific knowledge about control over the implementation of delegated powers, to determine the content of this type of control, its structural elements, to identify the state and shortcomings of law enforcement practice of control over the implementation of delegated powers and to propose ways to improve the relevant legislation and the practice of its application.

To achieve the stated goals, the following tasks are solved in the dissertation:

- determine the formation of institutions for the transfer of powers of the Russian Federation to the subjects of the Russian Federation and control over their implementation;
- establish the content of the concept of the transfer of powers of the Russian Federation to state authorities of the subjects of the Russian Federation and control over their implementation;
- identify the features of the content of control over the implementation of powers of the Russian Federation transferred to state authorities of the subjects of the Russian Federation;
- determine the mechanisms for control over the implementation of powers of the Russian Federation transferred to the subjects of the Russian Federation and their relationship;
- study the elimination of identified violations in the mechanism for control over the implementation of powers of the Russian Federation transferred to state authorities of the subjects of the Russian Federation;
- define responsibility as an element of control over the implementation of powers of the Russian Federation transferred to the subjects of the Russian Federation.

Methodology and methods of research. To study the problems of the legal basis for control over the implementation of transferred powers and mechanisms for the transfer of powers, the method of dialectical analysis was used, which made it possible to identify the legal essence of the subject of control. In order to form the appropriate definitions and substantiate the various definitions proposed in this study, to determine the legal basis for

exercising control during the transfer of powers, specific scientific methods were used, such as methods of formal logic and legal and technical analysis.

Among the special legal methodology used in the work, we especially note the formal legal and historical legal methods:

– the formal legal method made it possible to study the elements of control over the implementation of delegated powers, which have a number of features and specific principles characteristic only of this type of control, manifested in the presence of special goals, subject, object, subjects of control and their competence, methods, means and forms of its implementation;

– the historical legal method was used in studying the formation of institutions for the transfer (delegation) of powers and the experience of control over their implementation.

The theoretical basis of the dissertation research were the works of the following scientists: S.A. Avakyana, S.S. Alekseeva, E.M. Andreeva, G.V. Atamanchuk, V.G. Afanasyeva, M.V. Baglaya, I.L. Bachilo, D.N. Bakhrakha, V.P. Belyaeva, N.S. Bondar, T.M. Byalkina, V.V. Veremeenko, E.K. Glushko, M.V. Gligich-Zolotareva, O.V. Grechkina, V.M. Gorsheneva, M.I. Eropkina, S.M. Zubareva, S.M. Zyryanova, N.A. Ignatyuk, A.P. Isaeva, M.F. Kazantseva, M.N. Kobzar-Frolova, Yu.M. Kozlova, G.N. Komkova, N.M. Konina, I.A. Konyukhova, A.P. Koreneva, E.A. Kocherina, M.A. Krasnova, B.M. Lazareva, M.A. Lipchanskaya, A.E. Luneva, V.I. Mayorova, A.V. Martynova, I.V. Mikheeva, S.V. Narutto, S.A. Osipyanyan, L.L. Popova, N.A. Povetkina, F.S. Razarenova, B.V. Rossinsky, N.G. Salishcheva, Yu.N. Starilova, A.S. Starostina, M.S. Studenikina, A.M. Tarasova, Yu.A. Tikhomirova, V.P. Umanskoy, T.Ya. Khabrieva, A.V. Chaplinsky, V.E. Chirkina, I.B. Shakhova, A.P. Shergina, E.V. Shorina, V.A. Yusupova, Ts.A. Yampolskaya and others.

The empirical basis of the dissertation research is:

- reports, materials and statistical data of the Ministry of Justice of the Russian Federation on the issues of transfer of powers to state authorities of the constituent entities of the Russian Federation;

- materials of parliamentary hearings, in particular, "Results of control (supervisory) activities in the Russian Federation for 2023" (jointly with the Federation Council Commission for monitoring the legislation of the Russian Federation in the field of state control (supervision) and municipal control in the Russian Federation), as well as round tables and other events of the Federal Assembly of the Russian Federation;

- information and analytical materials of the Council of Legislators of the Russian Federation under the Federal Assembly of the Russian Federation, as well as reports, accounts and letters received by the Federation Council Committee on Constitutional Legislation and State Building from federal government bodies and government bodies of the constituent entities of the Russian Federation with information on the progress of implementation of Federal Law No. 414-FZ of December 21, 2021 "On General Principles of Organization of Public Authority in the Constituent Entities of the Russian Federation" (including in terms of the practice of executing transferred powers and monitoring their implementation);

- materials of meetings and reports of the Chamber of Young Legislators under the Federation Council of the Federal Assembly of the Russian Federation;

- the practice of the Supreme Court of the Russian Federation and the abolished Supreme Arbitration Court of the Russian Federation on issues of control over budget expenditures and challenging the results of control over the exercise of transferred powers and instructions in the field of spending inter-budget transfers;

- responses to inquiries to government bodies of the Russian Federation.

Scientific novelty is due to the first comprehensive study aimed at developing the theoretical foundations of the legal nature and features of the implementation of control over the implementation of powers of the Russian Federation transferred to state authorities of the constituent entities of the Russian Federation. The study was conducted during the reform of the public authority system and the formation of the practice of control over the implementation of transferred powers, in connection with which the dissertation is aimed at developing scientific knowledge about the specific features of the goals, subject, object, subjects of control and their competence, methods, means and forms of its implementation, the mechanism for the withdrawal of transferred powers, etc.

As a result of the conducted research, the following new provisions or provisions containing elements of novelty are submitted for defense:

1. The specifics of legal relations arising in the exercise of powers of the Russian Federation transferred to state authorities of the subjects of the Russian Federation determine the specifics of state control over their implementation. Due to the fact that within the framework of these legal relations, powers of authority are exercised in the area of delimitation of the subjects of jurisdiction of the Russian Federation and its subjects, control over the execution of transferred powers is carried out using special methods and means. Thus, control over the exercise of transferred powers not only ensures legality, but also protects the public interests of society, guaranteed by the Constitution of the Russian Federation, and the interests of the state as a whole.

2. Historical and legal research of such methods of delegation of powers as: “delineation of subjects of jurisdiction and powers”, “redistribution of powers”, “granting of powers”, “assignment of powers”, “transfer of powers”, “transfer of the exercise of powers” and “transfer of the exercise of part of powers” indicates that over time, the contractual nature of legal relations on the transfer of powers, based on the principles of equality of the parties and freedom to conclude a contract, was transformed and has now acquired a managerial character based on the principles of subordination, which influenced the development and establishment of control over the transferred powers, as part of the management process.

3. The content of control over the implementation of the powers of the Russian Federation transferred to the state authorities of the constituent entities of the Russian Federation, its objectives, subject, forms, methods and means depend on the form and legal grounds for the transfer of powers of the Russian Federation to the constituent entities of the Russian Federation, since they are the basis for determining such important and integral elements of the mechanism for the transfer of powers as the content of the powers transferred, the subjects of their implementation, the term, sources of financing the transferred powers, responsibility, etc.

4. Control over the implementation of the transferred powers has a comprehensive, intersectoral nature, since its legal basis is formed by constitutional, legal, administrative

and financial norms, as well as norms of other branches of legislation regulating various areas in which the powers of the Russian Federation are subject to transfer to the constituent entities of the Russian Federation. This type of control has a number of features manifested in the presence of special goals, subject, object, subjects of control and their competence, methods, means and forms of its implementation. In addition, unlike other types of control activities, control over the implementation of the transferred powers can only be current. Preliminary and subsequent control are not applicable. The presented features of control over the implementation of powers of the Russian Federation transferred to state authorities of the constituent entities of the Russian Federation allow us to distinguish it as an independent type that differs from other types of control.

5. Analysis of law enforcement practice shows that the subject of control over the implementation of transferred powers is not only compliance with the law and expediency, but also issues of quality and efficiency of the implementation of transferred powers. Control over the implementation of transferred powers is aimed at identifying specific practical results of state authorities of the constituent entities of the Russian Federation. In this regard, the need for control over not only the law enforcement and administrative-economic activities of state authorities of the constituent entities of the Russian Federation in the implementation of transferred powers is shown, but also the implementation of an assessment of the degree of achievement of the goals set when transferring a particular power, the means and methods for achieving them, economic efficiency and validity is assessed.

6. Control over the quality and efficiency of the implementation of transferred powers should be based on principles common to this institution. A classification of principles of control over the implementation of transferred powers is proposed. Internal principles are designed to ensure legal regulation of control activities on a uniform basis, as well as to ensure the effectiveness of control activities of federal executive bodies (for example, such principles as: effectiveness, organization, consistency). External principles of control over the implementation of transferred powers are designed to ensure their effective and high-quality implementation by executive bodies of the constituent entities of the Russian Federation (for example, such principles as: security of execution of

powers; coordination of the activities of government bodies; financial security of the transferred power; methodological support; achievability of planned results, etc.).

7. The mechanism for monitoring the implementation of delegated powers, along with such elements as control entities, forms, methods and means of control, includes a set of measures aimed at eliminating the identified violations. It has been proven that the withdrawal of delegated powers is not a punitive measure, but is a way to ensure the execution of state functions when delegating powers to implement them to constituent entities of the Russian Federation.

8. Constitutional-legal, administrative, budgetary-legal, disciplinary and other types of liability are applied to legal relations on the implementation of delegated powers as a complex, intersectoral institution. Further directions for improving the legislation on administrative responsibility in this area are proposed, a proposal is substantiated to amend the Code of Administrative Offenses of the Russian Federation, establishing: subjects of jurisdiction, the composition of administrative offenses, as well as administrative responsibility of officials of state authorities of constituent entities of the Russian Federation, and the criteria for improper implementation of delegated power.

The theoretical and practical significance of the study is that the conclusions and theoretical provisions formulated within the framework of this study contribute to the development of the theory of control over the implementation of powers of the Russian Federation transferred to state authorities of the subjects of the Russian Federation, develop existing scientific approaches to the issues of transfer, delimitation and redistribution of powers of the Russian Federation and its subjects. The results of the study complement the basic general theoretical ideas about the content of control over the implementation of transferred powers, the features of its subject, forms and methods of implementation.

The results presented within the framework of this work are of scientific value, since they can be applied for the purpose of improving and clarifying the conceptual apparatus in the field of public law and the functioning of individual state institutions. As a result of the conducted scientific research, a sufficient theoretical basis was presented for clarifying the legal regulation and practical justification of control over the

implementation of the powers of the Russian Federation transferred to the state authorities of the constituent entities of the Russian Federation, including in terms of the need to exercise control over both law enforcement and administrative and economic activities of state authorities of the constituent entities of the Russian Federation, and assessing the degree of achievement of the goals set when transferring a particular power, the means and methods of achieving them, economic efficiency and validity.

The obtained practical conclusions can be used to improve the current legal regulation of control over the implementation of transferred powers, as well as to form further directions of federal policy, improve the efficiency and quality of the implementation of transferred powers.

The theoretical results presented in the study can be used to improve administrative law, as well as in teaching practice in the framework of the implementation of higher education programs and advanced training courses.

Approbation of the research results. The achievements of this study have previously been published in various scientific publications (list D of the List of HSE Journals, as well as publications recommended by the Higher Attestation Commission of the Russian Federation).

The author of the dissertation took part in the following scientific and practical events, within the framework of which the achievements of this study were discussed:

April 23, 2020, HSE, II All-Russian scientific and practical conference "New Milestones in the Development of Administrative and Administrative-Procedural Law", a report was presented on the topic "Control over the efficiency and quality of execution of powers transferred to state authorities of the constituent entities of the Russian Federation";

May 20, 2022, Federation Council of the Federal Assembly of the Russian Federation, seminar-meeting "Prospects for the implementation of electronic proceedings in cases of administrative offenses", a report on the topic "Digitalization of proceedings in cases of administrative offenses in the sphere of execution of powers of the Russian Federation transferred to state authorities of the constituent entities of the Russian Federation";

June 06, 2023, Federal State Budgetary Educational Institution of Higher Education "Mari State University", All-Russian scientific and practical conference "Constitutional reform of public authority: theory and practice", report on the topic "Constitutional and legal aspects of interaction in a single system of public authority". The materials of the dissertation research were reflected in scientific publications, speeches at scientific and practical conferences organized by the Federation Council of the Federal Assembly of the Russian Federation and legislative assemblies of the constituent entities of the Russian Federation.

The structure of the work reflects the logic of the research. The dissertation consists of an introduction, two chapters consisting of six paragraphs, a conclusion, a list of used regulatory legal sources and a list of literature.

CONTENT OF THE DISSERTATION

The introduction substantiates the relevance of the topic, emphasizes its insufficient scientific development, defines the object, subject, purpose and objectives of the study, its theoretical and methodological basis, provides the main provisions submitted for defense, indicates the theoretical, normative and empirical foundations of the study, the significance of the research results, lists information about testing the research results.

The first chapter, "Theoretical and legal foundations of control over the implementation of the powers of the Russian Federation transferred to government bodies of the constituent entities of the Russian Federation," includes three paragraphs that examine the process of formation and features of the institutions for the transfer of powers of the Russian Federation to the constituent entities of the Russian Federation, establishes the essence, concept, goals and principles of various institutions of transfer of powers, and also examines the legal regulation of control over the implementation of transferred powers, its imperfections and possible ways to eliminate them.

In the first paragraph of the first chapter "Establishment of institutions for the transfer of powers of the Russian Federation to the constituent entities of the Russian Federation and control over their implementation," the author substantiates the existence

of various institutions for the transfer (delegation) of powers: “transfer of powers”, “delegation of powers”, “granting of powers”, “assignment of powers” ", "redistribution of powers" and "transfer of exercise of powers". The author concluded that the transfer of powers is complex, intersectoral in nature, the composition of which is formed by constitutional and legal norms, norms of administrative, budgetary law, as well as norms of sectoral legislation.

The status of the legal institution of such phenomena as the transfer of powers and control over their implementation is confirmed through the historical reconstruction of their formation and development (not only chronologically, but also substantively). This approach made it possible to establish the vector of development of these institutions: from the redistribution of powers between the Russian Federation and its constituent entities through federal agreements, to their modern form established by the Federal Law “On the General Principles of the Organization of Public Power,” which was formed under the influence of the sectoral principle of delegation of powers.

By analyzing the agreements concluded between the federal executive authorities and the constituent entities of the Russian Federation, the sectoral nature of the transfer of powers has been proven. It is concluded that as a result of the application of the sectoral principle of transfer of powers, legal relations regarding the transfer of powers acquired the character of power relations. Thus, the institution of transfer of powers has become a full-fledged management process, which is confirmed by the identified patterns that are characteristic of any management process, also characteristic of the transfer of powers.

These conclusions made it possible to substantiate the thesis that the subject of the authority has a certain degree of discretion when transferring its implementation to the executor. This discretion is expressed in two components of the transfer of authority: territorial and temporary. The subject of the power is inactive in a certain territory, since the power is exercised by another executor, and is confirmed by the right of the federal executive authority to initiate the transfer of the exercise of power (the only acts of expression of will of the subjects of the Russian Federation in the field of transfer of powers can be called only a preliminary response to the draft normative legal act regulating the transfer of powers, as well as a motivated an appeal by a senior official for

the withdrawal of transferred powers), as well as withdrawal of transferred powers, which is applied as a result of control over the implementation of transferred powers (in this case, in case of their improper execution or non-execution).

In the second paragraph of the first chapter, “The concept of transferring the powers of the Russian Federation to government bodies of the constituent entities of the Russian Federation and control over their implementation” the features of various institutions for the transfer of powers are defined, and also the integral elements of the mechanisms for the transfer of powers are established: the content of the legal relationship, subjects of legal relations; transfer period; form of transfer of powers, financing of transfer of powers.

Such institutions as “transfer of powers”, “delegation of powers”, “granting of powers”, “assignment of powers”, “redistribution of powers” and “transfer of the exercise of powers” have a diverse legal nature, in accordance with the nature of which one or another type of control is determined.

Depending on the legal essence of an institution, the object of control, its subject and the corresponding mechanisms are determined, and therefore it is necessary to distinguish between these terms, however, a unified approach to the differentiation of these institutions has not been formed in the scientific literature.

The method for differentiating the above institutions of transfer of powers lies in identifying their legal nature and the constitutional or administrative nature of the corresponding legal relationship. Thus, the differentiation of these methods of transfer of authority is possible: by content, by recipient, by duration (indefinitely, urgently, temporarily) and by the form of transfer.

The terms “empowerment” and “imposition of powers” provide for their connection with the primary source of rights and obligations for the execution of these powers (a clear illustration of this thesis is the formation of a new federal government body), and therefore relate to constitutional legal institutions and have corresponding constitutional -legal types of control. The institutions of conferring powers and conferring powers have common features: the presence of the subject of delegation of its own powers

to distribute other powers; the presence of a legal connection between the subjects of delegation; the presence of a certain order and form of implementation.

The institution of transfer of powers also seems to be constitutional and legal, as evidenced by the following factors: the federal nature of legal relations between the Russian Federation and its subjects, the strict delimitation of their powers by the Constitution of the Russian Federation, as well as the direct mechanism for the transfer of powers - through the adoption of a special federal law (Part 2 of Art. 45 Federal Law “On the General Principles of the Organization of Public Power”).

In the paradigm of the Federal Law “On the General Principles of the Organization of Public Power,” the institution of transfer of powers does not have such characteristics due to the power-administrative legal relations between its subjects arising in connection with the adoption of the relevant regulatory legal acts of the Government of the Russian Federation and the President of the Russian Federation.

However, the institution of transfer of powers may take the form of an agreement. According to Part 2 of Art. 78 of the Constitution of the Russian Federation establishes the right of federal executive authorities, by agreement with the executive authorities of the constituent entities of the Russian Federation, to transfer to them the exercise of part of their powers.

The Federal Law “On the General Principles of the Organization of Public Power” fills this institution with new content and provides for several ways of transferring the powers of the Russian Federation to government bodies of the constituent entities of the Russian Federation, which can be divided into two groups:

1. constitutional and legal (this group includes institutions for the transfer of powers and redistribution of powers):

1.1. by adopting a federal law in accordance with Art. 45 Federal Law “On the General Principles of the Organization of Public Power”;

1.2. by adopting a law of a constituent entity of the Russian Federation (with the redistribution of powers of local self-government);

1.3. contractual (agreement between the Russian Federation and its subject);

2. administrative-legal methods (transfer of the exercise of powers) - the legal relationship regarding the transfer to government bodies of the constituent entities of the Russian Federation of the exercise of powers of the Russian Federation or powers on issues of joint jurisdiction is of an authoritative, managerial nature and is carried out through:

2.1. contractual (“executive agreement”), carried out through the conclusion of agreements between federal executive authorities and state authorities of the constituent entities of the Russian Federation (Part 7 of Article 1);

2.2. adoption of by-laws of the President of the Russian Federation

2.3. or by-laws of the Government of the Russian Federation (Part 1, Article 46).

Delegation of authority is a purely doctrinal, academic term. In our opinion, it should be considered general, which is due to the origin of the term from the Latin “delegare” - entrust, convey, entrust, entrust.

Redistribution of powers is mainly used when transferring powers between local government bodies and government bodies of a constituent entity of the Russian Federation. At the same time, the scientific community has often expressed the opinion that the redistribution of powers means their withdrawal from local governments.

The institution of transferring the powers of the federal executive body to the state power body of a constituent entity of the Russian Federation seems to be a subsystem that is aimed at implementing one or another function of the specified federal government body by solving a number of problems.

Within the framework of this paragraph, it is proven that the institution of transfer of powers is named one of the ways to balance the execution of the budget of a constituent entity of the Russian Federation. The main economic prerequisite for the institution of transfer of powers should be considered the task of improving the economies of the constituent entities of the Russian Federation and budgetary equalization, and control over their implementation is a tool for ensuring the implementation of these tasks and allows us to establish how the implementation of the transferred powers affected the economy of the region (or its segment).

In the third paragraph of the first chapter “Legal regulation of control over the exercise of powers of the Russian Federation transferred to state authorities of the constituent entities of the Russian Federation”, an independent type of control is control over the exercise of delegated powers.

Control over the implementation of delegated powers has its own characteristics, which are determined by the transfer of powers. Among these features, the following are noted: control as a means for adjusting (coordinating) the administrative and economic activities of the constituent entities of the Russian Federation and their executive authorities; method of managing personnel issues of executive authorities of constituent entities of the Russian Federation; increasing the performance of the system of executive authorities (both federal and regional); increasing the level of quality and efficiency of the implementation of the powers of the Russian Federation transferred to the executive authorities of the constituent entities of the Russian Federation; a mechanism of federal coercion to carry out certain actions necessary for the execution of delegated powers, as well as to prevent violations of adopted management decisions; a method of influencing one or another sphere of the economy of the constituent entities of the Russian Federation.

Control over the implementation of the powers of the Russian Federation transferred to the executive authorities of the constituent entities of the Russian Federation has a specific subject, purpose and grounds for its implementation.

It has been proven that a temporary change in the original subject of authority during its transfer is the basis for monitoring its execution, which justifies the specificity of control over transferred powers as an independent type of control.

The subject of control over the implementation of delegated powers is not only the legality and expediency, but also the quality and efficiency of the implementation of delegated powers. Control over the implementation of delegated powers is aimed at identifying specific practical results of state authorities of the constituent entities of the Russian Federation, in connection with which the law enforcement and administrative and economic activities of the executive authorities of the constituent entities of the Russian Federation in the exercise of delegated powers are subject to control, and the degree of achievement by the executive authorities of the constituent entities of the

Russian Federation is also assessed the goals, means and methods of achieving them, economic efficiency and validity set during the transfer of this or that authority.

Control over the implementation of delegated powers has specific goals, which should be divided into the following groups:

1. Socio-economic (external, aimed at maintaining the rule of law in the name of public interest in the proper execution of delegated powers to improve the economy of the regions and equalize the level of their development);

2. federal-managerial (internal, aimed at developing power relations between the federation and its subjects);

3. ensuring the completeness, efficiency and quality of execution of the powers of the Russian Federation transferred to the executive authorities of the constituent entities of the Russian Federation (in the process of achieving these goals, violations of the law in the activities of the executive authorities of the constituent entities of the Russian Federation are also identified and suppressed);

4. informational, characterized by the need to create a two-way channel for the exchange of reliable information between different levels of the hierarchy of executive authorities in the system of power coordinates of the federal state.

The object of control over the implementation of delegated powers is public relations between federal executive authorities and executive authorities of a constituent entity of the Russian Federation, which arose in connection with the transfer of powers for their implementation from the first to the second. Conventionally, the object of such control consists of two parts: 1. main – legal relations that have arisen regarding the exercise of the delegated authority; 2. secondary (in relation to the institution of transfer of powers) – legal relations that arose directly after the transfer of powers.

Thus, the essence of the institution of control over the exercise of delegated powers as a type of state control is a method of management activity of the federal executive body (stage of the management process), aimed at ensuring the implementation of the powers of the federal executive body transferred to the executive bodies of the constituent entities of the Russian Federation, identifying violations in their execution or deviation of results (including intermediate ones) from the planned ones, informing about the state of the

object of such control, development by federal executive authorities of binding proposals on the methodology for the implementation by executive authorities of a constituent entity of the Russian Federation of delegated powers in order to achieve socio-economic goals through the development of federal relationships.

The second chapter, “Implementation of control over the exercise of powers of the Russian Federation delegated to state authorities of the constituent entities of the Russian Federation,” includes three paragraphs in which various types of control are compared with control over the exercise of delegated powers, the features of the process of said control are identified, responsibility for the exercise of delegated powers is channelized, and ways to improve administrative legislation are also proposed.

The first paragraph of the second chapter, “Mechanism for monitoring the implementation of powers of the Russian Federation transferred to state authorities of the constituent entities of the Russian Federation,” compares control over the exercise of delegated powers with budget control, financial control and sectoral types of control and the mechanisms of such control and their features are also studied.

Control over the implementation of delegated powers in terms of verifying the legality of spending interbudgetary transfers is not limited to budget control; it has its own goals, subject and object.

A special method of monitoring the implementation of delegated powers is monitoring the efficiency and quality of their implementation. At the same time, the methods for calculating these types of control in all cases operate on economic indicators.

With regard to the most common form of budget control - external state and municipal financial control - the subject is always the use of budget funds by participants in the budget process (legality and efficiency of spending, targeted nature, etc.).

The basis of budget control is the emergence of legal relations regarding the implementation of interbudgetary transfers and their implementation by the main managers of the budget process. The transfer of the powers of the Russian Federation to the subjects of the Russian Federation is accompanied by a corresponding subvention (less often - other property), the legality of its expenditure relates to the basis and subject of budget control. The Institute for Control over the Implementation of Delegated Powers

does not aim to verify the legality of spending interbudgetary transfers due to its focus on assessing the results of management decisions made.

A broad interpretation of the object of financial control allows us to identify some similarities with control over the exercise of delegated powers, one of the methods of which is control over the quality and efficiency of the implementation of these powers. However, the purpose of financial control is not only to assess the legality of interbudgetary transfers in a broad sense and the effectiveness of the use of budget funds, but also the implementation of public financial management in general.

The study shows that control over the effectiveness and quality of the implementation of delegated powers and industry-specific types of control assess the legality and appropriateness of the exercise of a particular power - transferred or exercised directly by its subject. As part of control activities, the methodology used evaluates the actual results of government influence on relevant social relations.

However, control over the implementation of delegated powers cannot be regulated by the above federal sectoral legislation due to the different nature of the legal relations that are the subject of these legislative acts. The use of a similar control methodology does not indicate overlap in their subject matter, because the purposes of its application within the framework of industry control and control over the implementation of delegated powers are different.

Thus, the relationship between different types of control makes it possible to establish the specificity of control over transferred powers as an independent type of control, as well as to identify the presence of the necessary signs of control over transferred powers as a separate type: special goals, subject, object, methods of its implementation, etc.

In the second paragraph of the second chapter, “Elimination of identified violations in the mechanism for monitoring the implementation of powers of the Russian Federation transferred to state authorities of the constituent entities of the Russian Federation” special procedures are justified, among which the central place is occupied by the assessment of the effectiveness and quality of the implementation of the transferred powers, as well as certain stages of this process.

The process of monitoring the implementation of delegated powers consists of procedures that can be applied everywhere, but have their own characteristics. Among them, the Federal Law “On the General Principles of the Organization of Public Power” highlights the report.

According to the current legislation, the highest official of the subject submits reports on the implementation of delegated powers. The reporting of the highest official of a constituent entity of the Russian Federation on the exercise of delegated powers has signs of preliminary control, since it is informative in nature about the actual state of the exercise of the relevant powers.

The report provided by the highest official of a constituent entity of the Russian Federation on the implementation of delegated powers is one of the monitoring tools used by the relevant federal executive authorities.

In contrast to the indicated report of the head of a constituent entity of the Russian Federation, a more detailed settlement was given to the report on the budget expenditures of a constituent entity of the Russian Federation, for the financial support of which subventions are provided by the Russian Federation. It is noteworthy that the obligation to provide such a report lies not with the highest official of the constituent entity of the Russian Federation, but with the relevant government authority of the region. At the same time, by-laws and regulatory legal acts of the relevant federal executive authorities establish the subject of responsibility for the reliability and objectivity of this information (in contrast to by-laws governing the report of the highest official of a constituent entity of the Russian Federation).

Thus, the report as a method of monitoring the implementation of delegated powers is procedural in nature and is an element of control over the executive and administrative activities of public authorities of the constituent entities of the Russian Federation.

It is substantiated that the process of control over the implementation of delegated powers can be divided into two components: control over the executive and administrative activities of the constituent entities of the Russian Federation and control over their law-making activities in the field of execution of delegated powers. At the same time, due to the insignificant role of regional lawmaking in the sphere of delegated

powers, there is a tendency for control over executive and administrative activities to prevail over control over lawmaking activities.

It has been proven that the constituent entities of the Russian Federation are practically deprived of the right to normatively regulate the exercise of delegated powers (including powers on issues of joint jurisdiction) due to a broad interpretation of the constitutional principle of the unity of the executive power. In practice, the powers to normatively regulate the implementation of delegated powers are reduced only to some technical issues of the distribution of budget funds.

Meanwhile, the Federal Law “On the General Principles of the Organization of Public Power” provides for such an element of control over the law-making activities of the constituent entities of the Russian Federation as the abolition of acts of the executive bodies of the constituent entity of the Russian Federation adopted on issues of the exercise of powers. Please note that the procedure for repealing legal acts of constituent entities of the Russian Federation applies only to non-normative legal acts.

The paragraph concludes that verification is central to monitoring the exercise of delegated powers, as in many other types of control. Scheduled inspections are carried out in accordance with the annually approved inspection plan (no more than once every two years).

Administrative procedures for conducting unscheduled inspections do not differ from the generally accepted ones: the grounds for their conduct are appeals from citizens and legal entities, information from state authorities, local governments, from the media about facts of violations of the legislation of the Russian Federation that entail or may entail the occurrence of emergency situations, threats life and health of citizens, as well as massive violations of the rights of citizens and legal entities. Among the special grounds, it is worth noting the analysis of the results of measures to control the transferred powers without interaction with controlled bodies.

The most significant stage for monitoring the implementation of delegated powers is the stage of eliminating violations identified during the inspection. Firstly, this stage of the control process is characterized by a mandatory order to eliminate violations and the

idea of the need to bring relevant officials to disciplinary liability. Secondly, it is this stage that has signs of jurisdictional proceedings in terms of challenging the results of the inspection and the provisions of the order by the controlled body.

The empirical basis for this part of the study is extensive judicial practice challenging the results of control over the implementation of delegated powers and regulations in the field of spending interbudgetary transfers. It was found that in the period from 2009 to 2015, in 75% of court cases, controlled authorities sought to cancel the results of control measures and corresponding orders, and in the period from 2018 to 2021. this figure dropped to 46.3%.

The assumption is substantiated that orders to eliminate certain violations identified during the control process are challenged more often in the case of unscheduled inspections. Moreover, in most cases, the basis for satisfying the demands of the applicants of the relevant complaints to recognize the results of inspections and orders to eliminate violations as illegal in whole or in part is the failure of the regulatory authorities to comply with the established procedure for conducting such inspections (in particular, failure to comply with the legal requirement to notify the prosecutor's office about unscheduled inspections).

It has been established that the process of monitoring the implementation of delegated powers has specific procedures, such as the withdrawal of delegated powers. It is concluded that this institution is a way to ensure the execution of the delegated authority. Consequently, the withdrawal of the transferred power is an intermediate legal result of the control process, since the corresponding act of withdrawal must contain proposals for eliminating the grounds that served as the reason for the withdrawal of the transferred power due to its temporary nature.

In the third paragraph of the second chapter, “Responsibility as an element of control over the exercise of the powers of the Russian Federation transferred to the subjects of the Russian Federation,” criteria for improper exercise of the transferred powers are proposed, as well as a procedural mechanism for its determination, the thesis about the application of constitutional, legal, administrative, budgetary, legal, disciplinary and other types of responsibility, proposals were made to amend the legislation in order

to improve the application of liability measures for improper exercise of delegated powers.

The Federal Law “On General Principles of the Organization of Public Power” contains norms of responsibility that can be conditionally divided into two groups: those establishing the expected behavior (actions) of subjects of legal relations regarding the transfer of the exercise of powers, as well as norms that are prohibitive in nature, entailing certain negative consequences for the relevant subject of this legal relationship.

The first group of norms includes: the authority of the Government of the Russian Federation to establish criteria for the effectiveness and quality of the implementation by a subject of the Russian Federation of delegated powers; the procedure for implementing administrative procedures for monitoring the implementation of delegated powers; preparation by the highest official of the relevant region of reporting on the implementation of delegated powers; the power of the Government of the Russian Federation to cancel acts of executive bodies of a constituent entity of the Russian Federation regulating the exercise of delegated powers, etc.

To resolve the issue of administrative liability in the sphere of exercising delegated powers, we consider it necessary to make additions to the Code of Administrative Offenses of the Russian Federation establishing: subjects of jurisdiction, elements of administrative offenses, as well as administrative liability of officials of public authorities of constituent entities of the Russian Federation.

The need to clarify the provisions of Part 1 of Art. 22.1 of the Code of Administrative Offenses of the Russian Federation and supplement the list of subjects of administrative jurisdiction with federal executive authorities that have transferred the exercise of some of their powers to public authorities of the constituent entities of the Russian Federation in the form of an agreement. In Chapter 23 of the Code of Administrative Offenses of the Russian Federation, when determining the competence of a given subject of administrative jurisdiction, it is necessary to establish specific elements of administrative offenses within the jurisdiction of the relevant federal executive body.

The relevant elements of administrative offenses in this area should include: improper exercise by a government body of a constituent entity of the Russian Federation

of the delegated powers of the corresponding federal executive authority, as well as failure to achieve the efficiency and quality indicators for the implementation of delegated powers established by a by-law of the Government of the Russian Federation or a federal executive body.

The criteria for improper exercise of delegated powers are substantiated, among which the following may be proposed: failure to achieve socially significant results expected in the exercise of delegated powers; low quality and efficiency of implementation of delegated powers; failure to comply with instructions from the head of the federal executive body on the implementation of delegated powers; the occurrence of circumstances that served as the basis for the repeal of legal acts of public authorities in the field of exercise of delegated powers and their failure to eliminate them, etc. At the same time, the resolution of the issue of improper exercise of delegated powers can be carried out as a result of control activities through the commission drawing up of the corresponding act by officials of the relevant federal executive authority.

The administrative responsibility of officials of public authorities of the constituent entities of the Russian Federation also requires specification in the Code of Administrative Offenses of the Russian Federation. Currently, the Federal Law “On the General Principles of the Organization of Public Power” establishes the right of the head of the relevant federal government body to send to the head of a constituent entity of the Russian Federation a proposal to dismiss from their positions the heads of the relevant executive bodies of the constituent entity of the Russian Federation responsible for the implementation of delegated powers, in cases of their improper execution (non-fulfillment).

However, it is necessary to establish administrative responsibility for violations committed during the exercise of delegated powers and identified during the control process. In addition to responsibility in the budgetary sphere (the procedure for spending budget funds), corresponding responsibility can be provided for officials of public authorities of constituent entities of the Russian Federation in the field of their executive and administrative activities in the implementation of delegated powers. In particular,

non-compliance with the requirements of the federal executive authority regulating the procedure for exercising delegated powers and coordinating their execution by several constituent entities of the Russian Federation.

It has been proven that constitutional and legal liability can be applied to legal relations for the exercise of delegated powers, for example, early termination (deprivation) of powers, as well as coercion to fulfill constitutional duties. It also seems possible that the institution of removal of the highest official of a constituent entity of the Russian Federation from office by the President of the Russian Federation due to loss of confidence (Clause 3, Part 1, Article 28 of the Federal Law “On General Principles of Public Power”) is subject to constitutional and legal liability in the event of non-fulfillment or improper execution of delegated powers.

Active development of the institution of transfer of powers in Art. 45 – 47 of the Law “On the General Principles of the Organization of Public Power”, coupled with the definition by the same law of the powers of public authorities of the constituent entities of the Russian Federation on issues of joint jurisdiction, in our opinion, can lead to a distortion of the constitutional principles of delimitation of subjects of jurisdiction. A broad interpretation of the principle of unity of the executive power system when forming the institution of transfer of powers neutralizes the role of regional legislation as the legal basis for the execution of such powers.

It is concluded that some provisions of the Law “On General Principles of Organization of Public Power” could potentially lead to an imbalance between the functions of federal executive bodies, the transfer of powers and their responsibilities due to the legislator’s broad understanding of the principles of federalism. Since, theoretically, the transfer of powers carries risks of their unsatisfactory execution, the subject of the relevant powers must be responsible for achieving certain pre-established targets, however, the institution of withdrawal of transferred powers can be applied only after the occurrence of certain negative consequences of non-execution or improper execution of transferred powers.

Financial responsibility means responsibility for the use (distribution) by regional executive authorities of allocated federal budget funds or other property for the execution

of delegated powers. In the absence of the authority to adopt normative legal acts on the procedure for the execution of delegated powers, the responsibility of executive authorities of constituent entities of the Russian Federation may be limited to offenses in the field of spending interbudgetary transfers (related issues) and the administration of relevant legal relations arising in connection with the execution of delegated powers.

The author has made the assumption that a natural continuation of the development of responsibility for the exercise of delegated powers should be legal institutions for assessing the timeliness of management decisions made in execution of the transferred powers and assessing the material security of the execution of the transferred powers, designed to eliminate the problem of insufficient funding for the transferred powers allocated within the framework provided for by the relevant federal executive authority for interbudgetary transfers.

In conclusion, the achieved results of the study are presented, the main conclusions and proposals are formulated for improving the legislation regulating the transfer of powers and control over their implementation, as well as responsibility for improper execution (non-execution) of delegated powers.

THE MAIN PUBLICATIONS ON THE TOPIC OF THE DISSERTATION RESEARCH

Publication in journals included into the HSE University list (list D):

1. *Tumanov A.S.* Theoretical issues of devolution: transfer of Russian Federation powers and joint jurisdiction powers to Russian Federation constituent entities // *Legislation*. 2022. No. 8. P. 60 – 65.

2. *Tumanov A. S.* Transfer of powers to the Russian Federation subjects of the Russian Federation and control over their execution: legal and economic aspects // *Proceedings of Voronezh State University. Series: Law*. 2022. No. 3 (50). P. 64–73.

Publication in a journal from the List of peer-reviewed scientific publications of the Higher Attestation Commission:

3. *Tumanov A.S.* Institute of control over the implementation of the powers of the Russian Federation transferred to the subjects of the Russian Federation or powers on issues of joint jurisdiction and budgetary control: a comparative legal aspect // Law and legislation. 2022. No. 9. P. 82 – 84.

Planned for publication in a journal included into the HSE University list (list D):

4. *Tumanov A.S.* Responsibility for the implementation of the powers of the Russian Federation transferred to the constituent entities of the Russian Federation // Bulletin of Voronezh State University. No. 2. 2024.