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**PROBLEMS OF BRINGING MINORS TO ADMINISTRATIVE LIABILITY  
IN THE RUSSIAN FEDERATION**

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**Abstract**

The article is devoted to the problems of bringing minors to administrative liability in the Russian Federation. The feature of administrative liability of persons who have not reached the age of majority is related to the special subject of proceedings on administrative offenses, the features of bringing this category of offenders to justice, and the applied measures of responsibility, where attention is focused on educational and preventive impact. It has been proved that one of the key components of social policy regarding minors should be the improvement of the activities of juvenile commissions. It has been revealed that this process needs to be supplemented by promoting the idea of strengthening the role of the law and protecting the rights of minors at the federal and regional levels, as well as involving citizens and their associations in solving socially significant problems.

**Keywords**

Administrative liability – Minor – Law – Offense – Examination – Preventive impact

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## Introduction

Since administrative liability not only prevents the offender from committing new administrative offenses but also criminal acts, it is necessary to analyze the problematic issues of bringing minors and their legal representatives to administrative liability from these aspects. In the scientific literature, many authors raise the question of the inconsistency of Russian legislation that regulates the administrative liability of persons who have not reached the age of majority. The difficulties in establishing liability for administrative offenses by a person under the age of majority are associated, first of all, with the refusal of the legislator to fix an independent section in the Code of Administrative Offenses of the Russian Federation that would be devoted to the administrative liability of persons under the age of majority. Thus, the current Criminal Code of the Russian Federation has an independent section that deals with criminal responsibility and punishment of minors and defines the concept of minor.

Some norms of the Code of Administrative Offenses of the Russian Federation use the concept of "minor", while others refer to persons under the age of 18 years. The legislator did not attach much importance to the wording, but such confusion can lead to unsolvable problems. However, to ensure the use of uniform terminology throughout the law, as well as the uniform practice of bringing perpetrators to administrative liability, the Code of Administrative Offences of the Russian Federation must replace the term "minor" with "person under the age of 18" throughout the text. The study of issues related to the administrative liability of minors in the Russian Federation was reflected in the works of A.I. Bastrykin<sup>1</sup>, A.A. Bezhentsev<sup>2</sup>, J.P. Dorofeeva<sup>3</sup>, N.V. Pavlov<sup>4</sup>, G.F. Khametdinova<sup>5</sup>, R.N. Khrenov<sup>6</sup>, and others. At the same time, there are currently no clear determinants of understanding the problems of bringing minors to administrative liability in the Russian Federation.

## Methods

The theoretical and methodological basis of the research consisted of the abstract-logical method, methods of induction, deduction, analysis, synthesis, and systematization – to justify approaches to understanding the administrative liability of minors, as well as graphic methods – to study the administrative liability of minors at the present stage.

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<sup>1</sup> A. I. Bastrykin, "Prestupleniya protiv nesovershennoletnikh v internet-prostranstve: k voprosu o viktimologicheskoi profilaktike i ugovovno-pravovoi otsenke", *Vserossiiskii kriminologicheskii zhurnal* Vol: 11 num 1 (2017): 5-12.

<sup>2</sup> A. A. Bezhentsev, "Yuvenalnaya yustitsiya v zarubezhnykh stranakh: problemy teorii i praktiki", *Vestnik Vserossiiskogo instituta povysheniya kvalifikatsii sotrudnikov Ministerstva vnutrennikh del Rossiiskoi Federatsii* Vol: 1 num 49 (2019): 121-127.

<sup>3</sup> Zh. P. Dorofeeva y I. Yu. Kapustina, "Obshchaya kharakteristika vovlecheniya nesovershennoletnikh v sovershenie administrativnykh pravonarushenii", *Leningradskii yuridicheskii zhurnal* Vol: 4 num 50 (2017): 169-175.

<sup>4</sup> N. V. Pavlov y A. M. Belchik, "Problemy administrativnoi otvetstvennosti nesovershennoletnikh", *Byulleten nauki i praktiki* Vol: 5 num 6 (2019): 402-406.

<sup>5</sup> G. F. Khametdinova, "Razvitie instituta administrativnoi otvetstvennosti roditelei za ne nadlezhashchee vospitanie detei v otechestvennom prave", *Vestnik Tyumenskogo instituta povysheniya kvalifikatsii sotrudnikov MVD Rossii* Vol: 1 num 12 (2019): 21-26.

<sup>6</sup> R. N. Khrenov, "Problemy realizatsii administrativnoi otvetstvennosti nesovershennoletnikh", *Forum molodykh uchenykh* Vol: 1 num 41 (2020): 673-677.

Information base of the research included statistical data of state bodies, legislative and normative documents regulating legal aspects of administrative liability of minors, evaluation of minors in terms of contradictions in the legislative field, and results of scientific research<sup>7</sup>.

In the course of the research, it was planned to systematize the legal aspects of administrative liability of minors, develop measures to coordinate activities between the main participants of administrative law, improve the Russian model of administrative law in the sphere of responsibility of minors, and determine its features within the framework of imperfections in the legislative sphere.

## Results.

The practice has shown that the consolidation of an independent section on the responsibility of minors in the Code of Administrative Offenses of the Russian Federation will contribute to the uniform and correct application of legal norms, as well reduce the likelihood of a violation of the legal rights of persons who have not reached the age of majority (Figure 1).

Special attention should be focused on the psychological examination of persons who have not reached the age of majority and have committed an administrative offense. Such a proposal is worth considering, provided that the person could not have been aware of the public danger of their act at the time of committing the administrative offense.

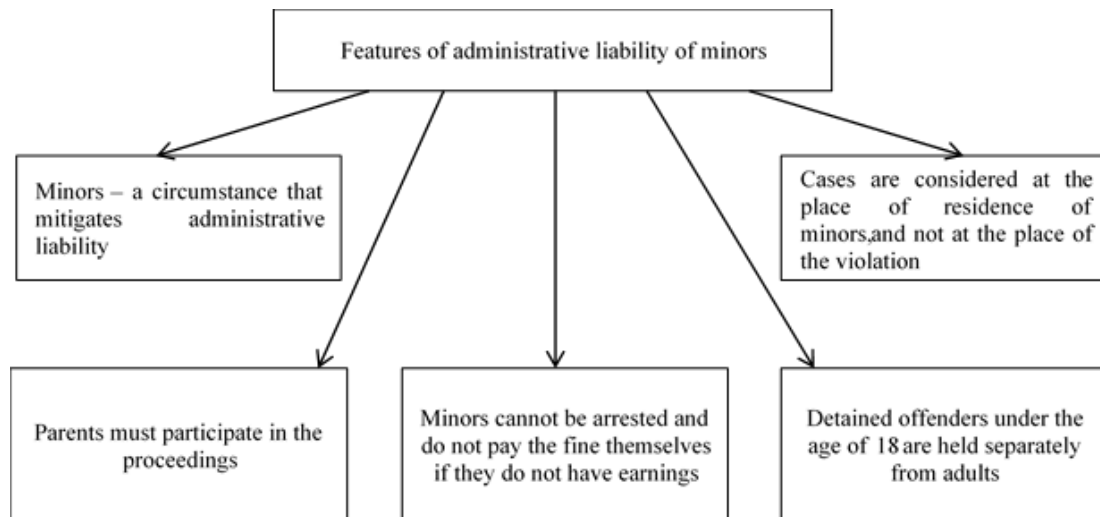


Figure 1  
Features of administrative liability of minors

<sup>7</sup> Ek. V. Agamirova; El. V. Agamirova; O. Ye. Lebedeva; K. A. Lebedev & S. V. Ilkevich, "Methodology of estimation of quality of tourist product", *Quality. Access to Success* Vol: 18 num 157 (2017): 82-84; M. M. Mukhlynina; E. I. Shishanova; A. I. Nikiforov; N. E. Ryazanova y K. A. Lebedev, "Economic and legal aspects of environmental protection when using artificial water bodies", *Journal of Environmental Management and Tourism* Vol: 9 num 3 (2018): 633-638 y E. V. Vinogradova; M. M. Mukhlynina; D. N. Mukhlynin; N. V. Solovyeva y O. Ye. Lebedeva, "Economic and legal aspects of environmental safety", *Journal of Environmental Management and Tourism* Vol: 9 num 1 (2018): 144-150.

Such expertise is necessary because a minor can develop faster than their peers or lag in development. Thus, the degree of social and psychological development of a teenager may not correspond to the age with which the legislator associates the onset of administrative liability. In this regard, the examination is necessary.

Thus, to properly solve the identified problems related to the uncertainty of legislation in the field of administrative liability of persons who have not reached the age of majority, it is necessary to focus all the legal norms governing this sphere of relations in one normative legal act, namely, the Code of Administrative Offences of the Russian Federation, which will act as the only act that regulates such liability.

Certain problems also exist when bringing to administrative liability foreign minors who have committed an administrative offense on the territory of the Russian Federation. To do this, it is necessary to make changes to the Code of Administrative Offences of the Russian Federation. If it is not possible to ensure the participation of legal representatives of a foreign minor, it is necessary to provide for the possibility and procedure for considering administrative cases in their absence, as well as the possibility of considering an administrative case against a minor foreigner at the place of their stay or at the place where they committed an administrative offense if there is no opportunity to consider the case at the place of residence.

The provisions of the Code of Administrative Offenses of the Russian Federation act as a means of legal influence, which should also be applied to parents and other legal representatives. Due to them, it is possible to ensure that persons who do not fulfill their obligations to educate, support, and raise children are brought to administrative liability. Thus, the legislator provides for an administrative offense in Article 5.35 of the Code of Administrative Offenses of the Russian Federation, which establishes the administrative liability of parents and other legal representatives for improper performance or non-performance by these persons of their obligations to support, educate, and protect the rights of children.

This offense is classified as lasting, which means that the guilty person is inappropriately fulfilling or not fulfilling the duties of keeping minors, which can be expressed in not providing food, a place to live, and necessary clothes and shoes.

As for the non-fulfillment of the obligation to bring up, the legal representative of the minor does not instill in them elementary skills, does not teach them to observe legal norms, good, rules of politeness, etiquette, does not instill respect for elders, etc. In terms of the education of children – does not create conditions for receiving education (does not acquire educational supplies or organize conditions for study). In terms of protection of the interests and rights of children – does not provide not only property rights, but also personal rights, as well as use types of compulsory measures of educational influence (Figure 2).

In this case, the non-fulfillment of duties should be expressed in the almost complete inaction of the parents. It is also necessary to prove the existence of their fault. Therefore, the protocol regarding the parent or other legal representative in all cases should be specified.

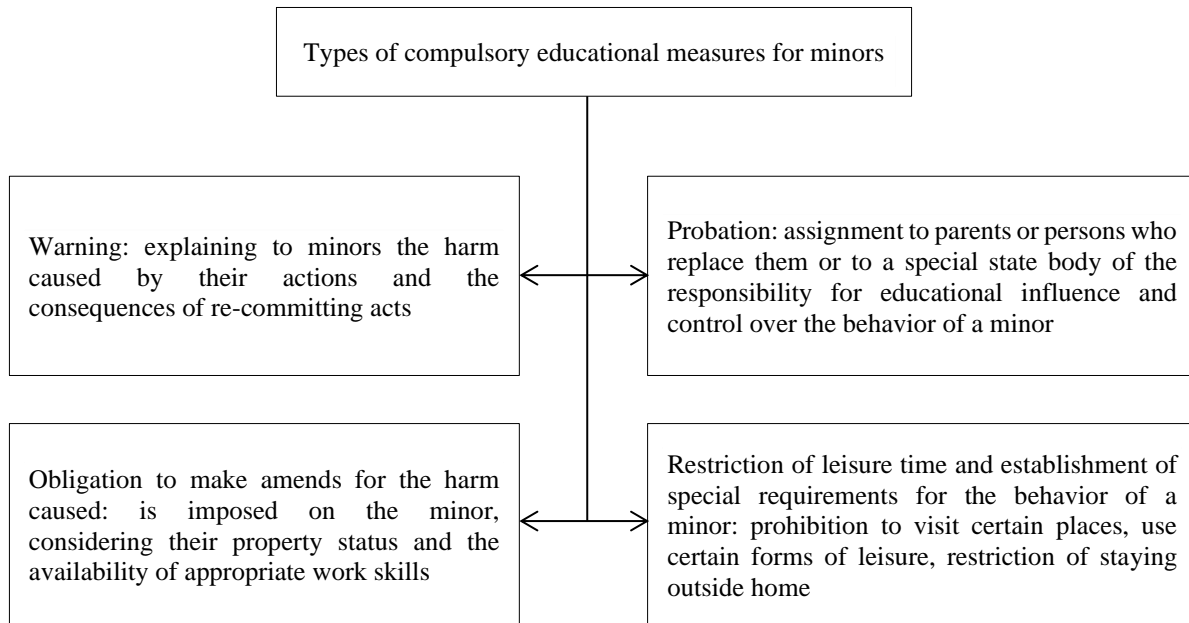


Figure 2  
Types of compulsory educational measures for minors

Another problem is related to the inaccuracy of the legislator's definition of specific actions of parents or other legal representatives of minors who make up the objective side of the above-mentioned composition. This issue is partially resolved at the level of the Russian Federation's constituent entities.

The Codes of Administrative Liability, which are accepted by the constituent entities of the Russian Federation within the framework of their competence, detail the responsibilities of parents and their substitutes for raising children. Additional duties may also be imposed on such persons, including, for example, the following: the obligation to take necessary measures to prevent persons who have not reached the age of majority from being in public places without their parents or other legal representatives at night; the obligation to take necessary measures to prevent the child from being in other places where their presence may cause harm to their moral, spiritual, mental, intellectual, and physical development or health.

However, the mere fact that a person who has not reached the age of majority has committed an administrative offense cannot serve as a basis for initiating an administrative offense case against parents or other legal representatives and bringing them to administrative liability. At the same time, a child committing an offense is a signal for the need to study the conditions for the education of such a minor and to establish the reasons for their wrongful act.

The facts can already be established in the course of the audit that the parents do not fulfill the assigned responsibilities for raising and maintaining children. Their actions establish an administrative offense, which is already the basis for bringing them to administrative liability under Article 5.35 Code of Administrative Offenses of the Russian Federation. If the parents are found guilty of committing the specified offense, they should be held accountable regardless of whether their children committed the illegal act or not.

Parents and other legal representatives may also be brought to administrative liability when their minors commit certain offenses provided for in the Code of Administrative Offences of the Russian Federation. Thus, if a person who has not reached the age of majority has been found intoxicated, either in the consumption of alcohol-containing and alcoholic products or in the use of psychotropic substances, narcotic drugs without the appointment of a doctor of new potentially dangerous intoxicants or psychoactive substances, parents may be involved in administrative liability under Article 20.22 of the Code of Administrative Offences of the Russian Federation.

Given the above, it is necessary to pay attention to the draft of the new Code of Administrative Offences of the Russian Federation prepared by deputies of the State Duma of the Russian Federation, in which an attempt was made to bring the legal regulation of administrative liability and administrative cases to a new level that meets the requirements of strengthening the rule of law<sup>8</sup>.

The project assumes the possibility of bringing citizens who have reached the age of 14 to administrative liability, but only in exceptional cases (part 1 of Article 3.4 of the project). Thus, the legislative practice of individual states of Western Europe, where this possibility is also provided, can be taken into account. It can be assumed that persons who have reached this age are fully able to understand the actual nature and social harmfulness of certain acts, such as petty hooliganism or petty theft.

At the same time, in Article 3.4 of the draft, it is necessary to indicate the list of administrative offenses for which minors are brought to administrative liability upon reaching the age of 14. This conclusion is also confirmed by the analysis of the content of the special part of the project under study, where there are no instructions on the possibility of bringing the perpetrators of administrative offenses to administrative liability when they reach the age of 14.

This draft also proposes to establish the procedure for creating and implementing the activities of administrative commissions at the level of federal legislation. This innovation does not raise objections since it will eliminate conflicting approaches to their organization contained in regional legislation. At the same time, the project developers did not pay attention to the organizational and legal status of commissions for minors' affairs and protection of their rights. The main function of these commissions is to review cases of administrative violations. Also, they are named among the subjects of both federal and regional administrative jurisdiction.

Consequently, the question of who should be in charge of establishing the procedure for the creation and foundations of the activities of commissions for minors and protecting their rights needs to be clarified. In this regard, it makes sense to supplement paragraph 11 of part 1 of Article 1.3 of the draft with an indication of these commissions, since these powers should belong to the prerogatives of the federal legislator.

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<sup>8</sup> N. V. Pavlov & A. M. Belchik, "Problemy administrativnoi otvetstvennosti nesovershennoletnikh", *Byulleten nauki i praktiki* Vol: 5 num 6 (2019): 402-406 y N. I. Demkina; P. A. Kostikov y K. A. Lebedev, "Formation of professional competence of future specialists in the field of information environment", *Espacios* Vol: 40 num 23 (2019).

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## Discussion

The reliability of the presented approaches is confirmed by the fact that currently there is a gap in the legislation on administrative liability regarding the responsibility of parents and other legal representatives of persons who have not reached the age of majority<sup>9</sup>. Therefore, it is necessary to change the disposition of Article 20.22 of the Code of Administrative Offences to allow police officers to bring legal representatives of minors to administrative liability. Another problematic issue that is very relevant for modern Russia, but, unfortunately, has not been regulated by the administrative legislation of the Russian Federation, is the involvement of minors in begging or their use for this purpose. Since the legislation on administrative liability for the specified offense does not provide for punishment, there are problems in law-enforcement practice associated with the prosecution of perpetrators for a crime under Article 151 of the Criminal Code of the Russian Federation (Involvement of a minor in the systematic use of alcoholic drinks or stupefying substances, in vagrancy, or soliciting, committed by a person who has reached the age of 18 years old). In reality, the specified criminal law norm practically does not find application, because it is necessary to document the system of involving a minor in begging and vagrancy. In connection with this gap in the administrative legislation, law enforcement agencies are forced to involve parents and other legal representatives who involve persons who have not reached the age of majority in begging and vagrancy under other articles, including Article 5.35 of the Code of Administrative Offences of the Russian Federation. However, this practice is not entirely correct. Thus, it is necessary to amend the current code and provide for administrative liability for involving minors in begging and vagrancy, as well as for using children for such purposes. Therefore, considering the reasons and conditions for committing an administrative offense by a minor, it should be noted that not every such illegal act is a consequence of improper performance or non-performance by parents or legal representatives of the duties of raising a minor.

## Conclusion

Summing up, it may be noted that that the feature of administrative liability of persons who have not reached the age of majority is related to the special subject of proceedings on administrative offenses, the features of bringing this category of offenders to justice, and the applied measures of responsibility, where attention is focused on educational and preventive impact. One of the key components of social policy regarding minors should be the improvement of the activities of juvenile commissions. This process needs to be supplemented by promoting the idea of strengthening the role of the law and protecting the rights of minors at the federal and regional levels, as well as involving citizens and their associations in solving socially significant problems.

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