

II. CONSTITUTIONAL AND ADMINISTRATIVE LAW

Information for citation:

Mikheeva I. V. Cherkasov K. V. «Bolevye tochki» zakrytyh territorij v sovremennoj Rossii [Closed Territorial Formations in Modern Russia: “Burning Issues” of Legal Regulation]. *Vestnik Permskogo Universiteta. Juridicheskie Nauki* – Perm University Herald. Juridical Sciences. 2016. Issue 34. Pp. 379–390. (In Russ.). DOI: 10.17072/1995-4190-2016-34-379-390.

UDC 342.9

DOI: 10.17072/1995-4190-2016-34-379-390

CLOSED TERRITORIAL FORMATIONS IN MODERN RUSSIA: “BURNING ISSUES” OF LEGAL REGULATION

I. V. Mikheeva

Higher School of Economics (Nizhny Novgorod branch)
25/12, Bolshaya Pecherskaya st., Nizhny Novgorod, 603155, Russia

ORCID: 0000-0001-9323-6511

ResearcherID: B-4214-2014

e-mail: irinarap@mail.ru

K. V. Cherkasov

Nizhny Novgorod Institute of Management of Russian Presidential Academy
of National Economy and Public Administration

46, Gagarin Prospect, Nizhny Novgorod, 603950, Russia,
Vyatka State University

36, Moskovskaya st., Kirov, 610000, Russia,

ORCID: 0000-0002-9754-9619

ResearcherID: G-3785-2016

e-mail: CherkasovKV1978@yandex.ru

Introduction: the article considers peculiarities of closed administrative-territorial formations (ZATO) functioning through the prism of three blocks of legal relations connected with the restriction of citizens' constitutional rights and freedoms, with the peculiarities of ZATO socio-economic development, and with the protection of state and public security. **Purpose:** to characterize problems of legal support for ZATO regime and to identify directions of the further development for ZATO. **Methods:** a complex of general scientific methods and approaches is used: system, dialectic, genetic, structural functional, induction and deduction, analysis and synthesis, abstracting, concretization, etc.; also the formal legal method is used as a specific scientific method. **Results:** the main problems of the ZATO regime implementation are revealed, the future development of the legal maintenance of this regime functioning is specified. **Conclusions:** to overcome the vagueness of the legal regulation of the ZATO administrative-legal regime the following measures are required: to unify approaches to the maintenance of the ZATO regime; to use innovative potentialities of social and economic development of the closed areas (to use cluster strategies, to attract private business, etc.); to enshrine in law all the categories of citizens entitled by the federal legislation to enter a ZATO area; to define the nature of coercive measures established in municipal acts and applied to a violator of the ZATO regime, to consider their relation with measures of administrative responsibility established in the Code of Administrative Offences of the Russian Federation.

Keywords: closed administrative-territorial formation (ZATO); legal regime; limitation of rights; access mode; administrative responsibility; coercive measures; ZATO economic development, security

Information on Russian

«БОЛЕВЫЕ ТОЧКИ» ПРАВОВОГО РЕГУЛИРОВАНИЯ ЗАКРЫТЫХ ТЕРРИТОРИЙ В СОВРЕМЕННОЙ РОССИИ

И. В. Михеева

Доктор юридических наук, доцент, зав. кафедрой конституционного и административного права
Национальный исследовательский университет «Высшая школа экономики» (Нижний Новгород)
603155, Россия, г. Нижний Новгород, ул. Большая Печерская, 25/12

ORCID: 0000-0001-9323-6511

ResearcherID: B-4214-2014

e-mail: irinarap@mail.ru

К. В. Черкасов

Доктор юридических наук, доцент, профессор кафедры конституционного,
административного права и правового обеспечения государственной службы
Вятский государственный университет

610000, Россия, г. Киров, ул. Московская, 36

ORCID: 0000-0002-9754-9619

ResearcherID: G-3785-2016

e-mail: CherkasovKV1978@yandex.ru

Введение: в статье раскрываются особенности функционирования закрытых административно-территориальных образований (ЗАО) через призму трех блоков правоотношений, связанных: с ограничением конституционных прав и свобод граждан, с особенностями социально-экономического развития ЗАО; с охраной государственной и общественной безопасности. **Цель:** выявить проблемы правового обеспечения режима закрытых административно-территориальных образований и определить направления дальнейшего развития территорий действия этого режима. **Методы:** всеобщие методы познания: системный, диалектический; общенаучные подходы: генетический, структурно-функциональный, методы – индукция и дедукция, приемы – анализ и синтез, абстрагирование, восхождения от абстрактного к конкретному и др.; а также специальный метод – формально-юридический. **Результаты:** выявлены основные подходы к содержанию понятия ЗАО; обозначены цели административно-правового режима ЗАО; установлены особенности режима ЗАО, связанные с ограничениями конституционных прав и свобод человека и гражданина; показаны перспективы социально-экономического развития ЗАО; раскрыты проблемы привлечения к ответственности нарушителей режима ЗАО. **Выводы:** для преодоления нечеткости в правовой регламентации административно-правового режима ЗАО требуются: унификация подходов к содержанию режима ЗАО; использование инновационных возможностей социально-экономического развития закрытых территорий (реализация кластерных стратегий, привлечение частного бизнеса и пр.); нормативная фиксация на федеральном уровне всех категорий граждан, имеющих право на въезд на территорию ЗАО; определение природы мер принуждения, устанавливаемых в муниципальных актах и применяемых к нарушителю режима ЗАО, и соотношение их с мерами административной ответственности, установленными в Кодексе Российской Федерации об административных правонарушениях.

Ключевые слова: закрытое административно-территориальное образование; правовой режим; ограничение прав; пропускной режим; административная ответственность; меры принуждения; экономика ЗАО; безопасность

Introduction

Under the conditions of the current geopolitical situation, the problem of closed administrative territorial formations (hereinafter – ZATOs) is getting completely new significance. This is also confirmed by amendments being constantly made into the current federal legislation. As a rule, intellectual, innovation, industrial resources are concentrated in a ZATO territory, which adds a special value to ZATO territories in the overall strategic development of the society, economic growth, and state defensive potential and security. At the same time, economic and social indicators of ZATOs are low today. Reduction of the governmental defense orders entails reduction in production facilities. The number of employees at the backbone enterprises is decreasing along with simultaneous overpopulation of ZATOs. The fiscal capacity of localities is deteriorating. Lack of clarity in the issues of ZATO jurisdiction, uncertainty in coordination and subordination relations of municipal, federal and regional state authorities lead to the absence of balance between local and national interests [5]. Meanwhile, the significance of ZATOs in support of social and national security obliges to pay special attention to the issues of their administrative and legal regime.

The most important legal characteristics of the ZATO regime are determined in the Russian Federation Law "On a Closed Administrative Territorial Formation" (hereinafter – RF Law "On a ZATO")¹. It also specifies the multi-level system of legal regulation of ZATOs, distinguishes the powers of the authorities engaged into the implementation of the ZATO regime: the head of the state; the Government of Russia; federal and regional executive authorities, local authorities. The closed list of ZATOs is approved of by the Government of Russia and contains the names of 41 ZATOs and 91 localities included in them by the RF subjects². From the total number of ZATOs located in 22 regions 28 ZATOs are under the jurisdiction of the Ministry of

Defense, 10 ZATOs are subject to the jurisdiction of "Rosatom" State Nuclear Energy Corporation and 3 ZATOs are under the jurisdiction of "Roscosmos" State Corporation for Space Activities. The peculiarities of the state administration of these territories are determined by the departmental affiliation of the ZATO backbone enterprises, and their special status is indicated in the legal acts of the Government of Russia³.

ZATO: Content of the Concept

It should be noted that there are different approaches to the due content of the ZATO status. Some people believe that federalization of ZATOs, their maximum subordination to the center, shift from the regional subordination to the federal one is an optimal variant [6, p. 42]. Others welcome the today's dominating course to increase of the role of the RF subjects in the mechanism of financial and administrative assurance of operation of ZATOs [1, p. 33]. Both approaches are implemented with varying success at different stages of contemporary development of the Russian state and meet the definition of ZATOs given in Part 1 of Art. 1 of the RF Law "On a ZATO". The Law gives basic characteristics of ZATOs, which, first of all, concern the specification of the territorial formation "closeness": availability of local authorities, safe operation of organizations and facilities located in its territory to guarantee the defense and security of the country as well as terms and conditions of special regime establishment.

The definition of ZATOs given in the federal legislation is reproduced with considerable adaptive amendments in the charters of municipal

¹ On a closed administrative territorial formation: RF Law of July 14, 1992 No. 3297-1 (as amended of 3.07.2016) // Gazette of the RF Congress of Peoples' Deputies and RF Supreme Council. 1992. No. 33, art. 1915.

² On approval of the list of closed administrative territorial formations and inhabited localities situated in their territories: Decree of the RF Government of July 5, 2001 No. 508 (as amended of 16.04.2016) // Collection of legislative acts of the Russian Federation. 2001. No. 29, art. 3019.

³ On approval of the Regulation on assurance of the special regime in the closed administrative territorial formation in whose territory facilities of the Ministry of Defense of the Russian Federation are located: Decree of the RF Government of June 26, 1998 No. 655 (as amended of 19.03.2014) // Collection of legislative acts of the Russian Federation. 1998. No. 27, art. 3180; On approval of the Regulation on the order of assurance of the special regime in the closed administrative territorial formation in whose territory facilities of "Rosatom" State Nuclear Energy Corporation are located: Decree of the RF Government of 11.06.1996 No. 693 (as amended of 29.04.2016) // Collection of legislative acts of the Russian Federation. 1996. No. 40, art. 4645; On assurance of the special regime in the closed administrative territorial formation in whose territory space infrastructure facilities are located: Decree of the RF Government dated June 29, 2011 No. 519 (as amended of 19.03.2014) // Collection of legislative acts of the Russian Federation. 2011. No. 28, art. 4213.

formations and in regional legislative acts. Hereby one can come across a variety of definitions. In some cases, a definition similar to that given in the federal law is used. For example, Solnechny ZATO is deemed to be an urban district incorporating the facility for which special regime is established, that of safe operation and protection of the state secret including special conditions of residence of citizens¹. The same definition is included into the charter of Aleksandrovsk ZATO. In other sources incomplete (formal) definitions are presented. For example, it is specified that the city of Sarov is an administrative formation of the Nizhny Novgorod region and has the status of an urban district². The charter of Seversk ZATO mentions the date of foundation and the city day as well³.

Sometimes definitions containing the blanket rule are used. In particular, the charter of the city of Seversk mentions several most general features with peculiarities established by the current federal legislation⁴. In some cases, there are no definitions, and only characteristics are given, which do not indicate the specific features of ZATOs and are not arranged into a definition. Such a situation is observed in Zaozersk ZATO⁵, Znamensk ZATO⁶.

¹ On adoption of the Charter of the municipal formation Solnechny closed administrative territorial formation of the Tver region: Resolution of the Settlement Duma of Solnechny ZATO of August 15, 2005 No. 156-2 (as amended of September 30, 2015). URL: <http://www.zatosoln.ru/tinybrowser/files/dokumenty/ustav/ustav-zato-solnechnyy-v-redakcii-2015-g-oktyabr-.pdf> (accessed 16.07.2016).

² On adoption of the Charter of the city of Sarov of the Nizhny Novgorod region: Resolution of Sarov City Duma of March 1, 2007 No. 09/4-gd (as amended of 13.01.2015) [Electronic resource]. Access from the information system "ConsultantPlus" (accessed 13.08.2016).

³ On adoption of the Charter of the urban district of Seversk closed administrative territorial formation of the Tomsk region: Resolution of the People's Congress dated April 12, 2005 No. 69/1 (as amended of 19.02.2008) [Electronic resource]. Access from the information system "ConsultantPlus" (accessed 13.08.2016).

⁴ On adoption of the Charter of the municipal formation "The city of Severomorsk closed administrative territorial formation": Resolution of the Council of Deputies of the municipal formation of the city of Severomorsk ZATO of 13.12.2011 No. 218 (as amended of 11.11.2014) [Electronic resource]. Access from the information system "ConsultantPlus" (accessed 13.08.2016).

⁵ On adoption of the Charter of the closed administrative territorial formation of the city of Zaozersk of epy Murmansk region of the Russian Federation: Resolution of the Council of Deputies of the city of Zaozersk ZATO of 11.06.2005

Unfortunately, one has to state that sometimes current definitions of ZATOs given in charters of municipal formations distort some conforming to the law features forming the concepts or introducing additional features not related directly to the content of the ZATO regime. In this connection, it seems logical to use the ZATO definitions given in the federal legislation, in regional municipal regulatory acts [2, pp. 26–27].

It should be noted that "closed zones" are not a Russian know-how. They also exist in foreign states. Sometimes they are so secure that researches can only compose myths and offer hypotheses [11, 12]. The so-called zone 51 in the State of Nevada, USA is one of the most famous formations. It is where the atomic bomb was tested for the first time. According to the public law, the status of such military bases is determined by their 'withdrawal from public use'⁷. Foreign research on closed territories is held in different branches of human knowledge commonly upon the request of the military [9, p. 69]. As for the territories with the authorized access in Russia, which in foreign literature are studied in the context of the Soviet period of the Russian state, their definition has sometimes a politically motivated and abridged nature. The authors view ZATOs as a "top secret center of military research founded as a city [8, p. 116]. Classifications of such cities are derived: closed for foreigners, but open for soviet citizens; territories closed even for soviet citizens [14]. The latter are defined in literature as "small localities where only scientists and engineers working there, their families, workers of utility services selected thoroughly with account of their ideological loyalty were authorized" [13, p. 10]. Such interpretation of "closed cities" is archaic and does not comply with their contemporary designation and future prospects.

No. 81-1396 (as amended of 9.06.2015) // Western Litsa 2005. October 14.

⁶ On adoption of the Charter of the municipal formation "Znamensk closed administrative territorial formation of the Astrakhan region: Resolution of the Council of the municipal formation "Znamensk ZATO" of December 30, 2014 No. 47 // URL: <http://zato-znamensk.ru> (accessed 10.02.2016).

⁷ PUBLIC LAW 99606 [H.R. 1790]; November 6, 1986 // URL: http://www.ufomind.com/area51/events/range_renewal/pl_99_606.html (accessed 13.0.2016).

Goals of the ZATO

Administrative Legal Regime

Availability of operating organizations engaged into development, manufacturing, storage and utilization of mass destruction weapons, processing of radioactive and other materials, carrying an increased danger of the technogenic nature, military and other facilities (hereinafter – organizations and (or) facilities) is an essential condition to introduce the ZATO regime in a certain territory. It is for them that the special regime of safe operation and protection of the state secret is established, including special conditions of residence for the citizens.

The main goal of the ZATO establishment is to assure safe operation of the organizations located in its territory whose operation pertains to the sphere of the military industry as well as mining and processing hazardous technogenic materials. This goal is specified in the whole range of regulatory legal acts adopted for successful functioning of the special regime established in ZATOs. Researchers use the nature of the functions implemented by the state as a basis for classifying the goals which the introduction of the special regime in the ZATO territory is aimed at. Correspondingly, one can determine political goals (assurance of the country's defense and state security, fulfillment of the international obligations of the Russian Federation not to proliferate mass destruction weapons, suppression of terrorist, diversion and other unlawful acts); social and economic goals (assurance of support provided for the citizens and their families, residing and working in the territory of ZATOs, growth of incomes of the population of ZATOs, establishment of the conditions for the development of educational and cultural potential), etc.

Clear goal setting allows for determining the parameters of possible and permissible variations when solving the state administrative problems, it also helps to control the variation range, and to forecast possible risks of state regulation. Meanwhile, the goals designated in the basic law are specified and complemented in many program documents and development strategies of individual ZATOs. This adds some causality, lack of consistency in their statement, makes an algorithm of the ZATO legal regime development impossible which would bring the stability to the regulated re-

lations in the territories with a special status. Ambiguity in the definition of the goals does not allow for selecting the best way between the variety of development vectors, which would permit to establish the algorithm of achievement of the goals and to concentrate the resources required.

At the same time, the strategic goals of ZATO functioning are predetermined by the aggregate of social relations regulated by the rules of the ZATO administrative legal regime. These relations can be divided into several conventional blocks, which would allow for adding some arrangement to the definition of the goals. The following seems to be the most important: 1. relations of the constitutional character; 2. relations of the social and economic character formed in connection with the peculiarities of implementation of the state strategic tasks in the territory of ZATOs; 3. relations arising in connection with assurance of security of the state and society.

Restrictions on the Constitutional Civil Rights

The peculiarity of ZATOs consists in some restriction on constitutional civil rights and freedoms (within the limits determined by the federal legislation). Those are related to entry and (or) residence of citizens in the territory of the formation, to implementation of the right to engagement into business and entrepreneurial activity, possession, use and disposal of natural resources, real estate, land, which arises out of restrictions imposed on entry and permanent residence, etc. The special ZATO regime includes the regime of a controlled zone (to be established in the entire territory of a ZATO, excluding the territory of the facility, for restriction of citizens' access to this territory) and the regime of the prohibited zone (to be established inside the territory of a ZATO around an enterprise or facility and is intended for exclusion of access of citizens to the indicated territory without a production need, i.e. only for the company's employees). Checkpoints are equipped for the implementation of the authorized access of citizens and transport vehicles transit.

The access control regime in the controlled zones of ZATOs is established in accordance with the instruction agreed with the territorial authority of the Federal Security Service and approved of by the chief of the facility, the chief of the organiza-

tion protecting the controlled zone, and the head of the ZATO municipal formation. The access control regime in the prohibited zone is established in accordance with the instruction approved of by the chief of the facility and chief of the organization protecting the prohibited zone. The access control rules in the territory of different ZATOs can be called universal but this does not rule out availability of some peculiarities in an individual unit. Special instructions applicable to this very unit are created in each ZATO. They determine the restrictions of the ZATO access control regime (entry, exit, stay, etc.).

With all the severity of the regulation there is uncertainty in the issue of the traveling abroad for the citizens residing the territory of ZATOs. The Decree of the RF Government as amended in April 22, 2009 included clause VI concerning traveling abroad for the citizens residing in the territory of the closed formation¹. The decision on the possibility of their travelling abroad was taken with account of their awareness of information making the state secret as well as related to operation of environmentally hazardous productions. However, Decree of the RF Government No.1493 recognized this clause invalid². The question which remains open is whether free travelling abroad is now permitted for all citizens residing in the territory of ZATOs or the decision on the restriction of departure must be taken by the head of the facility and local authority at his discretion upon the agreement with the territorial authority of the Federal Security Service. In this connection, the order of travelling abroad for the citizens residing in the territory of ZATOs requires specification.

There is an acute problem concerning the right of entry of foreign citizens, stateless persons as well as citizens of Russia representing interests of foreign organizations into the territory of a closed formation. These categories of citizens can enter the territory of ZATOs upon permission of the head of Roscosmos, the head of Rosatom, agreed with the Federal Security Service, the head of the ZATO local authority

subject to the agreement with the territorial authority of the Federal Security Service, or upon decision of the facility chief. Unfortunately, the current federal legislation does not say about citizens who arrive in this territory for a visit, stateless persons who reside permanently in the territory of Russia and have a residence permit, or foreign citizens.

This gap is replenished by the legal acts of ZATOs which contain their own rules regulating the entry of foreigners and stateless persons to their territory. For example, cl. 8 of the Instruction on the access control regime in the controlled zone of Aleksandrovsk ZATO of the Murmansk region states that a foreign citizen or a stateless person has the right to entry, temporary stay, temporary or permanent residence in Aleksandrovsk ZATO subject to availability of identity documents, and on the basis of a special permit for entry into the ZATO issued by the Northern Fleet Command, document affording a ground to stay in the RF, permit for temporary residence or permanent residence in the RF issued by the Directorate of the RF Migration Service for the Murmansk region with a mark of registration in Aleksandrovsk ZATO³.

Despite the fact that all the restrictions are introduced in accordance with art. 55 of the RF Constitution, the organization of the access control regime in the territory of ZATOs often becomes a subject of legal proceedings. Hereby the court practice on this issue is quite ambiguous or contradictory. For example, ZATO administrations often reject citizens' entry into the territory of the unit (territorial formation) after they served punishment. There is an example of the case examined in the European Human Rights Court where the complaint of a Russian citizen versus the state was satisfied. The Russian Federation was obliged to pay out about 4,5 thousand Euros to the individual⁴. The supreme constitutional justice authority of Russia has indicated in one of its rulings that nothing can prevent a citizen from returning to the place of his residence after serving punishment in the places of detention even to ZATOs⁵. Mean-

¹ On approval of the Regulation on the order of assurance of the special regime in the closed administrative territorial formation in whose territory facilities of "Rosatom" State Nuclear Energy Corporation are located: Decree of the RF Government of 11.06.1996 No. 693 (as amended of 29.04.2016) // Collection of legislative acts of the Russian Federation. 1996. No. 40, art. 4645.

² On introduction of amendments to the Decree of the Government of the Russian Federation of June 11, 1996 No. 693: Decree of the RF Government of December 30, 2012 No. 1493 // Collection of legislative acts of the Russian Federation. 2013. No. 2, art. 98.

³ On approval of the Instruction on organization and implementation of the access control regime in the closed administrative territorial formation of Aleksandrovsk of the Murmansk region: Decree of the Administration of MF ZATO Aleksandrovsk of 09.02.2016 No. 290 // Polar Messenger. 2016. January 14; February 11.

⁴ Karpachev's case and "Karpachev vs. Russia" (complaint No. 34861/04); Decree of the European Human Rights Court of January 2, 7 2011 [Electronic resource]. Access from the information system "ConsultantPlus" (accessed 13.08.2016).

⁵ On rejection in acceptance for consideration of the request of the Sormovsky District Court of the city of Nizhny Novgorod

while, cases still occur when the regional courts recognize lawfulness of rejections of the permit to entry into the territory of ZATOs for the citizens who served a sentence¹. It seems necessary to add uniformity in the administrative and judicial practice to recognize the rights of a citizen who served a sentence for a crime to return to a ZATO as to the place of permanent residence.

Taking into account the practice of implementation of authorization powers by the bodies and authorized officials, researchers proposed to expand the list of persons who are allowed to enter for permanent residence and temporary stay in the territory of ZATOs at the expense of inclusion of citizens coming for a visit (temporary stay), stateless persons residing permanently in the territory of Russia and having a valid residence permit (temporary stay) as well as foreign citizens and stateless persons residing permanently in the territory of ZATOs (permanent residence) [4].

Peculiarities of the Social and Economic Development of ZATOs

In most cases, the status of a closed territory not only affects the rights of citizens to movement but also restricts the opportunities of the territory's socio-economic development. This is related to the difficulties with attracting potential investors: problems arise with the issue of permits to entry of people and carriage of cargoes. The entities established with the use of foreign capital have practically no opportunities to set up their branches in ZATOs. In this sense, optimization of enterprises and facilities, for the sake of which ZATOs were established, must be implemented with the account of forecasts and possible risks of the socio-economic development of territories and must be clearly stated in strategic planning documents for the maximum use of all possible resources for the development of ZATOs.

The positions of scientists and practical experts on the issue of establishment and operation of organizations founded by foreign citizens, stateless persons, foreign organizations, foreign non-

profit non-governmental organizations and their divisions as well as activity of international organizations differ. In accordance with Cl. 2.2 Art. 3 of the RF Law "On a ZATO", their establishment and operation in the territory of ZATOs is prohibited. After cancellation of tax privileges in 2001, according to which all tax proceeds remained in the budget of ZATOs, a number of financial problems emerged. The preferences existing before appeared to be a compensation for prohibition on the attraction of foreign investors into ZATOs. Absence of preferences is now increasing losses, compensation of which from the budget is becoming unreal.

In this connection, some scientists propose amendments to a number of current regulatory legal acts and introduction of the permit for establishment of organizations founded by foreign citizens, organizations and stateless persons (at the first stage on a total control basis) in the territory of ZATOs [2, pp. 76–79]. Hereby, the establishment of organizations founded by foreign non-profit non-governmental organizations, their branches and international organizations remains prohibited. This proposal is stipulated, first of all, by economic factors, since inflow of investments with closeness of cities is rather problematic, and improvement of the environment for entrepreneurial communities is the guarantee for further development of ZATOs. It is proposed to develop a number of bills resulting from gradual entry of the private business into the nuclear industry: "On private nuclear power plants", "On direct investments into the nuclear industry", "On full compensations for restrictions in ZATOs", "On a special economic zone of ZATOs, technical parks of ZATOs" [3, pp. 67–68]. It is assumed that this will also help to attract investments, to get private foreign investors interested and, thus, to retain the viability of ZATOs.

Other authors, in particular B. V. Rossinsky, support another position, since in case there appears a permit for establishment and operation of organizations founded by foreign citizens, etc., considerable difficulties will arise concerning the special security regime and state secret protection, which is one of the priority tasks in the establishment of ZATOs. Besides, the measures proposed for the access of foreign participation to ZATOs can lead to the loss of the legal content of the administrative legal regime of a particular ZATO.

on verification of the constitutionality of a number of provisions of the Law of the Russian Federation "On a closed administrative territorial formation": Ruling of the RF Constitutional Court of 25.12.2003 No. 420-O [Electronic resource]. Access from the information system "ConsultantPlus".

¹ Appellate resolution. Judicial board for administrative cases of the Tomsk regional court on case No.33-2106/2013 of July 30, 2015. URL: <http://судебныерешения.рф/bsr/case/6050515> (accessed 23.06.3016).

The contradictory positions can be mitigated by the compromising solution of the bodies authorized to ensure operation of ZATOs at a worthy socio-economic level. Meanwhile, such a solution has not been presented yet in the practice of closed territories management. The strategic planning documents consider the issues of complex development of ZATOs¹. Each ZATO adopts its own program of the socio-economic development. The main problems requiring solution for quick and effective development of the relations the combination of which is the object of the ZATO regime include: insufficient level of the infrastructure development due to diversification of local economies; disproportions in the labor market; high barriers for access of external investors as well as insufficient financial support from the state. Today the solution to these problems is deemed to be the main priority of the socio-economic policy².

As is noted by researchers, further development of a ZATO is impossible without the innovative constituent of its economy [7, p. 115]. Innovative development of a ZATO's economy is complicated due to the restrictions in ZATOs on attraction of foreign investments, which, in its turn, does not allow for attracting non-state capital. To be fair, one should mention the Decree of the RF Government allowing for establishing an organization with foreign investments³. However, this procedure contains a whole range of restrictions for entrepre-

neurs, which does not permit to take this way of development.

The issues of ZATO development are viewed in the course of joint scientific discussions of Russian and foreign scientists in the context of establishment of the innovative system in Russia. Challengeable ideas suggested by analysts concern involvement of research laboratories of the so-called closed cities into entrepreneurial activity at the expense of leasing out "excessive" laboratory equipment as well as using the developed high technologies to establish private "high tech companies" [10, p. 17]. Probably, establishment of entrepreneurship development agencies in the territory of ZATOs can serve as an alternative. For example, Joint-Stock Company "Krasnoyarsk Regional Small and Medium Business Support Agency" conducts its activity in Zheleznogorsk ZATO. The main areas of the organization include financial support of small and medium business in ZATOs located in the territory of the Krasnoyarsk Krai granting guaranties in getting credits from credit organizations, assistance in search for partners and entry into interregional and foreign markets⁴.

Moreover, the development of innovational territorial clusters can nowadays serve as a means of attraction of investments to ZATOs. The RF Ministry for Economic Development is entrusted by 2021 to have formed the state support measures in respect of twenty-five cluster most of which are located in the territories of ZATOs⁵. Implementation of cluster strategies into ZATOs is extremely promising. Establishment of competitive innovation clusters network, new regional economic development centers in the Volga region, in the Far East and South of Russia overcoming the lag of depressive regions is one of the areas of implementation of the Russian economy innovative development scenario, which is the main feature of the long-term economic development of the state. In this sense, the strategic companies of ZATOs having innovative, science-intensive technologies

¹ On approval of the Strategy of innovative development of the Russian Federation for the period of up to 2020: Order of the RF Government of 08.12.2011 No. 2227-p // Collection of legislative acts of the Russian Federation. 2012. No. 1, art. 216; On approval of the state program of the Russian Federation "Economic development and innovative economy": Decree of the RF Government of April 15, 2014 No. 316 // Collection of legislative acts of the Russian Federation. 2014. No. 18 (part II), art. 2162; Military doctrine of the Russian Federation (approved by the RF President No. IIP-2976) // Russian Gazette. 2014. December 30.

² On the concept of the long-term social and economic development of the Russian Federation for the period up to 2020: Order of the RF Government of November 17, 2008 No. 1662-p // Collection of legislative acts of the Russian Federation. 2008. No. 47, art. 5489; Forecast of the long-term social and economic development of the Russian Federation for the period up to 2030 (developed by the RF Ministry for Economic Development). URL: http://economy.gov.ru/minec/activity/sections/macro/prognoz/doc20130325_06 (accessed 12.07.2016).

³ On establishment and operation of organizations with foreign investments in the territory of the closed administrative territorial formation: Decree of the RF Government of May 22, 2006 No. 302 // Collection of legislative acts of the Russian Federation. 2006. No. 22, art. 2334.

⁴ Support of small and medium entrepreneurship in Zheleznogorsk ZATO. URL: www.admk26.ru. (accessed 05.06.2016).

⁵ On approval of the state program of the Russian Federation "Economic development and innovative economy": Decree of the RF Government of April 15, 2014 No. 316 // Collection of legislative acts of the Russian Federation. 2014. No. 18 (part II), art. 2162.

and qualified staff can solve complex problems of the economic development of the state and its territories.

Security Assurance for the State and Society under the ZATO Administrative Legal Regime

The state is interested in an effective and comprehensive development of social relations connected with operation of ZATOs since they directly concern the issues of the national security¹. Meanwhile, there is a still open issue concerning the creation of an officially issued and widely known technique for determination and evaluation of the extent of damage inflicted to the security of Russia as a result of unauthorized dissemination of information making the state secret, which is extremely important for adequate law enforcement. Besides, the list of information making the state secret is of the general character. The detailed list is subject to securing and cannot be published officially, which makes it unavailable for reviewing and considerably complicates the determination of the specific object of secrecy.

Uncertainty also exists in regulation of the issues of administrative responsibility for violation of the ZATO regime and its constituents (e.g., the access control regime on its territory). The RF Law "On a ZATO" specified the elements of the special regime in the territories of ZATOs, which include establishment of controlled and prohibited zones; restrictions on entry and permanent residence of citizens in the territory of a ZATO, on flights of aircrafts over its territory, on the right to engagement into business and entrepreneurial activity, on establishment and operation of organizations with the foreign citizens as founders in its territory. Closeness of the reviewed administrative territorial formations presupposes a special mechanism of their protection, a number of access restrictions, violation of which entails application of enforcement measures.

¹ On approval of the Regulation on assurance of the special regime in the closed administrative territorial formation in whose territory facilities of the Ministry of Defense of the Russian Federation are located: Decree of the RF Government dated June 26, 1998 No. 655 (as amended of 19.03.2014) // Collection of legislative acts of the Russian Federation. 1998. No. 27, art. 3180; On approval of the Regulation on the order of assurance of the special regime in the closed administrative territorial formation in whose territory facilities of "Rosatom" State Nuclear Energy Corporation are located: Decree of the RF Government dated 11.06.1996 No. 693 (as amended of 29.04.2016) // Collection of legislative acts of the Russian Federation. 1996. No. 40, art. 4645.

One of the problems is that not all measures of administrative enforcement designated in local regulatory acts correspond to those designated in the Code of Administrative Offences of the Russian Federation (hereinafter – RF CoAO) or are detailed in the administrative legal doctrine. For example, along with the measures of administrative responsibility provided by the sanction of Art. 20.19 ("Violation of the special regime in a closed administrative territorial formation (ZATO)") and other articles of the RF CoAO (18.8, 18.11, etc.) the instructions on the access control regime to ZATOs indicate the possibility (and need) for application of such enforcement measures towards the violators as deprivation of the right to use a pass card (deprivation of a pass card) or periodic entry (for a certain period, as a rule, up to one year), temporary entry, deportation from the closed formation, non-admission to the territory of the controlled zone of the closed administrative territorial formation, etc.²

By the method of assurance of the law and order and by the target designation, the indicated enforcement measures belong to the category of punishment since they are applied to violators of prohibitions established by the norm. Hereby they do not belong to the measures of administrative or disciplinary or any other responsibility. Probably, in order to avoid ambiguity in understanding the nature of enforcement measures established in instructions at the municipal level, in May 2015 the Legislative Assembly of the Krasnoyarsk Krai introduced the bill to the State Duma of the Federal Assembly of Russia "On introduction of amendments to the Code of the Russian Federation on Administrative Offences". It was proposed to incorporate a new type of administrative punishment into the CoAO system – administrative deportation from the terri-

² Instruction on entry of citizens into the controlled zone of category A and controlled zone of category B of Snezhink ZATO. p. 10.7.: Appendix to the order of the Director of FSUE "Russian Federation Nuclear Center – E. I. Zababakhin ALL-Russian Research Institute of Technical Physics of 30.08.2013 No. 5034. URL: http://fsnz.susu.ru/media/file/OK/instrukciya_po_vezdu_v_gorod.pdf (accessed date: 24.05.2016); On introduction of the Instruction on the access regime to the controlled zones of Novouralsk ZATO and the Instruction on entry to the controlled zones of Novouralsk ZATO for permanent residence (temporary stay): Decree of the Administration of the Novouralsk urban district of the Sverdlovsk region of 09.10.2013 No. 2557-a (as amended of 15.04.2015) [Electronic resource]. Access from the information system "ConsultantPlus" (accessed 13.08.2016).

tory of ZATOs (by analogy with administrative deportation of a foreign citizen or stateless person from the Russian Federation). The bill was rejected. Meanwhile, the attempt to come up with such a legislative initiative is indicative of the legislator and law enforcer's interest in arrangement of measures of administrative enforcement for violation of the ZATO regime.

Unclearness in determination of the forms of responsibility is aggravated by ambiguity in distinguishing the subject of an offence related to violation of the special ZATO regime. For example, foreign citizens who committed unlawful crossing of controlled or prohibited zones of ZATOs and reside in the closed territory without authorization documents, etc. can be brought to administrative responsibility under Art. 18.8 of the RF CoAO (Violation of the rules of entry to the Russian Federation or regime of stay (residence) in the Russian Federation by a foreign citizen or stateless person), Art. 18.11 of the RF CoAO (Violation of immigration rules), etc.¹

It turns out that violation of the same prohibition, for example, unauthorized entry to the controlled zones of ZATOs, are qualified in a different manner for a foreign citizen and for a RF citizen. A foreign citizen will be liable for administrative offences in terms of the Russian state border protection and assurance of the regime of stay of foreign citizens or stateless persons in the territory of the Russian Federation, and a Russian citizen is liable for administrative offences infringing the public order and public security. Some inconsistency in the use of different articles of the RF CoAO in the common legal context of violation of prohibitions of the ZATO regime does not give clearness in the issue of bringing the specific subject to responsibility and is aggravated by additional enforcement measures established in the instructions on the access control regime.

Discussion

The difficulty in regulation of the administrative legal regime of ZATOs in Russia, which is im-

plemented by the federal, regional and municipal legal acts, raises issues of the theoretical and practical nature which require discussion. What should the management of these territories be aimed at: at further increase of the role of the RF subject in the mechanism of the financial and administrative assurance of operation of ZATOs or federalization and their maximum subordination to the center? Is it necessary to unify the content of the ZATO regime at the federal level or do the peculiarities of protected facilities located in the territory of these formations make it inexpedient? Which of the nowadays available means of innovative, economic, social development of regions is applicable exactly in the territory of ZATOs (access of foreign capital, involvement of secret laboratories in private business, etc.)? Finally, how do enforcement measures for violation of the ZATO regime specified in municipal acts correlate with the measures of administrative responsibility listed in the RF CoAO? There arise other particular issues which also need scientific reasoning and resolution from a present-day perspective.

Conclusions

Thus, the ZATO regime is an important part of the Russian legal framework. Meanwhile, the state of legal support for its operation is characterized by a whole range of problems. The content of the very concept of closed territories is defined unclearly. Taking into account the multi-level legal regulation of social relations which form in the course of ZATOs' functioning, it is more reasonable to use in statutory regional and municipal legal acts the wording from the ZATO definition given in the federal legislation.

Rigid framework, allowing (not allowing) for application of indirect methods of legal regulation, restrict the possibilities for the use of foreign investments for economic development of ZATOs. In this situation, participation in implementation of cluster strategies is the most promising area of use of the innovative potential of closed territories, along with inter-budgetary transfers.

Restrictions on freedom of movement, necessary for assurance of the ZATO regime restrictions, tightening of measures of administrative responsibility for violation of the regime rules require: specification of the order of travelling abroad for citizens residing in the territory of ZATOs;

¹ Instruction on entry to the controlled zones of the closed administrative territorial formation Ozersk city of the Chelyabinsk region for permanent residence (temporary stay) of individuals I-OR-039-2013. p. 4.16. URL: [http://www.ozerskadm.ru/upload/2016/01/Instruction%20И-ОП-039-2013%20\(с%20изменением%20№.1%20от%2001.04.2015\).pdf](http://www.ozerskadm.ru/upload/2016/01/Instruction%20И-ОП-039-2013%20(с%20изменением%20№.1%20от%2001.04.2015).pdf) (accessed 13.08.2016).

the list of persons to whom entry is permitted for permanent residence and temporary stay in the territory of a closed formation enshrined in legislation at the federal level; uniform administrative and judicial practice for acknowledgement of the right of a person who served a sentence for a crime to return to the ZATO as the place of permanent residence.

Some oddness of the legal regulation of responsibility for violation of the administrative regime of ZATOs, specification and itemization of actual grounds for application of enforcement measures to the violators of the ZATO regime in many instructions adopted at the municipal level (on organization and implementation of the access control regime in ZATOs, on the procedure for assurance of the special regime in ZATOs, on the procedure of organization of the access control regime to the controlled zone of ZATOs, on entry of citizens to the controlled zone of ZATOs, etc.) require unification of approaches to definition of the event of administrative offense (violation of the ZATO regime), revelation of its subjects, correlation of the public enforcement measures recorded in the instructions with the measures of administrative responsibility and assurance of proceedings on the cases on administrative offenses.

The identified "burning issues" in operation of closed territories in contemporary Russia allow one to present the vectors for improvement of the legal support for the ZATO regime and make optimistic forecasts about the real possibility of its development.

References

1. *Alekseev E. P. ZATO zhelayut samoupravlyat'sya i ne chut'-chut'* [ZATOs Want to Be Self-Governed, and Not Just a Little Bit]. *Rossiyskaya Federatsiya segodnya* – The Russian Federation Today. 2010. Issue 10. Pp. 33–34. (In Russ.).
2. *Baydarov D. Yu. Osobennosti pravovogo rezhima zakrytykh administrativno-territorial'nykh obrazovaniy v RF: diss. ... kand. jurid. nauk* [Peculiarities of the Legal Status of Closed Administrative-Territorial Formations in Russia: Cand. jurid. sci. diss.]. Moscow, 2014. 210 p. (In Russ.).
3. *Denisov Yu. N. Goroda strategicheskogo znacheniya. Assotsiatsii zakrytykh gorodov posvyashchaetsya* [Cities of Strategic Importance. Dedicated to the Association of Closed Cities]. *Ekonomicheskie strategii* – Economic Strategies. 2013. Issue 6(114). Pp. 66–69. (In Russ.).
4. *Kil'deeva Yu. R. Pravovoy status zakrytykh administrativno-territorial'nykh obrazovaniy* [Legal Status of the Closed Administrative-Territorial Formations] *Nauka. Obshchestvo. Gosudarstvo* – Science. Society. State. 2013. Issue 1(1). Pp. 1–7. (In Russ.).
5. *Kuznetsov V. N. Problemy normativno-pravovogo regulirovaniya deyatelnosti organov mestnogo samoupravleniya v ZATO* [Problems of Normative Legal Regulation of Local Authorities' Activities in a ZATO]. *Praktika munitsipal'nogo upravleniya* – Practice of Municipal Management. 2012. Issue 12. Pp. 24–30. (In Russ.).
6. *Lisavkin G. N. Zachem ZATO munitsipal'nye chut'-chut'?* [What Do ZATOs Need Municipal Crumbs for?]. *Rossiyskaya Federatsiya segodnya* – The Russian Federation Today. 2010. Issue 7. Pp. 42–43. (In Russ.).
7. *Faykov D. Yu. ZATO – territoriya gosudarstvennykh interesov* [Closed Administrative-Territorial Entity as a Field of State's Interests]. *Problemnyy analiz i gosudarstvenno-upravlencheskoe proektirovanie* – Problem Analysis and Public Administration Projection. Moscow, 2010. Issue 2(3). Pp. 111–115. (In Russ.).
8. *Encyclopedia of Contemporary Russian Culture*; ed. by Evans-Romaine K., Goscilo H., Smorodinskaya T. London, New York, 2007. 727 p. (In Eng.).
9. *Herper K. Weather by the Numbers: Genesis of Modern Meteorology*. Massachusetts. 308 p. (In Eng.).
10. *Innovation for Profit in Russia. Summary of a Workshop*. Washington, 2005. 65 p. (In Eng.). DOI:10.17226/11418.
11. *Jacobsen A. Area 51: An Uncensored History of America's Top Secret Military*. New York, 2011. 521 p. (In Eng.).
12. *Leahey C. Whitewashing War: Historical Myth, Corporate Textbooks, and Possibilities for Democratic Education*. New York, London, 2010. 161 p. (In Eng.).
13. *Mason F. Dragon Lady: A History of the 1960 U-2 Spying Incident*. 2014. 75 p. (In Eng.).
14. *Wigner E. P. Socio-Political Reflections and Civil Defense. Part B. Vol. VIII*. Houston, 2012. 258 p. (In Eng.).

References in Russian

1. *Алексеев Е. П.* ЗАТО желают самоуправляться и не чуть-чуть // Российская Федерация сегодня. 2010. № 10. С. 33–34.
2. *Байдаров Д. Ю.* Особенности правового режима закрытых административно-территориальных образований в РФ: дис. ... канд. юрид. наук. М., 2014. 210 с. URL: http://dissovet.rudn.ru/web-local/prep/rj/index.php?id=28&mod=dis&dis_id=359 (дата обращения: 12.07.2016).
3. *Денисов Ю. Н.* Города стратегического значения. Ассоциации закрытых городов посвящается // Экономические стратегии. 2013. № 6 (114). С. 66–69.
4. *Кильдеева Ю. Р.* Правовой статус закрытых административно-территориальных образований // Наука. Общество. Государство. 2013. № 1(1). С. 1–7.
5. *Кузнецов В. Н.* Проблемы нормативно-правового регулирования деятельности органов местного самоуправления в ЗАТО // Практика муницип. управления. 2012. № 12. С. 24–30.
6. *Лисавкин Г. Н.* Зачем ЗАТО муниципальные чуть-чуть? // Российская Федерация сегодня. 2010. № 7. С. 42–43.
7. *Файков Д. Ю.* ЗАТО – территория государственных интересов // Проблемный анализ и государственно-управленческое проектирование. М., 2010. № 2(3). С. 111–115.
8. *Encyclopedia of Contemporary Russian Culture*: ed. by K. Evans-Romaine, H. Gosciolo, T. Smorodinskaya. London and New York: Taylor & Francis Ltd., 2007. 727 p.
9. *Herper K.* Weather by the Numbers: Genesis of modern meteorology. Massachusetts: Massachusetts Institute of technology, 2008. 308 p.
10. *Innovation for profit in Russia*. Summary of a workshop. Washington, DC: The National Academies Press, 2005. 65 p. DOI: 10.17226/11418.
11. *Jacobsen A.* Area 51: An Uncensored History of America's Top Secret Military. New York: Jenson Books Inc., 2011. 521 p.
12. *Leahey C.* Whitewashing War: Historical Myth, Corporate Textbooks, and Possibilities for democratic education. New York; London: Teachers College, Columbia University, 2010. 161 p.
13. *Mason F.* Dragon Lady: A History of the 1960 U-2 Spying Incident. HistoryCaps. BookCaps Study Guides, 2014. 75 p.
15. *Wigner E. P.* Socio-Political Reflections and Civil Defense. Part B. Vol. VIII. Houston: Springer Science & Business Media, 2012. 258 p.