

Awarding the Sign «Resident of Beleaguered Sevastopol» as a New Basis for Assigning Persons to the Category of Veterans of the Great Patriotic War

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ABSTRACT

In this article, the author considers persons awarded the sign «Resident of Beleaguered Sevastopol» as a new basis for classifying persons as veterans of the Great Patriotic War, introduced into the legislation of the Russian Federation in 2020, drawing an analogy with the status of persons awarded with the sign «Resident of Blockaded Leningrad». In order to improve the specified subcategory of veterans of the Great Patriotic War. According to the author, the legal relationship regarding the assignment of the federal title of veteran of the Great Patriotic War for persons who lived in beleaguered Sevastopol currently includes, in addition to the material and legal component (the fact of a person's residence in Sevastopol during the specified period), also procedural component in the sphere of awards of the subject of the Russian Federation, which is at the discretion of the legislator of the subject of the Russian Federation. The author proposes to abandon the criterion for awarding a sign in favor of establishing in the federal law specific criteria for the residence of persons in a certain territory during the Great Patriotic War, to adopt a Resolution of the Government of the Russian Federation on the procedure for determining persons falling under the criteria of residence in these cities, so that this determination can be carried out on the entire territory of the Russian Federation, and also establish a single criterion for referring to veterans of the Great Patriotic War for residents of beleaguered Sevastopol and blockaded Leningrad, associated with the fact of living in these cities during the beleaguer (blockade).

Keywords: legal status of veterans, social security, privileged categories of citizens, legislation of the constituent entities of the Russian Federation

As the honoring of defenders of Fatherlands' remembrance, protection of historical truth and inadmissibility of depreciation of peoples' exploit by defense of Fatherland have been included in constitutional norms by the Law of Russian Federation about the constitutional amendments № 1 from 14.03.2020¹ (Part 3 Article 67.1 of the Russian Federation's Constitution in new version)². E.V. Sazonnikova relates the mentioned norms of the Russian Federation's Constitution to constitutional values of Russian Federation³. The disclosure of mentioned clauses of the Constitution of Russian Federation in consideration of methodical interpretation this article of the Fundamental law is exercised by adopting both federal laws and the laws of the regions of Russian Federation.

The Federal law «About veterans»⁴, in order to take into account the merits of defense of Fatherland, perfect military service, other state service and long-term faithful work, determined beside other categories as well the category «Veterans of the Great Patriotic War» (Article 1). The mentioned law doesn't assign a unified category «The veteran»⁵, so, the criteria whether a person belongs to any group of veterans are determined by law in description of every particular category of veterans, and the legal status «the veteran» depends on the fact if a person belongs to any category mentioned in Article 1 of the Federal law «About veterans». At the same time the Federal law «About veterans» determines the federal categories

¹ About improving the regulation of particular issues of the public powers organization and functioning: the law of the Russian Federation about the amendments to the constitution from 14.03.2020 №1-ФКЗ [online source] Access from St. Petersburg «Consultant Plus». URL: http://www.consultant.ru/documents/cons_doc_LAW_346019 (data of access: 16.02.2021)

² The Constitution of the Russian Federation: accepted by the nationwide vote 12.12.1993 with amendments, approved in the course of all-Russian vote 01.07.2020 [online source] Access from St. Petersburg «Consultant Plus». URL: http://www.consultant.ru/documents/cons_doc_LAW_28399 (data of access: 16.02.2021)

³ E.V. Sazonnikova. The remembrance of the Fatherlands defenders and the defence of the historical truth as the constitutional values. // Constitutional and municipal law. 2020. №10. Pages 29-32.

⁴ About veterans: the federal law from 12.01.1995 №5-ФЗ (redaction from 30.12.2020) [online source] // Access from St. Petersburg «Consultant Plus». URL: http://www.consultant.ru/documents/cons_doc_LAW_5490 (data of access: 16.02.2021)

⁵ J.V. Belyaninova, O.A. Gurina, N.A. Sackarova. The commentary on the federal law from 12.01.1995 №5-ФЗ «About veterans» redacted by T.S. Guseva [online source] Access from St. Petersburg «Consultant Plus», 2016. URL: <http://www.online11.consultant.ru/cgi/online.cgi?req=doc&base=CMB&n=18315#034312692820780244> (data of access: 16.02.2021)

of veterans, specified for legal relationship on the whole territory of Russian Federation, which have to be distinguished from other regional categories of veterans (e.g., labor veteran of Leningrad region, labor veteran of Kaliningrad region etc.).

The list of persons, who belongs to the category «The veterans of the Great Patriotic War», is determined by the Article 2 the Federal law «About veterans» and consist of four subcategories of mentioned category: (1) participant of the Great Patriotic War based on nine bases of assigning; (2) persons who worked for needs of defense or for military units⁶; (3) persons who were awarded the sign «Resident of blockaded Leningrad» and the sign «Resident of beleaguered Sevastopol», (4) persons who served in the hinterland for at least six month or who had been awarded an order or medal for the good service during the Great Patriotic War (until 1995 these persons were called «toilers of the home front»).

It should be noted, that the doctrine doesn't contain any stable denomination of all subcategories of veterans of the Great Patriotic War, and this fact often make it difficult to define, whether a person belongs to one of the categories, and to understand the person's status and right to privilege, and also to draft legal acts for social support for veterans, especially for persons, who have a certificate of Participant of the Great Patriotic War, but not including the events 1941-1945, for example the participants of fights on Damansky Island 1969, or persons who doesn't have a certificate of Participant of the Great Patriotic War, e.g. young prisoner of fascist concentration camps, or war babies.

As opposed to the first, second and fourth subcategories, the third category is not related to direct accomplishment of activity by a person during the Great Patriotic War, but to the fact of being awarded a certain sign.

The Federal law №431 from 22.12.2020⁷ includes in the mentioned subcategory not only the persons awarded the sign «Resident of blockaded Leningrad», but also the persons awarded the sign «Resident of beleaguered Sevastopol», and this fact requires doctrinal interpretation of all amendments, and also establishing the order, according to that any person would belong to mentioned base. It was determined as well, that the mentioned persons have right to monthly cash payments (subparagraph 5 paragraph 1 Article 23 Federal Law «About veterans») and to social support (Article 18 Federal Law «About veterans»).

The draft of the federal law «About amendments to particular legislative acts of Russian Federation according belonging people awarded the sign «Resident of beleaguered Sevastopol» to veterans of the Great Patriotic War, and establishing for them legal guarantees of social protection» was developed for purpose to fulfill the decrees of the President № 546 from March 18, 2020.

As indicated in the explanatory note to the draft bill⁸, prior to the development of the draft law, in order to determine the status of the category of citizens «Resident of beleaguered Sevastopol» ant to maintain the social supportive measures, which have been previously granted to the citizens by The Law of the Ukraine №3551-XII from 22.10.1993 «About the status of War's veterans, guarantees and social support», and also in order to establish the sign «Resident of beleaguered Sevastopol», the Law of Sevastopol-City №339 from 20.04.2014 «About the Residents of beleaguered Sevastopol» has been passed, according to them the supporting measures for people lived in Sevastopol and awarded the sign «Resident of beleaguered Sevastopol» have been realized .

In conformity with the Law of Sevastopol-City №339⁹ and according to the order, established by The Governmental Regulation of Sevastopol № 341¹⁰ from 27.04.2017, the sign «Resident of beleaguered Sevastopol» is presented to Citizen of Russian Federation, foreign citizen and people without citizenship, who lived on the territory of Sevastopol during the defence of the city from 30.10.1941 till 4.07.1942.

In such a way according to the explanation of the draftsman, the federal law about a new bases of assigning persons to veterans of the Great Patriotic War has a main goal – to restore the status of veterans of the Great Patriotic War for mentioned persons, which they got according to the Law of Ukraine being valid on the territory of Sevastopol before annexation of the Republic of Crimea by the Russian Federation in 2014.

⁶ I.A. Slobtsov, O.V. Shashkova (Kuznetsova), N.V. Shashmurina. The commentary on the federal law from 12.01.1995 №5-ФЗ «About veterans». [online source] // Access from St. Petersburg «Consultant Plus». 2010. URL: <http://www.online11.consultant.ru/cgi/online.cgi?req=doc&base=CMB&n=16466#098951380016348> (data of access: 16.02.2021).

⁷ About amendments to particular legislative acts of Russian Federation according belonging people awarded the sign» Resident of beleaguered Sevastopol» to veterans of the Great Patriotic War, and establishing for them legal guarantees of social protection: the federal law from 22.12.2020 №431-ФЗ [online source] // Access from St. Petersburg «Consultant Plus». URL: http://www.consultant.ru/documents/cons_doc_LAW_371575 (data of access: 16.02.2021).

⁸ About amendments to particular legislative acts of Russian Federation according belonging people awarded the sign» Resident of Beleaguered Sevastopol» to veterans of the Great Patriotic War, and establishing for them legal guarantees of social protection: the draft bill №1019797-7 (shelved) [online source] // The system of the legislations ensuring. URL: <https://sozd.duma.gov.ru/bill/1019797-7> (data of access: 12.01.2021).

⁹ About the residents of beleaguered Sevastopol: the law of Sevastopol-City from 20.04.2017 №339-3C [online source] // Internet-portal of the Sevastopol's legislative assembly. URL: https://sevakon.ru/view/laws/bank/2017/zakon_n_339_zs_ot_20_04_2017/24689 (data of access: 16.02.2021).

¹⁰ About the establishment of the order of production and issuing of the sign «The Resident of the Beleaguered Sevastopol»: the resolution of the Sevastopol's Government from 27.04.2017 № 341-ПП [online source] // Portal «The online fund of the legal and reference documentation». URL: <http://docs.cntd.ru/document/446195980> (data of access: 16.02.2021).

According to the conclusion of the Government, stated in opinion letter №8226p-12¹¹ from 09.12.2010, the draft bill is directed to governmental support of 1217 persons.

At the same time the federal lawmaker, introducing the new bases for assigning the citizens to subcategory «Veterans of the Great Patriotic War», didn't regulate the order of awarding the signs, including the level of state authorities who have to take appropriate decisions, and particular state bodies, who have right to take decision about awarding, reasons for awarding and other elements of relevant legal relationship. The mentioned sign also isn't included in state awarding system of Russian Federation according to the order of the President of Russian Federation №1099 from 7.09.2010»About the measures of improvement of state awarding system of Russian Federation».

So, the assigning of persons lived in Sevastopol from 30.10.1941 till 04.07.1942 to the category of the veterans of the Great Patriotic War isn't automatically accomplished on the ground of living on the territory, but on the ground of awarding mentioned persons by the Sevastopol's executive bodies the sign «Resident of Beleaguered Sevastopol» according to legal acts of Sevastopol.

I.e. the legal relationship on the subject of assignment of federal title of the veteran of the Great Patriotic War» include nowadays beside formal component (the fact of living on the territory of Sevastopol in the mentioned period of time) also legal component in sector of awarding relationship of the RF regions.

The similar reason for assignment the federal title, based not on the objective criteria, but on taking the appropriate decision by the authorities of the RF subject in conformity with the order, established by the RF authority, is also established nowadays for the other sign, mentioned in the third subcategory of the title refer «The veteran of the Great Patriotic War» – it is the sign «Resident of blockaded Leningrad». The awarding a sign «Resident of Beleaguered Leningrad» is implemented for the reason of the Executive Committee of Leningrad municipal Soviet of People's Deputies № 5 from 23.01.1989¹² by the St. Petersburg's state administration bodies; there is no criteria of investiture of the mentioned sign in federal law, and it leads to establishing of reasons for assignment a title of veteran of the Great Patriotic War not by federal authorities, but by regions of Russian Federation.

According to the names of the signs, if on the federal level a united criterion is established and interpreted, which unites the third subcategory of veterans of the Great Patriotic War – the residence in an particular city (Leningrad or Sevastopol) and at particular time (blockade or siege), so the implementation of the mentioned order in the law of St. Petersburg and Sevastopol determines different conditions of assignment of the federal title of veteran of the Great Patriotic War according to residence term. If there is no direct order of federal lawmaker in relation on supplementary conditions of assignment of the federal title of veteran of the Great Patriotic War by state authorities of the RF subjects, it can be considered to be violation of the constitutional principle of inadmissibility of depreciation of peoples' exploit by defense of Fatherland in relation to residents of blockaded Leningrad, who doesn't possess the appropriate local residence requirement according to the law of the subject of Russian Federation.

Even if for two regions – St. Petersburg and Sevastopol – there are no common criteria in the law of subjects of Russian Federation, but the elaboration of united criteria of assignment of the title gets the a very important political and legal meaning for the regions, which residents displayed the mass heroism during the Great Patriotic War because of living in this city. If the common conditions of referring people to veterans of the Great Patriotic War are regulated with the federal law, than the determination of particular criteria of the assignment of the title, depending on the residence on different territories, have also be implemented on the federal level, e.g. with the Resolution of the Government of Russian Federation as the supreme authority of executive power, and it could ensure that the mentioned acts are valid on the whole territory of the state.

According to the above-mentioned facts, the following measures of improvement of legislative regulation of subcategory «Resident of beleaguered territories» are proposed:

To abandon the criterion for awarding a sign in favor of establishing in the federal law specific criteria of residence of persons in a certain territory during the Great Patriotic War:

To adopt a Resolution of the Government of the Russian Federation on the procedure of determining persons falling under the criteria of residence in these cities, so that this determination can be carried out on the entire territory of the Russian Federation;

To establish a single criterion for referring to veterans of the Great Patriotic War for residents of beleaguered Sevastopol and blockaded Leningrad associated with the fact of living in these cities during the beleaguer (blockade).

Introducing of mentioned amendments into the Legislation of the Russian Federation according to classifying the residents of some territories as veterans of the Great Patriotic War could promote the unity in understanding of merits of mentioned persons during the Great Patriotic War, it also could completely conform to the paragraph 3 Article 67.1 Constitution of the Russian Federation, and will simplify making the decision by executive authorities about the assignment a title of veteran of the Great Patriotic War for particular persons.

¹¹ Supra note 8.

¹² About the sign «The Resident of the Blockaded Leningrad»: the clause implemented for the reason of the Executive Committee of Leningrad municipal Soviet of People's Deputies № 5 from 23.01.1989. [online source]// Portal «The online fund of the legal and reference documentation». URL:<http://docs.cntd.ru/document/8307238> (data of access: 16.02.2021).

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