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KAZAN UNIVERSITY LAW REVIEW

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Dear readers,

I would like to present for your attention the first regular issue of the journal "Kazan University Law Review" in 2022.

The issue you are holding now has articles on vital questions of theory and practice of Russian and foreign law.

The issue starts with the article by Head of the Department of Land Law and State Registration of Real Estate of the Faculty of Territorial Management of the Moscow State University of Geodesy and Cartography, Doctor of Legal Sciences, Professor, Honored Ecologist of the Russian Federation, Honorary Worker of Nature Protection, Academician of the Russian Ecological Academy, Tamara Zlotnikova, "Judicial protection as an effective mechanism for ensuring environmental rights of citizens". The article considers various aspects of the judicial protection of violated rights of citizens in the environmental sphere, discloses the constitutional and legal foundations for judicial protection of the rights of citizens, including the rights to a favorable environment. The provisions of international acts and norms of the current Russian legislation that contribute to the protection of violated environmental rights are analyzed. I pay special attention to the described reasons for the low negotiability and low effectiveness of court decisions to protect the environmental rights of citizens. An example of a case from personal practice on violated environmental rights of citizens in Moscow was given.

The issue continues with an article by Roza Sitdikova, Doctor of Legal Sciences, Professor of the Department of Entrepreneurial and Energy Law of the Kazan Federal University and Sergei Urvantsev, Deputy Prosecutor of Kazan "On the question of the character of public procurement". The authors of the article considered the legal character of public procurement as one of the elements to ensure the implementation of the principle of information openness (public reliability) at all stages of this process. This process is aimed at observing the interests of procurement participants, as well as the state and society as a whole. This study puts forward and substantiates the thesis about the importance of the character of the publicity of procurement. The emphasis is on the openness of the planning process and the involvement of a wide range of participants in procurement, which increases their

competitiveness. The author's assessments and proposals are rational in character and can be introduced into the norms of the current legislation.

The "Conference Reviews" section contains an article by a third-year student of the Faculty of Law of the Kazan Federal University Zilya Kdrasova "Scientific life of the Faculty of Law of the Kazan Federal University". This article is an overview of the activities of the scientific society of the Kazan Federal University, describes the work of scientific circles. The author describes the lectures and plenary sessions held by the lecturers-practitioners. The organization of all-Russian and international competitions by the student scientific society is mentioned.

With best regards,
Editor-in-Chief
Damir Valeev

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ARTICLES

Tamara Zlotnikova

Head of the Department of Land Law and State Registration of Real Estate of the Faculty of Territorial Management of the Moscow State University of Geodesy and Cartography, Doctor of Legal Sciences, Professor, Honored Ecologist of the Russian Federation, Honorary Worker of Nature Protection, Academician of the Russian Ecological Academy

JUDICIAL PROTECTION AS AN EFFECTIVE MECHANISM FOR ENSURING ENVIRONMENTAL RIGHTS OF CITIZENS

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Abstract. *The author examines various aspects of the judicial protection of the violated rights of citizens in the environmental sphere. The constitutional and legal foundations of judicial protection of the rights of citizens, including the rights to a favorable environment, are disclosed. Analyzed the provisions of international acts that contribute to the protection of violated environmental rights: the Universal Declaration of Human Rights and the European Convention on Human Rights. The effectiveness of specific cases on the protection of environmental rights in the European Court is considered. An analysis of the variability of environmental and legal protection depending on violations of various norms of the Federal Law "On Environmental Protection" is given. The indicators of measures of prosecutorial supervision and modern judicial statistics on the consideration of cases in the environmental sphere are analyzed. The reasons for the low negotiability and low effectiveness of court decisions to protect the environmental rights of citizens are considered. A specific example of a case with personal participation on violated environmental rights of citizens in Moscow was given. Violations are associated with changes to Moscow urban*

planning and environmental legislation and the loss of large areas. Specially protected natural areas under the "garage amnesty". The reasons for such legislative decisions are identified, and a measure is proposed to eliminate the gaps in such innovations.

Keywords: *environmental rights, guarantees of constitutional rights, judicial protection, compensation for environmental damage, "garbage reform", specially protected natural areas, environmental legal awareness.*

The environmental and legal component of the Russian Constitution, both in terms of the rights of citizens and in terms of their duties, is its undoubted advantage[1]. The leading role belongs to the trinity of environmental rights of Russian citizens, proclaimed in Article 42 of the Basic Law of the country. Only a few, mostly new constitutions of foreign states, in various forms, secure the right of their citizens to a favorable environment. The constitutional right of everyone to health protection (Article 41) serves as another fundamental and comprehensive norm affecting the subjective rights of a person, the foundations of his life. But the guarantees of the above rights of citizens cannot be considered outside the context of the fundamental general legal norms of Articles 2, 17, 18 of the Basic Law of the country. Moreover, article 15 of the Constitution proclaims its unconditional supremacy and direct effect.

From the totality of the above constitutional provisions, it follows that the environmental rights of citizens are fundamental, natural and inalienable civil rights, the recognition, observance, and protection of which is guaranteed by the state. One of the main guarantees of all, and not just environmental rights, is judicial protection, which is extremely important for ensuring the rights of citizens to a healthy environment. It is protection in courts of different jurisdictions that provides the constitutional goal of protecting environmental rights provided for by the specified norms of the Basic Law. At the same time, the proper state of the environment in this case is the object of judicial protection.

These constitutional postulates on the basic environmentally oriented rights of citizens have found their own, quite logical, development in the relevant norms of federal laws. Thus, Article 11 of the Federal Law "On Environmental Protection" provides for the rights of citizens, similar to those specified in Article 42 of the Constitution, but somewhat expands them. In particular, it specifies "other activities", including emergency situations of a natural and man-made nature[2]. Similar rights to a "favorable living environment" are provided for by the norms

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[1] The Constitution of the Russian Federation, adopted by popular vote on December 12, 1993; with changes // Consultant.ru›document/cons_doc_LAW_28399/.

[2] Federal Law of January 10, 2002 No. 7-FZ "On Environmental Protection" // Consultant.ru›document/cons_doc_LAW_34823/.

of sanitary and epidemiological legislation[1]. Often violated, leading to judicial protection of the rights of citizens, is the norm of paragraph 2 of Article 13 of the Federal Law "On Environmental Protection" in terms of taking into account the opinion of the population when planning the placement of facilities that can harm the environment with their economic activities.

Additional, but very significant legal arguments in the judicial protection of citizens are the principles that must be used in the process of applying and interpreting the current legislation, which does not always happen. First, this concerns the basic principles of environmental legislation, defined in Article 3 of the Federal Law "On Environmental Protection". Certain principles of legislation on urban planning may become important for judicial environmental protection, for example, the principles named in paragraphs 2, 3, 5, 6, 9 of Article 2 of the Town Planning Code of the Russian Federation[2].

Among them, an important principle in urban planning is indicated regarding the balanced consideration of all factors, including environmental ones. But this norm does not fully ensure the environmental priority in the implementation of such activities. At the same time, in another principle of urban planning, it is determined to comply with environmental requirements, which does not always happen, and will be shown below. The basic principles of land legislation contained in Article 1 of the Land Code of the Russian Federation (clauses 1, 3, 4, 6, 8, 10, 11)[3] are also very significant in much litigation related to violations of land legislation. In addition, the basic principles of both urban planning and land legislation provide for a provision on the participation of citizens and their associations in the implementation of urban planning activities and in resolving issues related to land rights.

When applying to the courts for violated environmental rights, a number of provisions of strategic planning acts, as well as documents relating to the country's environmental policy, may be useful and appropriate. For example, the postulate of the Environmental Doctrine of the Russian Federation[4] is important, where the environmental priority is directly defined, which is literally indicated in the document as: "priority for society of the life-supporting functions of the biosphere in relation to the direct use of its resources".

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[1] Federal Law of March 30, 1999 No. 52-FZ "On the sanitary and epidemiological well-being of the population" // Consultant.ru›document/cons_doc_LAW_22481/; Town Planning Code of the Russian Federation // Consultant.ru›document/cons_doc_LAW_51040/.

[2] Town Planning Code of the Russian Federation // Consultant.ru›document/cons_doc_LAW_51040/.

[3] Land Code of the Russian Federation dated October 25, 2001 No. 136-FZ // URL: base.garant.ru ›Land Code.

[4] Environmental Doctrine of the Russian Federation, approved by Decree of the Government of the Russian Federation of August 31, 2002 No. 1225-r) // URL: docs.cntd.ru›document/901826347.

In almost any case of forensic environmental protection, it is appropriate to use the postulates of another long-term strategic act. Clause 8 of the Fundamentals of the State Policy in the Field of Environmental Development of the Russian Federation for the period up to 2030[1] (hereinafter referred to as the Fundamentals) provides for principles that are largely synchronized with the principles of the above-mentioned basic environmental law (Article 3 of the Federal Law "On Environmental Protection"). At the same time, in this strategic document, the principles relating specifically to the rights of citizens are strengthened and concretized. Thus, an extremely important addition has been made to the principle on the participation of citizens in solving environmental problems and in ensuring environmental safety to take into account the opinion of citizens in making decisions affecting their environmental rights, including when planning and further implementing various types of potentially environmentally hazardous activities. These strengthening expand the legal possibilities of judicial protection in relation to the rights of citizens in the environmental sphere.

However, the violation of environmental rights may be associated not only with the immediate unsatisfactory state of the environment and its consequences. Often, violation of the basic environmental right (to live in a relatively clean environment) is associated with illegal actions or inaction of persons making responsible decisions: whether they are representatives of state, municipal or other authorities. In such cases, citizens are forced to defend their violated rights by appealing to the courts against actions, as well as inaction, and in some cases decisions, of officials involved. Regularly, in order to restore violated environmental rights, citizens have to seek the recognition of acts of both a normative and non-normative nature as illegal. Such a judicial mechanism regularly becomes dominant in the dynamics of judicial restoration of violated rights of citizens in the environmental sphere.

Protection in court of any, including environmental, rights is based on the norms of Articles 45 and 46 of the Basic Law of the country, which establish guarantees of judicial protection of the rights and freedoms of any citizen. An additional important legal argument in the protection of environmental rights is the existence of norms of international legal acts, of which Russia is a full participant. And although this year Russia withdrew from the Council of Europe and all its relevant institutions, including the European Court of Human Rights, this human rights mechanism has played a significant role in protecting the environmental rights of the country's citizens. This right of citizens is also enshrined in the aforementioned Article 46 of the Basic Law and allows everyone who has exhausted all domestic Russian mechanisms of judicial protection to apply to international courts.

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[1] "Fundamentals of the state policy in the field of environmental development of the Russian Federation for the period up to 2030", approved by the President of the Russian Federation on April 30, 2012 // URL: kremlin.ru›events/president/news/15177.

The powers of the European Court of Human Rights are determined by the relevant European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter referred to as the European Convention), to which Russia has been a party since 1998[1]. Both in this international legal act and in the Universal Declaration of Human Rights (hereinafter referred to as the Declaration)[2], the rights of citizens in the field of environmental protection are not singled out as an independent variety of subjective rights. To the extent that environmental rights and interests are related to human health, they are covered by the right to life. However, the text of this Convention does not directly contain a provision on environmental rights. Apparently, this is due to the peculiarities of the Western legal doctrine, which does not consider environmental law as basic independent rights, but includes it in the expanding content of other fundamental rights. Therefore, consideration of the protection of environmental rights is carried out according to the rules of the European Court within the framework of the protection of the fundamental right to life, or within the framework of the rights to respect for private life (or family life), provided for in Articles 2 and 8 of the said Convention, respectively. The most general but effective rule in the case of environmental protection is Article 3 of the Declaration, which protects the right to life and personal integrity. It is also appropriate to refer to Article 8 of the Declaration, which, along with the mentioned constitutional norms of Articles 45, 46, concerns the right of citizens to judicial protection.

It is appropriate to recall the most famous and resonant environmental cases of Russians in the European Court, for example, such as Fadeeva v. Russia[3] and Ledyaeva and Others v. Russia[4], which were ruled in favor of the violated environmental rights of residents living in the area affected by hazardous and toxic emissions from the Cherepovets Metallurgical plant "Severstal". The claims of the plaintiffs, who came to the high international court in defense of their environmental interests, consisted in a reasonable and legitimate desire to relocate to the ecologically safe territory of the city. Living in the immediate vicinity of the hazardous industries of this enterprise, i.e., within the boundaries of the previously

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[1] Convention for the Protection of Human Rights and Fundamental Freedoms, ratified by the Federal Law of 30.03.1998. No. 54-FZ "On the ratification of the Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols" // base.garant.ru›12111157/

[2] Universal Declaration of Human Rights // un.org›ru/documents/decl_conv/declarations/.

[3] Description of the case: Fadeyeva v. Russia (Judgment of the ECtHR dated 09.06.2005 on application no. 55723/00) // business-humanrights.org›ru…cases…against Russia/.

[4] Judgment of the European Court of Human Rights dated … Case "Ledyayeva and Others v. Russian Federation" (Applications nos. 53157/99, 53247/99, 53695/00 and 56850/00) // base.garant.ru› 71760266/.

established size of the sanitary protection zone of 1 km, contrary to the norms of domestic legislation. Consequently, resettlement from a residential area with high levels of atmospheric air pollution, significantly exceeding the established limit standards for a residential area, is quite natural. However, they were denied resettlement outside the dangerous sanitary protection zone of the enterprise. Having exhausted all the possibilities of domestic justice, these citizens applied for the protection of environmental rights to a high international court, which satisfied both claims. The court decision recognized the fault of the Russian authorities in the failure to regulate the consequences of environmental pollution by the said enterprise, which led to "deterioration in the quality of life" of the applicants. In addition, the highest European court recognized violations of the rights to respect for private life and home, i.e., Article 8 of that Convention.

In addition to the constitutional provisions to ensure judicial protection for any violated rights of citizens, the protection of rights in the environmental sphere is additionally enshrined in the aforementioned basic environmental law — the Federal Law "On Environmental Protection". In addition to the application of the above norms of articles 11, 12, which provide for the rights of citizens and their associations in the environmental sphere, another fundamental article applied to the majority of environmental violations disputed in courts related to the unfavorable state of all natural spheres is article 20 of the said law, which regulates quality standards. Other equally important provisions are concentrated in Chapter 7 of the Federal Law "On Environmental Protection", where environmental requirements are concentrated in the implementation of various types of economic activity.

In addition, article 76 of this law contains a reference rule on the resolution of disputes in the environmental sphere in a judicial way, which, first, regulates the Civil Procedure Code of the Russian Federation, including its articles: 3, 4, 46 and others. Citizens are often forced to seek judicial review of illegal actions and decisions that violate their environmental rights. At the same time, a great difficulty for such judicial protection related to challenging certain managerial decisions is the latency of these violations at the initial stage, when from the moment the relevant body makes a decision that affects the interests of citizens (until the moment when citizens really learned, saw, discovered this is a violation), months, and sometimes even years, pass. Legislation in this matter does not protect citizens who are given a 3-month period to appeal such decisions, but stands guard over stability in the activities of state and municipal bodies that make such decisions. The described legislative approach gives rise to the illusion or even confidence in the non-obligation of responsibility for such decisions that are insufficiently environmentally sound or even dangerous in terms of underestimated consequences.

Such a legal dissonance, unfortunately, does not contribute to the strengthening in legal reality and in the legal consciousness of citizens of the constitutional postulate

that Russia is a state of law. And if earlier, by virtue of the norms of Chapter 25 of the Code of Civil Procedure, as well as the Law of the Russian Federation "On Appeal to Court of Actions and Decisions Violating the Rights and Freedoms of Citizens", it was not so difficult to restore the almost always missed deadline for appealing decisions of this kind, now time, the courts, as a rule, refuse to restore the missed appeal period. At the same time, judges easily refer to the Internet accessibility and publicity of decisions and legal acts. Thus, figuratively speaking, citizens are simply "not allowed" to enter the court with such appeals, which leads to a decrease in judicial opportunities for citizens with such violations of their rights.

A large group of cases on judicial protection of rights in the environmental sphere can be considered to be appeals with lawsuits for compensation for environmental damage. Sometimes it is formulated as "harm to the environment", in others — "human habitat". Such claims are filed both by the citizens themselves (as subjects of the exercise of their constitutional environmental rights), and by authorized special state bodies. The most important bodies exercising supervision over the environmental rights of citizens are the bodies of the prosecutor's office. Thus, according to the General Prosecutor's Office of the Russian Federation, in the first half of 2021, more than 178,000 offenses in the field of environmental legislation were detected[1]. At the same time, more than 15,000 applications were sent to courts of different jurisdictions and about a thousand criminal cases were initiated. In addition, a separate Order of the Prosecutor General of the Russian Federation, concerning prosecutorial supervision over the implementation of environmental legislation, draws special attention of all prosecutors to the intensification of activities in terms of bringing claims for compensation for environmental damage[2].

Chairman of the Supreme Court of the Russian Federation V. M. Lebedev was a speaker at the World Environmental Judicial Conference organized by the United Nations Environment Program (UNEP) in 2021. The Chairman named the current data on the role of the judicial system of the Russian Federation in terms of protecting the environmental rights of citizens. He also pointed out that only the Plenum of the Supreme Court addressed this category of cases more than fifty times, and the Presidium of the Supreme Court of the Russian Federation, dealing with the environmental agenda, formed its legal position in 150 resolutions[3].

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[1] Prosecutors have identified more than 178 thousand violations … // procrf.ru›news…bolee-178…zakonodatelstva.html.

[2] Order of the Prosecutor General of the Russian Federation dated April 15, 2021 No. 198 "On the organization of prosecutorial supervision over the implementation of legislation in the environmental sphere." // RuLaws.ru›…Prikaz-Genprokuratury…15.04.2021-N-198/.

[3] Lebedev spoke about the legal positions of the RF Armed Forces on cases … // legal.report›lebedev…pravovyh…vs-rf-po…svyazannym…

At the same time, the effectiveness of judicial decisions on environmental issues in Russia in 2020 alone is indicative: the courts satisfied more than 60% of applications to challenge and cancel the decisions of officials, as well as public authorities in environmental and related areas (sanitary and hygienic, land, urban planning etc.). According to V. M. Lebedev, in 64% of cases the courts upheld claims or declarative claims for compensation for environmental damage for a total amount recovered of 152 billion rubles. At the same time, more than 5,200 violators were convicted for environmental crimes in 2020 alone, and 52,000 people were brought to administrative responsibility for committing environmental offenses.

Do such indicators indicate the effectiveness of judicial protection of environmental rights guaranteed to citizens by the Constitution? More recently, one could agree with the position of N. I. Khludeneva, who noted the rather rare use by citizens of the means of judicial protection of environmental rights[1].

A characteristic feature of litigation to protect the environmental rights of citizens is the fact that there are very few lawyers among the legal community who specialize in this category of judicial protection (the exception is land disputes). This circumstance reduces the real possibilities not only of a positive outcome in legal proceedings to protect violated environmental rights, but also seriously reduces the initiation of such cases at the initial stage. In addition, these circumstances are further exacerbated by a certain inconsistency and the presence of gaps, the specificity and complexity of domestic legislation in this area. These objective reasons hinder the judicial and legal activity of citizens, which catalyzes the already numerous violations of the environmental rights of citizens who remain without judicial satisfaction, i.e., violated rights are not restored.

But in the last few years, the activity of citizens and public associations in such court competitions has increased significantly. The main reason for this is the unwillingness of citizens to put up with the placement of environmentally hazardous objects in the immediate vicinity of their place of residence. Such protest moods of the local population became especially noticeable during the "garbage" reform unfolding in the country. Insufficiently thought-out decisions on the placement of waste incineration plants with environmentally imperfect, outdated technologies stimulated the unification of citizens in many Russian regions to create environmental protection[2].

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[1] *Khludeneva N. I.* Defects in legal regulation of environmental protection: monograph. M.: Institute of Legislation and Comparative Law under the Government of the Russian Federation; INFRA-M, 2014. P. 136–139.

[2] See more: For a forest in which they wanted to arrange a landfill, they will ask for the status of a specially protected area, vladimir-smi.ru›item/290282; What ended the protests against the landfill at Shies. Silent victory — after two years of hopeless struggle, medialeaks.ru›news/0906mmg-shies-win/; Protests against landfills in Russia, 2019, vyvoz.org›blog/protesty-protiv-svalok-v-rossii/.

The list of regions in which active and mass protests of the local population could reverse plans for the deployment of environmentally hazardous facilities is quite impressive: Arkhangelsk, Vladimir, Kirov, Moscow, Saratov regions and other regions.

The author of these lines has repeatedly taken part as a forensic expert, plaintiff, applicant or their representative in similar court proceedings, some examples of which with personal experience of judicial protection are described in more detail in other publications of the author[1].

But in the context of the stated topic, it is advisable to dwell in more detail on one eloquent example of judicial protection against legislative consolidation of the unlawful seizure of large areas of specially protected natural areas in Moscow during the implementation of the so-called "garage amnesty". In 2012, the Moscow City Duma adopted a legislative act that unreasonably and unacceptably worsened the state of specially protected natural areas in the capital region. This act served as a very dangerous, anti-environmental example of lawmaking for other subjects of the Russian Federation[2]. These changes allowed to exclude from the composition of Moscow specially protected natural areas land plots on which "garage facilities" were previously located, many of which already had court decisions on demolition as illegal buildings. At the same time, according to the data of the relevant subdivision of the Government of Moscow (Department of Nature Management and Environmental Protection), later declared in court, one-time irretrievable losses as a result of these changes in Moscow legislation amounted to 4% of the area of all specially protected natural areas in Moscow.

The same law legalized another measure dangerous for the "green lungs" of the capital region: the construction of buildings on the natural and green areas of the city for the placement of children's educational institutions (schools and kindergartens), and later for religious, administrative and other institutions. Such

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[1] See more: *Zlotnikova T. V.* Modern trends in the legal regulation of the protection and use of specially protected natural areas // M. "Ecological Law", No. 2, 2019, P. 13–19; *Zlotnikova T. V.* Investment and urban planning interests and the fate of green and protected natural areas in the Moscow metropolis // in the collection of materials of the International Scientific and Practical Conference "Ecological and Legal Support for the Sustainable Development of Russian Regions", / comp. and resp. ed. S. A. Bogolyubov, N. R. Kamynina, M. V. Ponomarev. M.: MIIGAiK, 2015, Pp. 192–200; *Zlotnikova T. V.* The priority of public interests on the lands of protected areas as objects of national heritage: personal experience of judicial protection // in the collection of materials of the International Scientific and Practical Conference dedicated to the memory of the Corresponding Member of the Academy of Sciences of the Republic of Tatarstan, Doctor of Law, Professor, Honored Lawyer of the Republic of Tatarstan A. A. Ryabov "Actual problems of protecting the ownership of natural resources and objects: an interdisciplinary approach", Kazan, 2018, Moscow: Statute, 2019. 302 p.; pp. 60–66.

[2] Law of the City of Moscow dated April 11, 2012 No. 12 "On Amendments to the Law of the City of Moscow dated June 25, 2008 No. 28 "Urban Planning Code of the City of Moscow" and Article 8 of the Law of the City of Moscow dated May 5, 1999 No. 17 "On the Protection of Green Plantations", mos.ru›Law No. 12 On Amendments to the Law of the City of Moscow dated 25…

urban planning decisions can lead, especially taking into account the need to supply transport and utility infrastructure to them, to tangible losses in the green areas of the ecologically unfavorable Moscow metropolis. It is important that prior to the introduction of these changes, such construction was prohibited by the relevant Moscow law[1], which fully corresponds to similar prohibitions of federal law.

Characteristically, even the negative opinions on the draft Law prepared by the Moscow Prosecutor's Office and the Legal Department of the Moscow City Duma itself did not stop the Moscow City Duma from adopting changes that contradicted the current legislation, which, by the time our complaint was considered in court, had changed their legal position to the exact opposite.

Several groups of citizens applied to the Moscow City Court at the same time with statements about the abolition of the norms of the mentioned law of Moscow as violating the environmental rights of residents of the city of Moscow. All statements, including those from the author of this publication, were combined into a single legal proceeding. The contested changes actually cancel (as the very text of the contested Moscow act says — "do not apply") many norms of the existing Moscow laws concerning a clear legal prohibition of adjusting the area of specially protected natural areas in the direction of reduction: this is the already mentioned law "On Specially Protected Natural Territories in city of Moscow"[2] and "Urban planning code of the city of Moscow"[3].

It follows from the meaning of several norms of the Federal Law "On Environmental Protection" (clause 3 of Article 4, clauses 3 and 4 of Article 58, and clause 2 of Article 59) that federal legislation prohibits the seizure of lands of the natural reserve fund, as well as activities that have a negative impact on nature, the environment and can lead to degradation, destruction of natural objects under special protection, i.e., any urban specially protected natural and green areas. In addition, Article 61 of this Federal Law provides for severe restrictions and prohibitions for territories from the green fund of cities. The ban restricts any activity that has the potential to have a negative impact on such areas and prevent them from carrying out their envisaged basic functions of an ecological, recreational and sanitary nature. Moreover, the innovations of the Moscow law also violated Articles 35, 44, 52 of the Federal Law "On Environmental Protection". In addition, other norms of the

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[1] Law of the City of Moscow dated March 17, 2004 No. 12 "On the protection of green spaces", mos.ru›eco/documents/zelenye-nasazhdeniya/view…

[2] Law of the City of Moscow dated September 26, 2001 No. 48 "On Specially Protected Natural Territories in the City of Moscow", base.garant.ru ›5610089/.

[3] Law of the City of Moscow dated June 25, 2008 No. 28 "Urban Planning Code of the City of Moscow", docs.cntd.ru›document/3692117.

law were also violated, among them: paragraph 1 of article 61, articles 103,107 of the Forest Code of the Russian Federation[1], article 27 of the Federal Law "On Specially Protected Natural Territories"[2], part 1 of article 10 of the Federal Law "On the transfer of land or land plots from one category to another"[3], paragraph 4 of Article 12 of the Federal Law "On Ecological Expertise".

Separately, it is necessary to dwell on violations of the Land Code of the Russian Federation. The stipulation in the challenged law of the possibility of excluding all land plots occupied by garage facilities from specially protected natural areas without assessing the possibility of using them for their intended purpose and without conducting a state environmental review also contradicts the requirements of land legislation. The norms of part 3 of article 95 of the Land Code of the Russian Federation prohibit the misuse of lands of specially protected natural areas, including natural monuments (which were most of the territories given by the disputed citizens to the innovations of the Moscow law for garages), as well as their withdrawal for needs that contradict their purpose.

The placement of capital construction objects of educational institutions (schools, kindergartens), provided for by these innovations in natural areas (urban forests) and green areas, the use of which is allowed for recreation of citizens and tourism, is a violation of Part 9 of Article 85 of the Land Code of the Russian Federation. This construction in the natural and green areas of the city will lead to significant irretrievable losses of forest vegetation in such an ecologically unfavorable metropolis as Moscow.

Before the disputed amendments, Article 8 of the Law of Moscow "On the Protection of Green Spaces" provided for a special procedure for the implementation of urban planning activities for the protection of green spaces and prohibited development that was not related to the designated purpose of natural and green areas in Moscow. Now, after the contested changes were made in terms of replacing the applied concept of "purpose" purpose with another definition — "functional" purpose, there are legal possibilities to carry out construction in these protected areas for any new function, i.e., only at first for the construction of children's educational institutions. In addition, a new paragraph was introduced into the same article 8, which determined the priority of urban planning relations over environmental ones and literally read: "Such changes are actually equivalent to

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[1] Forest Code of the Russian Federation of December 4, 2006 No. 200-FZ, Consultant.ru›document/cons_doc_LAW_64299/.

[2] Federal Law of March 14, 1995 No. 33-FZ "On Specially Protected Natural Territories", zakonrf.info›doc-13487218/.

[3] Federal Law "On the transfer of land or land plots from one category to another", docs.cntd.ru›document/901918785.

the legal leveling of most of the norms of the Law of the City of Moscow "On the Protection of Green Spaces".

At the same time, according to clause 9.12 of the updated edition of "BNaR 2.07.01-89* Urban planning. Planning and development of urban and rural settlements"[1], the share of green areas within the development of cities should be at least 40%. According to another legal act — the "General scheme of greening the city of Moscow for the period until 2020"[2], the level of greenery in Moscow is less than 40% of the city's area, and in order to achieve the required indicator, Moscow needs additional greening of the territory in the amount of more than 8,000 hectares (which, for comparison, is much larger than the area of one of the largest administrative districts of the capital — the Central Administrative District of Moscow, whose area is 6,620 hectares). Thus, in Moscow there is a great shortage of green areas in its densely populated town-planning developed areas and there are no special opportunities for straightening greenery indicators to the recommended parameters.

All of the above violations are contrary to the legitimate environmental interests and constitutional rights of the inhabitants of the city of Moscow, namely: to protect health and a favorable environment, which are guaranteed in the aggregate by the norms of Articles 2, 9, 17, 18, 36, 41, 42 of the Constitution of the Russian Federation; to protect the environment from negative impacts (Article 11 of the Federal Law "On Environmental Protection"); on a favorable living environment (Articles 8, 23 of the Federal Law "On the sanitary and epidemiological well-being of the population"); to ensure a balanced consideration of environmental, economic, social and other factors and compliance with the requirements of environmental protection and environmental safety in the implementation of urban planning activities (paragraphs 2, 9 of Article 2 of the Urban Planning Code of the Russian Federation); to the priority of protecting human life and health, according to which land relations should be carried out (paragraph 3 of article 1 of the Land Code).

Thus, the disputed Moscow law also contradicts the constitutional provision of paragraph 5 of Article 76, which does not allow the adoption of regional legislation of the constituent entities of the Russian Federation, which is contrary to federal norms.

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[1] Building norms and rules "BNaR 2.07.01-89* "Urban planning. Planning and development of urban and rural settlements", approved by the order of the Ministry of Regional Development of the Russian Federation of December 28, 2010 No. 820, [Electronic resource], base.garant.ru ›Urban planning.

[2] Decree of the Government of Moscow dated November 13, 2007 No. 996-PP "On the General Scheme of Greening the City of Moscow for the Period up to 2020", [Electronic resource], docs.cntd.ru›document/3685966.

Also, we, as the Applicants, noted the contradictions between the contested Moscow Law and Articles 21, 25 of the Charter of the City of Moscow[1], in terms of the prohibition to alienate lands of specially protected natural areas and "land use in the city of Moscow, based on the priority of protecting human life and health, … ensuring favorable environmental conditions for its life", as well as paragraph 3.4. Law of the City of Moscow "On the General Plan of the City of Moscow". The specified norm of the general plan of the city of Moscow, among other things, provides for "Withdrawal of third-party users whose functioning does not correspond to the goals and objectives of specially protected natural areas". To this end, the master plan includes a comprehensive list of measures "to restore the disturbed landscape and biological originality of specially protected natural areas", including by 2025 it was envisaged to withdraw third-party objects and complete work on the rehabilitation of disturbed ecosystems within specially protected natural areas, and also carry out other necessary measures to regulate the recreational load on specially protected natural areas at a level corresponding to their status. Thus, as a result of the withdrawal of sites from specially protected natural areas, instead of ecosystem rehabilitation, the withdrawn territories are allocated for capital construction.

At the same time, there is another, opposite judicial practice, about which the Applicants submitted relevant materials. In particular, the analysis of the current judicial practice indicates that the Supreme Court of the Russian Federation often supports the decisions of lower courts on the abolition of legal acts that provide for the reduction of lands of a specially protected natural area (for example, the ruling of the Supreme Court of the Russian Federation of November 18, 2009, No. 8-G09–33).

It turned out that all this is not of decisive importance if an erroneous legislative decision that contradicts the current legislation and the constitutional rights of citizens is taken at the highest level of power. All of the above norms of legislation were ignored both when the disputed innovations of Moscow legislation were adopted, and in the courts. The result of the trial in the Moscow City Court, both in the first instance and in the Supreme Court of the Russian Federation, was a complete refusal of citizens to satisfy their demands.

The question arises why, with such obvious and numerous violations of federal and Moscow legislation, as well as the rights of residents of the city of Moscow, we, the citizens, lost? Perhaps the reason is the legislatively fixed priority of urban planning interests over environmental and environmental ones.

From this revealing judicial history, an obvious conclusion suggests itself. If we really want to ensure effective protection and guarantees of the constitutional rights

[1] Charter of the city of Moscow, docs.cntd.ru›document/3607978.

of Russian citizens to a favorable environment, it is necessary to change the norm of Part 3 of Article 4 of the Town Planning Code of the Russian Federation, which actually proclaims the priority of urban planning interests over the environmental interests of the population, guaranteed by the Basic Law of the country. Until this legal bias is eliminated, urban planning, commercial, narrow departmental interests will be resolved at the expense of environmental degradation, by violating the environmental rights of the majority.

At the same time, the most effective would be an appeal to the Constitutional Court of the Russian Federation to check the constitutionality of certain norms of the Urban Planning Code of the Russian Federation, leading to violations of the constitutional rights of citizens to a favorable environment. The facts of the application of environmentally discriminatory norms of the Town Planning Code of the Russian Federation, which have accumulated in the years since its adoption (which is a prerequisite for such an appeal to the Constitutional Court), are already enough.

Thus, more and more often citizens use the judicial method of protecting their constitutional rights to a favorable environment, which indicates the growth of the ecological legal awareness of the population. Unfortunately, such protection does not always end with the success of citizens and the triumph of legality, legal and environmental justice. Many widely publicized "environmental hotspots" on the map of the country indicate that the increase in the protection of public environmental interests does not always meet with an adequate readiness of our judicial system to impartially, solely on the basis of constitutionality, legality and fairness, to administer justice, especially when the dispute involves decisions authorities or the interests of large commercial structures.

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ON THE QUESTION OF THE CHARACTER OF PUBLIC PROCUREMENT

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Abstract. *The authors of the article considered the legal character of public procurement as one of the elements to ensure the implementation of the principle of information openness (public reliability) at all stages of this process. This process is aimed at observing the interests of procurement participants, as well as the state and society as a whole.*

This study puts forward and substantiates the thesis that an important aspect of the publicity of procurement is the need to ensure their openness and transparency (public reliability) or, in other words, to ensure the transparency of the procurement process. In this case, thanks to the open process of planning and involving a wide range of participants in procurement, their competitiveness increases, which makes it possible to reduce the initial (maximum) contract price and use the best conditions for its execution. This, in turn, contributes to the rational and economical use of funds allocated for procurement.

Keywords: *public procurement, public interest, information openness, public credibility, anti-corruption policy.*

Introduction

One of the main principles of the formation of the existing Russian procurement system is the principle of information openness (public reliability) of all stages of

this process, from procurement planning, determining the contract executor and ending with monitoring the effectiveness of their implementation.

This vector of system development is aimed at ensuring the unity of the economic space, creating conditions for the effective satisfaction of the social and economic needs of society, expanding the opportunities for the participation of business entities in procurement, developing fair competition, and preventing corruption.

In this regard, it seems necessary to consider the issue of public procurement as one of the elements to ensure the implementation of the above principle, aimed at observing the interests of procurement participants, as well as the state and society as a whole.

Public procurement is a fairly common term, but it has neither a legal definition nor a single doctrinal approach. The definition — public (publicus) has several meanings in the sources of Roman law. In some fragments there is a direct indication that publicus can mean both "belonging to the Roman people" (patrimonium populi), and "belonging to the Roman people and designated for public use"[1].

As E. A. Sukhanov, the traditional distinction between private and public interest, in turn, became the basis for the separation of private and public law[2]. In the Digests, according to Ulpian, public law refers to the position of the Roman state, private law to the benefit of individuals, since "there is public utility and private utility" (sunt enim quaedam publice utilia, quaedam privatum — D. I.1.2.)[3].

Questions of the ratio of public and private interest are analyzed from different positions. So, N. E. Tyurina, exploring different views on the delimitation of public and private interests, indicates that the concept of "public" is used most often in cases of manifestation of powerful state powers (public legal entities, public relations, etc.). As a result, the identity of the concepts of "public" and "state" arises, while the concept of "public" retains a special meaning[4].

In turn, R. I. Sitdikova notes that the identification of the definitions "public" and "public" is associated with their semantic similarity: the word "public" is synonymous with the word "society"). At the same time, attention is drawn to the position of Totiev K. Yu.: "in legal regulation, "public", "state" and "public" interests

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[1] Cit. according to *Karadzhe-Iskrov N. P.* Public things. Issue I / N. P. Karadzhe-Iskrov. Irkutsk: Edition of the Irkutsk section of scientific workers, 1927. VIII, 79 p. (A series of scientific monographs. Department of Law edited by Prof. G. Yu. Manns and Prof. B. B. Cherepakhin / Irkutsk Section of Scientific Workers of the Education; Issue X, No. 2). P. 1.

[2] *Sukhanov E. A.* On private and public interests in the development of corporate law // Journal of Russian Law. 2013. No. 1.

[3] Digests of Justinian. T. I. Books I–IV /ed. L. L. Kofanov. M., 2002. S. 82–83.

[4] *Tyurina N. E.* International trade as a factor in the development of international public law / Scientific editor G. I. Kurdyukov. Kazan, 2009. S. 101.

are actually distinguished. Continuing the reasoning about the character of public interests, the author means by them the positive interests that are inherent in society as a whole; they differ from public ones in that, in their content and orientation, they represent interests aimed at achieving good goals that correspond to general ideas of morality, morality, and justice[1].

Thus, the public interest should be distinguished from the public, acting wider than the public. So, P. Z. Ivanishin, exploring the issue of civil legal means aimed at protecting public interests, notes that public interest "is the totality of all existing interests aimed at the benefit of members of a particular community of persons", acting as an "ideal model of the needs of society". At the same time, public interest "reflects the functions of the state and is aimed at meeting the needs of society, i.e., satisfaction of the public interest" and is "a real model of the needs of society". According to the right opinion of the noted author, every public interest is public, but not every public interest is public, i.e., recognized and provided by the state[2].

Judicial practice gives us its vision of public interest. For example, in the Review of judicial practice in the application of the legislation of the Russian Federation on the contract system in the field of procurement of goods, works, services to meet state and municipal needs[3] (hereinafter — the Review of the Supreme Court of the Russian Federation on the contract system dated 28.06.2017) cases affecting the public interest include:

1. the condition of the additional agreement, according to which the price of the contract increases in excess of 10%, is void in the relevant part as contrary to the law, and at the same time infringing on public interests, rights, and interests of third parties — other participants in the procurement (clause 11);
2. violation of the principles of openness, transparency, restriction of competition, unreasonable limitation of the number of participants in the procurement, and, consequently, infringing on public interests and (or) the rights and legitimate interests of third parties (clause 18);
3. infringing on public interests is, among other things, a transaction in the course of which an explicit prohibition established by law was violated (paragraph 75 of the Resolution of the Plenum of the Supreme

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[1] *Sitdikova R. I.* Private and public interest in copyright. M.: Statute, 2013. 159 p.

[2] *Ivanishin P. Z.* On the issue of delimitation of public and public interests. Scientific notes of the Kazan branch of the Russian State University of Justice. T. 10. Kazan: Otechestvo, 2014. S. 129–132. 296 s.

[3] Decree of the Presidium of the Supreme Court of the Russian Federation dated June 28, 2017 "Overview of the judicial practice of applying the legislation of the Russian Federation on the contract system in the field of procurement of goods, works, services to meet state and municipal needs" // Herald of the Supreme Court of the Russian Federation. 2017. No 12.

Court of the Russian Federation of June 23, 2015, No. 25[1]) (paragraph 18 paragraph 5);

4. the absence of public procedures contributed to the creation of a preferential position of the sole supplier and made it impossible for other economic entities to exercise their right to conclude a contract, in connection with which the disputed contract is a void transaction that violates the express prohibition established by law (clause 18 paragraph 9);
5. the transfer of funds to the customer according to the third notice (in this case, we are talking about three bids filed by one participant) is not aimed at compensating for the losses of the customer himself, but pursues the public law goal of maintaining the discipline of procurement participants, encouraging them to properly comply with the requirements of legislation on the contract system (paragraph 32);
6. delaying the auction procedure may cause damage to the state in the form of failure to perform the relevant work within the time limits established by the auction documentation and violate public interests (paragraph 43).

According to A. V. Spirin, "public interest (the boundaries of which are defined in the law) can be limited — private. The opposite situation (priority of private interest over public interest) is possible only in cases expressly provided for in the law"[2]. A similar point of view is expressed by O. Yu. Kravchenko: "In order to achieve a public goal, some limitation of private interests in the interests of society is possible. However, such a restriction must have limits and be implemented strictly within the framework established by law, in compliance with all constitutional principles"[3].

This is especially true in the area of procurement. For example, a restriction on procurement participants, which can only be small businesses, socially oriented non-profit organizations (Article 30 of Law 44-FZ[4]); it is not allowed to include a number of requirements in the procurement documentation (article 30 of the

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[1] Resolution of the Plenum of the Supreme Court of the Russian Federation of June 23, 2015 No. 25 "On the application by the courts of certain provisions of Section I of Part One of the Civil Code of the Russian Federation" // Bulletin of the Supreme Court of the Russian Federation. 2015. No. 8.

[2] *Spirin Alexander Vladimirovich*. Public Interest in Criminal Proceedings // Bulletin of the East Siberian Institute Ministry of Internal Affairs of Russia. 2019. No. 1 (88). URL: https://cyberleninka.ru/article/n/publichnyy-interes-v-ugolovnom-sudoproizvodstve (Date of access: 02/17/2020).

[3] *Kravchenko O. Yu.* Public and private interests in law: political and legal research: abstract dissertation … candidate of legal sciences: 12.00.01. Kazan, 2004. P. 10. 27 p.

[4] Federal Law of April 5, 2013 No. 44-FZ "On the contract system in the field of procurement of goods, works, services to meet state and municipal needs" // Collected Legislation of the Russian Federation. 2013. No. 14. Art. 1652.

Law 44-FZ, article 3 part 6.1, article 30 of the Law 223-FZ[1]); prohibition of advance payment in case of application of anti-dumping measures during the competition and auction (Article 30 part 13 of the Law 44-FZ); choice of the method of purchase if the goods are included in the list established by the Government of the Russian Federation (in the form of only an electronic auction — article 59 part 2 of Law 44-FZ, purchases in electronic form — article 3 part 8, article 30 of Law 223-FZ), etc.

Methods

The main methods that were used in the course of writing this work are: the comparative legal method, the method of complex analysis, the method of interpretation, the method of system analysis and the method of intersectoral approach.

Results and discussion (results and discussion)

In relation to the field of procurement, "public interest" is associated with the concept of "public procurement". However, the character of the latter in legislation, jurisprudence and doctrine is not currently properly disclosed. It should also be noted that along with the above concepts, the concept of "public needs" is also used.

Public procurement in Russia is regulated by two blocks of legislation: on the contract system and procurement of certain types of legal entities[2]. At the same time, despite the different regulation, the convergence of these two systems has recently been clearly visible. So, for example, the availability of the possibility for budgetary, autonomous institutions, state, municipal unitary enterprises and other legal entities to conduct purchases in a number of cases under Law 223-FZ (Article 15 of Law 44-FZ). In procurement by certain types of legal entities, from 07/01/2018, competitive procedures have been introduced and regulated, the object of procurement is described, as in the law on the contract system[3] and more.

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[1] Federal Law of July 18, 2011 No. 223-FZ "On the Procurement of Goods, Works, Services by Certain Types of Legal Entities" // Collected Legislation of the Russian Federation. 2011. No. 30 (part 1). Art. 4571.

[2] See *Kovalkova E. Yu*. Features of the legal regulation of procurement for state and municipal needs in the book "Public Procurement: Problems of Law Enforcement". Proceedings of the VI International Conference (June 8, 2018, Lomonosov Moscow State University). M.: Yustitsinform, 2018. 352 p. P. 92–104.

[3] Federal Law No. 505-FZ of December 31, 2017 "On Amendments to Certain Legislative Acts of the Russian Federation" // Rossiyskaya Gazeta. 2018. No. 1.

It is important to note that the connecting elements of these two blocks of legislation are the existence of a public interest in ensuring the unity of the economic space, creating conditions for the effective satisfaction of the social and economic needs of society, expanding the opportunities for the participation of business entities in procurement, developing fair competition, and preventing corruption. In this connection, the term "publicity" is generic for the regulation of this sphere.

In international practice, it is the term "public procurement" that has become more widespread. Thus, in accordance with the UNCITRAL Model Law on Public Procurement (hereinafter referred to as the Model Law), it is stated that it "applies to all public procurement", "procurement" or "public procurement" means the acquisition by the procuring entity of goods, works or services", "in most states, procurement accounts for a significant part of public spending", "related to the public interest", "public notification and provision of adequate opportunities … are necessary for the implementation of the socio-economic policy of this state …"[1].

It should be noted that at present, "purchase" means not only the actual supply of goods, but also the performance of work, the provision of services for state and municipal needs, including the acquisition of real estate or the lease of property[2].

Pursuant to Article 3 of Law 44-FZ, the purchase of goods, work, services to meet state or municipal needs (hereinafter referred to as "purchase") means a set of actions carried out in accordance with the procedure established by the Federal Law by the customer and aimed at meeting state or municipal needs. The purchase begins with the identification of the supplier (contractor, performer) and ends with the fulfillment of obligations by the parties to the contract. If, in accordance with the Law, there is no provision for posting a notice of procurement or sending an invitation to take part in determining the supplier (contractor, performer), the procurement begins with the conclusion of the contract and ends with the fulfillment of obligations by the parties to the contract (part 1 of subparagraph 3 of Law 44-FZ).

Note that Law 223-FZ does not contain a definition of the concept of "purchase", this is left to the consideration of the customers themselves, which are legal entities with a "public element". So, for example, in the Model Regulations on Procurement of the Ministry of Culture of the Russian Federation, procurement is understood as "acquisition by the Customer by the methods specified in this Procurement Regulation of goods, works, services for the needs

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[1] UNCITRAL Model Law on Public Procurement (Adopted in Vienna on 01.07.2011 at the 44th session of UNCITRAL) // Consultant (accessed 15.01.2020).

[2] Article 3, Part 1 of Law 44-FZ as amended by Federal Law No. 449-FZ of December 27, 2019 "On Amendments to the Federal Law" On the Contract System in the Procurement of Goods, Works, and Services to Ensure State and Municipal Needs"// Collection of Legislation Russian Federation. 2019. No. 52 (Part I). Article 7767.

of the Customer"[1]; Ministry of Digital Development, Communications, and Mass Media of the Russian Federation — "the actions of the Customer, provided for by this Regulation, by definition of suppliers (performers, contractors) in order to conclude contracts with them for the supply of goods, performance of work, provision of services, as well as the acquisition and lease of property"[2]. Note that there are no special differences in the concept of "purchase", the term is revealed through "the actions of the customer in accordance with the Regulations …"

Thus, public procurement should be understood as the activities of public legal entities, as well as legal entities with a "public element", aimed at satisfying public interests in the field of procurement of goods, works and services, in ensuring the unity of the economic space, creating conditions for the effective satisfaction of social and economic needs of society, expanding opportunities for the participation of business entities in procurement, development of fair competition, and prevention of corruption.

An important aspect of the publicity of procurement, in our opinion, is the need to ensure their openness and transparency (public reliability) or, in other words, to ensure the transparency of the procurement process.

This direction of development of legal relations is typical for most developed countries. For example, the Norwegian Freedom of Information Act provides for public disclosure of documents of public interest, including documents related to public procurement. The Freedom of Information Act is binding on all entities subject to the regulation of public procurement laws. As a rule, documents of public importance (and, consequently, documents related to public procurement) are available to an unlimited circle of people[3].

In turn, in the existing Russian law, this line of development of relations is most characteristically reflected in such basic principles as the principle of openness and transparency, the principle of information openness[4].

The implementation of these principles provides not only for the public identification of contract executors, but also for the mandatory publication of

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[1] Regulations on the purchase of goods, works, services, developed as a Model for institutions of the Ministry of Culture of the Russian Federation of January 21, 2014 and posted on the Official website of the Ministry of Culture of the Russian Federation [Electronic resource]. URL: https://www.mkrf.ru/documents/tipovoe-polozhenie-o-zakupkakh/ (date of access: 02/11/2020).

[2] Model Regulations on the Procurement of Goods, Works, Services for Institutions of the Ministry of Digital Development, Communications and Mass Media of the Russian Federation [Electronic resource]. URL: https://digital.gov.ru/ru/documents/5030/ (date of access: 02/11/2020).

[3] Article: Legal regulation of public procurement of companies with state participation in Norway (*Arendt T., Nordby F.* "Journal of Business and Corporate Law", 2017, No. 4).

[4] Article 7 of Federal Law No. 44-FZ of 05.04.2013 "On the contract system in the field of procurement of goods, works, services to meet state and municipal needs".

procurement plans, reports on the execution of contracts, publication of the results of monitoring, audit, control, implementation of significant customer actions (substantiation of the contract price, selection of the procurement procedure, change, or termination of the contract), conducting public control of purchases.

Results

In our opinion, ensuring the openness of procurement is one of the key conditions for increasing its efficiency.

Thus, in specialized printed publications[1], ensuring maximum transparency and openness in the field of procurement is also put at the forefront along with ensuring the effective functioning of the procurement system and rightly attributed to the basis of socio-economic development.

In this case, thanks to the open process of planning and involving a wide range of participants in procurement, their competitiveness increases, which makes it possible to reduce the initial (maximum) contract price and use the best conditions for its execution. This obviously contributes to the rational use of funds allocated for procurement.

In addition, the openness of procurement is also directly related to the need to ensure their public credibility.

According to the fair opinion of V. V. Gladky, the content of the principle of public certainty is the presumption of validity and compliance with the law of a legally significant action[2]. In other words, public placement in the Unified Information System (www.zakupki.gov.ru) of procurement plans, tender documentation, the contract itself, as well as other mandatory information ensures their compliance with reality and the ability of participants in civil legal relations to rely on them.

O. A. Belyaeva, Yu. V. Truntsevsky, A. M. Tsirin quite rightly associate the transparency of the procurement cycle with the basis of anti-corruption policy[3].

Conclusions

Thus, the publicity of procurement, in our opinion, seems to be the most key task aimed at ensuring transparency and information openness of all stages and

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[1] *Sheshukova T. G.* Efficiency of Public Procurement in Budgetary Institutions: Methodical Aspect // International Accounting. 2008. No. 2 (issue 3). P. 149–158).

[2] *Gladky V. V.* Evolution of the principle of public certainty in civil law // Izvestiya vuzov. North Caucasian region. Series: Social Sciences. 2013. No. 6 (178). URL: https://cyberleninka.ru/article/n/evolyutsiya-printsipa-publichnoy-dostovernosti-v-grazhdanskom-prave (Date of access: 05/23/2020).

[3] Legal mechanisms for combating corruption in the field of corporate procurement: scientific and practical guide / ed. I. I. Kucherov. M.: IZiSP; KONTRAKT, 2019. 160 p.

procedures of this process. This, in turn, will ensure the creation of conditions for the effective satisfaction of the social and economic needs of society, expand the opportunities for the participation of business entities in procurement, have an impact on the development of fair competition, and prevent corruption.

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CONFERENCE REVIEW

Zilya Kdrasova

Third-year student of the Faculty of Law
of the Kazan Federal University

SCIENTIFIC LIFE OF THE FACULTY OF LAW OF THE KAZAN FEDERAL UNIVERSITY

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Abstract. *This scientific article discusses the activities of the scientific society in the period from 2021 to 2022 academic year. The article describes the work of student scientific circles, scientific research carried out by students together with teachers of Kazan Federal University. Moreover, the active work of the teaching staff, manifested in the conduct of lectures and plenary sessions, is also mentioned. The article also describes the organization of all-Russian and international competitions by the student scientific society.*

Keywords: *scientific events, student scientific circles, scientific research, competitions, plenary sessions, lectures, supervisors.*

The 2021–2022 academic years at Kazan Federal University passed quite quickly and were extremely productive. The year was filled with bright and significant events for students and teachers. Each university event was filled with disputes, discussions, and the birth of legal truths.

The Student Scientific Society began the academic year with the active work of student scientific circles in the following areas: criminal procedure, labor law, civil procedure, theory of state and law, constitutional law, business law, criminalistics, administrative law, as well as civil law and international law. The headmen of the circles organized the work of the circles, adding everyone to the conversations of the circles, gathering everyone for general meetings, helping students to conduct scientific research together with scientific supervisors, and also directing students

to participate in various competitions. Thanks to the work of scientific circles, many students actively participated in various competitions, visiting different cities of Russia.

On October 7, 2021, the student scientific circle "Criminal Procedure" organized a meeting with the Deputy Head of the Investigation Department for the Vakhitovsky District of the city of Kazan of the Investigative Department of the Investigative Committee of the Russian Federation for the Republic of Tatarstan Lieutenant Colonel of Justice Runar Suyundukov. The topic of the meeting was: "Powers of the investigator in the criminal process." Also on November 18, 2021, within the walls of Kazan Federal University, teachers of the Department of Criminal Procedure and Forensics, together with members of the "Criminal Procedure" circle, took part in a master class by Dmitry Dedov Doctor of Legal Sciences, Judge of the European Court of Human Rights from Russia, on the topic: "Problems of the criminal process in the practice of the European Court of Human Rights".

The master class was organized by the Center for International Competitions in Law together with the Department of Criminal Procedure, Justice and Prosecutorial Supervision of the M. V. Lomonosov Moscow State University. Also, members of the scientific circle "Criminal Procedure" assisted in conducting a binary lecture by Marina Klyukova Candidate of Legal Sciences, Associate Professor, Honored Lawyer of the Republic of Tatarstan, and Mikhail Vavilin Senior Assistant Prosecutor of the Soviet District of Kazan, on the topic: "The role of the prosecutor's office in strengthening the rule of law and law and order: history and modernity", which was also held at Kazan Federal University on October 14, 2021.

The next meeting of the circle "Criminal process" took place on December 8. Elvira Sadykova a second-year graduate student, made a report on the topic "Problems of applying a special procedure in cases of corruption crimes". During the meeting, a discussion of students and teachers on anti-corruption compliance was held, members of the circle asked questions of interest to them. The event was also attended by the Deputy Dean for Educational Activities Olga Cheparina, Associate Professor of the Department of Criminal Procedure and Forensics Marina Klyukova, Professor of the Department of Criminal Procedure and Forensics Alexander Epikhin, Associate Professor of the Department of Criminal Procedure and Forensics Andrey Verin, Associate Professor of the Department of Criminal Procedure and Forensics Marat Shamsutdinov.

Also, the student scientific circle "Criminal Procedure" took part in the most important student award — the annual Republican award for students in educational programs of higher education "XVII Student of the Year of the Republic of Tatarstan — 2021"!

The elders demonstrated the achievements of the circle in three tests of the full-time stage of the Prize in the nomination "Student Scientific Organization of

the Year". "Self-presentation" is one of the most important creative tests, where it was necessary to talk about the work and achievements. "Debate" is the defense of one's positions between the two parties participating in the nominations, during which the participants were offered the topic of the speech and the position "for" or "against". "Project defense" — the defense of the project work included a live presentation of the completed project on the ZOOM platform. The student scientific circle "Criminal Procedure" took 3rd place in the competition "The Best Student Scientific Circle".

Also on March 10, 2022, a round table of student scientific circles of the Faculty of Law of the Kazan Federal University and the L. N. Gumilyov Eurasian National University (Nur-Sultan) on the topic: "Actual problems in the criminal procedure law of Russia and Kazakhstan." The joint meeting of student scientific circles was attended by students, undergraduates, graduate students, leading university professors, as well as practicing lawyers.

On March 22, 2022, a joint meeting of student scientific circles of the Department of Criminal Procedure and Forensic Science of the Faculty of Law of Kazan Federal University and the Department of Criminal Procedure and Forensic Science of the Faculty of Law of the Southern Federal University (Rostov-on-Don) was held on the topic: "The use of information technologies in criminal proceedings".

On April 4, 2022, Kazan Federal University hosted a binary lecture by Marina Klyukova Candidate of Legal Sciences, Associate Professor, Honored Lawyer of the Republic of Tatarstan and Rustem Adiatullin Head of the Second Department for Investigation of Particularly Important Cases, Colonel of Justice on the topic: "Preliminary investigation: theory and practice". On April 14, 2022, a joint meeting of the student scientific circles "Criminal Procedure" and "Criminalistics" of the Department of Criminal Procedure and Criminalistics of the Faculty of Law of Kazan Federal University was held on the topic: "Forensic and operational-investigative support of investigative actions". Students also became organizers of scientific quizzes. One of them took place on May 16, 2022, in criminal procedure law under the guidance of Marina Klyukova Candidate of Legal Sciences, Associate Professor, Head of the circle "Criminal process".

The Quiz participants were third-year students of the Faculty of Law of Kazan Federal University. 17 teams took part in the event.

The quiz consisted of three test rounds and a bonus stage, which consisted of working with procedural documents. The set of competitive tasks was diverse. Students remembered the stages of initiating and investigating a criminal case, tested their knowledge of the history of criminal proceedings.

Members of the scientific circle "Civil club" also actively demonstrated their success.

On October 14, a circle meeting was held on the topic: "Problems and prospects of electronic document management in the Russian Federation. Conclusion of transactions in electronic form", which included sections:

1. Legal basis for concluding a transaction in electronic form in the Russian Federation.
2. Identification of the counterparty. How can I sign a document online?
3. Barriers to the widespread introduction of electronic document management and ways to overcome them.

In addition, Konstantin Egorov Candidate of Legal Sciences, Associate Professor of the Department of Civil Law of KFU, Director of the Stroykapital Law Company and Alan Tukhvatullin Head of the IT Law Practice of the Stroykapital Law Company spoke about the problems of introducing IT into civil circulation.

On October 28, 2021, a joint meeting of scientific circles of civil and business law was held. Speakers at the meeting were:

1. Head of the Department of Entrepreneurial and Energy Law, Candidate of Legal Sciences (Associate Professor) Andrey Mikhailov;
2. Associate Professor, Candidate of Legal Sciences Olga Cheparina;
3. Associate Professor, Candidate of Legal Sciences Artur Khabirov, as well as students.

Students, in addition to meetings, mastered other forms of organizing scientific events. So, on November 18, a scientific quiz on civil law was held. And already on December 16, a meeting of the scientific circle on civil law was held on the topic of managing legal risks and prospects for the development of compliance at the university. Marat Nigamadzyanov (Deputy Head of the Student Scientific Circle of Civil Law, fourth-year student) spoke about the concept of compliance, its advantages and areas of application. Anna Pugacheva (postgraduate student of the second year of study) made a presentation on the topic "Category "risk" in civil law: historical and legal analysis. Features of building a risk management system in federal universities of the Russian Federation."

Young specialists discussed debatable issues of risk management in civil circulation — investment transactions, and also considered the prospects for building a compliance system within educational and other organizations.

Also on March 10, a circle meeting took place, at which the latest civil law novelties in Russian legislation were considered, as well as the legal side of political sanctions for the Russian Federation today.

On March 24, a meeting was held, which was devoted to the topic of the bank deposit and bank account agreement.

Meetings of the scientific circle on Labor law were also actively held. The meetings were held in the format of a project group, which was an unusual way

of organizing. The first session was devoted to the topic "Development of human potential by means of labor law.

On October 16, the first meeting of the student scientific circle of business law was held, which will be devoted to the main activities of the Circle.

In addition to the work of student scientific circles, work was actively carried out in the organization of larger events. The student scientific society, together with teachers of the Faculty of Law and practicing lawyers, organized an introductory event, at which the most exciting students were discussed. To help first-year students decide where science comes from and how to take the first steps in grant and project activities, relevant questions and topics were asked. This event was held within the walls of Kazan Federal University on September 16.

On September 30, a public lecture was held on the relationship between science and practice, which is a necessary component in the professional activities of a lawyer.

Speakers at the event:

1. Deputy Dean for Educational Activities of the Faculty of Law of KFU, Candidate of Legal Sciences, Associate Professor Olga Cheparina.
2. Judge of the Twelfth Arbitration Court of Appeal, Candidate of Legal Sciences, Associate Professor of the Department of Land and Environmental Law of the Saratov State Law Academy, Member of the Scientific and Methodological Council of the Federal Antimonopoly Service of Russia, Honorary Expert in Social and Human Sciences of the Zh. Balasagyn Kyrgyz National University Tatyana Volkova on the topic: "Development of innovative practice-oriented forms of education in modern legal education."

On the same day, a meeting of the Student Scientific Civil Law Circle of the Civil Club was held in parallel, which was devoted to the main activities of the Circle, as well as a master class on writing scientific articles in the civil law direction.

Already on October 14, 2021, a call for applications for the VI International Legal Convention "Economic Analysis of Law through the Prism of Intersectoral Relations" was announced, and on November 26, the Convention itself was held in two formats: online and offline. At the plenary session, a welcoming speech was made by: Deputy Dean of the KFU Faculty of Law for Scientific Activities, Editor-in-Chief of the journals "Herald of Civil Procedure" and "Kazan University Law Review", Doctor of Legal Sciences, Professor, Honored Lawyer of the Republic of Tatarstan Damir Valeev; Deputy Dean of the Faculty of Law for International Affairs, Head of the Department of Theory and History of State and Law, Doctor of Legal Sciences, Professor Rustem Davletgildeev; Head of the Department of Environmental Labor Law and Civil Procedure, Chairman of the Dissertation Council of KFU, Doctor of Legal Sciences, Professor Zavdat Safin; Head of the Department of International and European Law, Doctor of Legal Sciences, Professor

Adel Abdullin; Doctor of Legal Sciences, Professor of the Department of Criminal Procedure and Criminalistics Alexander Epikhin; Candidate of Legal Sciences, Associate Professor of the Department of Criminal Law Arsen Balafendiev.

The opening ceremony was followed by a lecture by Andrey Pavlov, Candidate of legal Sciences, Assistant Professor at the Department of Environmental Labor Law and Civil Procedure of Faculty of Law of the Kazan Federal University. The presentation was devoted to intersectoral relations in law, as well as the connection of law with other areas of knowledge. The speech interested not only people of science, but also practical figures.

At 12:00 o'clock on the same day, 14 sections began their work: "Economic analysis of law through the prism of inter-branch relations" (English-speaking course); educational law; International law; Family law; labor law; Civilistic process; Business Law; Criminal process; Criminal law; Environmental and land law; Theory and history of state and law; Constitutional law; Tax and financial law; Civil law. The remote format was supplemented by face-to-face participation of students of the Faculty of Law of KFU, which made it possible to maintain the balance of live communication, which is needed in our time and is especially important for people of science.

The work of all sections was well-coordinated and truly comprehensive, because each of the areas of our legal science has been associated with related industries for a very long time, therefore inter-industry relations remain the constant soloist of Jurisprudence.

The Convention is a traditionally multifaceted and multifaceted event, therefore, along with the work of sections, subject Olympiads were also held. This year, two such Olympiads were held — in criminal procedure and in civil procedure. At 15:40, both Olympiads began in a remote format, so that participants with different knowledge capital still have equal opportunities to prove themselves. This is how one of the biggest scientific events of the University took place.

Further, the scientific society again actively continued its activities. Already on February 9, the collection of applications for the traditional competition "All-Russian Judicial Debates", held annually within the walls of Kazan Federal University, started. On February 15, the first meeting of the Judicial Debate club began. As part of the club's work, storylines were analyzed to prepare for participation in the moot court, preparation, and discussion of legal positions, in particular, preparations were made for the "All-Russian Judicial Debate 2022" in the section of civil proceedings.

The meeting was held:

The head of scientific research work of students, lawyer, chairman of the bar association "Laws and Facts" of the Republic of Tatarstan Yuri Lukin, lawyers Damir Nizamov and Ramis Abyanov.

The "All-Russian Judicial Debate 2022" itself was held on April 22–23, 2022 within the walls of Kazan Federal University.

Traditionally, in April, a meeting of all participants was held in person. The grand opening began on April 22 at 10 am Moscow time.

The first to speak were Vice-Rector for Educational Activities of Kazan Federal University Ekaterina Turilova and Dean of the Faculty of Law of KFU Lilia Bakulina. It was noted how valuable and important it is to meet face-to-face for the Model Trial.

The opening was also attended by Deputy Chairman of the Arbitration Court of the Volga District Igor Smolensky, Deputy Chairman of the Supreme Court of the Republic of Tatarstan for Administrative Cases Eduard Kaminsky, member of the Council of the Chamber of Advocates of the Republic of Tatarstan Elena Gilmitdinova, judge of the Twelfth Arbitration Court of Appeal, Candidate of Legal Sciences, Associate Professor of the Department of Land and Environmental Law of the Saratov State Law Academy Tatyana Volkova, Deputy Chairman of the International Union of Lawyers, Candidate of Legal Sciences Vyacheslav Gusyakov, Managing Partner of ATL Zenit Damir Nizamov, Associate Professor of the Department of Criminal Procedure and Forensic Science of the KFU Faculty of Law, Candidate of Legal Sciences Artur Ibragimov.

Among the guests were also the head of the department for regulatory legal acts of the constituent entity of the Russian Federation and the maintenance of the federal register, the maintenance of the register of municipalities, the registration, and maintenance of the register of charters of municipal educational entities of the Ministry of Justice of the Russian Federation for the Republic of Tatarstan Rifat Rakhimov, the chairman of the judicial composition of the Judicial Collegium for Civil affairs of the Supreme Court of the Republic of Tatarstan Airat Gayanov, the head of the department for the restoration of citizens' rights under the Commissioner for Human Rights in the Republic of Tatarstan Artem Bartenev, and there were also representatives from the Federal Bailiff Service of the Republic of Tatarstan.

The event started with scientific activities, master classes were held by leading lawyers. Andrey Pavlov Candidate of Legal Sciences, Assistant Professor of the Department of Environmental, Labor Law and Civil Procedure of the Faculty of Law of Kazan Federal University, spoke on the topic "Modern digital technologies in the activities of a trial lawyer". Roman Fedorov, Deputy Head of the Department for Drug Control of the Ministry of Internal Affairs in the Republic of Tatarstan, Police Lieutenant Colonel, gave a master class on criminal proceedings with the topic: "Peculiarities of detecting and documenting crimes related to drug trafficking". The first day ended with the battle of the first round. 19 battles were held simultaneously: 8 in the criminal justice section and 11 in the civil justice section.

The judges for the first round were:

Judges of the Supreme Court of the Republic of Tatarstan, namely: Marcel Fakhriev, Rustam Yarullin, Ildar Khaev, Ilzida Karimova, Murman Silagadze; Judge of the Arbitration Court of the Republic of Tatarstan Aidar Galiullin, Candidate of Legal Sciences, Associate Professor of the Department of Business Law of the St. Petersburg Institute of the All-Russian State University of Justice (Russian Law Academy of the Ministry of Justice of Russia) Veronika Kuzbagarova, Deputy Chairman of the International Union of Lawyers Vyacheslav Gusyakov, Judge of the Twelfth Arbitration Appeal Court, Candidate of Legal Sciences, Associate Professor of the Department of Land and Environmental Law of the Saratov State Law Academy Tatyana Volkova, Doctor of Legal Sciences, Professor of the Department of Civil Procedure of the V. F. Yakovlev Ural State Law University Sergey Degtyarev, Head of the Legal Department of the Public Joint Stock Company "Nizhnekamskneftekhim" Aidar Sultanov, Doctor of Legal Sciences, Professor of the Department of Civil Procedure of the V. F. Yakovlev Ural State Law University Igor Renz, Candidate of Legal Sciences, Senior Lecturer, Department of Business Law, Civil and Arbitration Procedure, Perm State National Research University Evgeniya Lyubimova, Candidate of Legal Sciences, Associate Professor, Department of Environmental, Labor Law and Civil Procedure of the Kazan Federal University Marat Zagidullin, Managing Partner Limited Liability Company "Legal Expert" Timur Khairullin, Candidate of Legal Sciences, Assistant of the Department of Environmental, Labor Law and Civil Procedure of the Kazan Federal University Andrey Pavlov, Deputy Chairman for Criminal Cases of the Novo-Savinovsky District Court of Kazan Oleg Semenov, Attorney, Chairman of the Lawyers Association "Laws and facts" of the Republic of Tatarstan Yuri Lukin, Senior Assistant Prosecutor of the Vakhitovsky District of Kazan Mikhail Zhelaev, Head of the Criminal Court Department of the Prosecutor's Office of the Republic of Tatarstan Rafael Shakirov, military prosecutor of the Kazan garrison, major of justice Munko Tsyrenov, Head of the second department for the investigation of particularly important cases of the Investigative Department of the Investigative Committee of the Russian Federation for the Republic of Tatarstan, colonel of justice Rustem Adiatullin, lawyer of the Legal Defense Center Bar Association Aidar Gilyazov, Chairman of the Kirovsky District Court of the city of Kazan Oleg Sokolov, Deputy Chairman of the Kirovsky District Court of the city of Kazan Dina Sibgatullina, as well as Judge of the Kirovsky District Court of the city of Kazan Lilia Galiullina, Lawyer of the Bar Association "Legal Protection Center" Lenar Miftakhiev, Head of the 384th Military Investigative Department for the Kazan garrison, lieutenant colonel of justice Alexander Salapov, assistant prosecutor of the Soviet district of the city of Kazan, third-class lawyer Ilnur Fattakhov, lawyer of the Chamber of Lawyers of the Republic of Tatarstan Pavel Mazurenko.

The morning of April 23 — the second competition day — began with the announcement of the results of the first round and the presentation of certificates, and then the second round of the event began. As part of this stage of the competition, participants assessed the evidence for relevance and admissibility, wrote draft procedural documents, studied procedural documents for compliance with their requirements of the law, and also demonstrated their theoretical skills within the framework of selected legal proceedings. The second stage ended with only 4 teams left in each section, which met in the final battles and showed who is worthy to bear the title of winner of the All-Russian Judicial Debate 2022.

The judges of the final round were: Deputy Chairman of the Arbitration Court of the Volga District Igor Smolensky, Doctor of Legal Sciences, Professor of the Department of Civil Procedure of the Ural State Law University Dmitry Abushenko, Judge of the Twelfth Arbitration Court of Appeal Tatyana Volkova, Deputy Chairman of the International Union of Lawyers Vyacheslav Gusyakov, Doctor of Legal sciences, Professor of the Department of Civil Procedure, V. F. Yakovlev Ural State Law University Igor Renz, Judge of the Arbitration Court of the Republic of Tatarstan Aidar Galiullin, Managing Partner of the Legal Expert Limited Liability Company Timur Khairullin, Partner of ATL Zenit Ramis Abyanov, Chairman of the Tyulachinsky District Court of the Republic of Tatarstan Ramil Bikmiev, Investigator for especially important cases of the Investigation Department for the Vakhitovsky District of Kazan of the Investigation Department of the Investigative Committee of Russia for the Republic of Tatarstan Senior Lieutenant of Justice Elza Khismatullina, Judge of the Supreme Court of the Republic of Tatarstan Rushan Mardanov, Deputy Chairman for Criminal Cases of the Novo-Savinovsky District Court of Kazan Oleg Semenov, Judge of the Kirovsky District Court of the city of Kazan Sergey Stepanov.

The XVIII student model litigation "All-Russian Judicial Debate 2022" was held with the support of the law firm "ATL Zenith", the Lawyers' Association "Law and facts" of the Republic of Tatarstan. Thus, the long-awaited "All-Russian judicial debate 2022" has ended.

Meanwhile, on February 15, 2022, the acceptance of applications for the Final Scientific and Educational Conference was announced, within which, especially for students studying in the first year of the Faculty of Law of Kazan Federal University, together with the Department of Theory and History of State and Law, within the framework of the Final Scientific and Educational Conference of students of the Faculty of Law was announced testing on the Great Patriotic War of 1941–1945.

On April 16, 2022, the Final Scientific and Educational Conference was held within the walls of Kazan Federal University in the following areas: administrative law, constitutional and municipal law, tax and financial law, civil, arbitration and administrative process, civil law and family law, theory and history of state and law,

international public law, and international humanitarian law, private international law, European law, business and energy law, sports law, theory and methodology of teaching law, criminal law, penitentiary law, criminology, criminal procedure, court and justice, criminalistics, prosecutorial supervision, environmental and land law.

Also, with the support of the Student Scientific Society, a Competition for the best scientific work of students of Kazan Federal University was organized!

Students of any form of education took part. The scientific works of students or student teams under the guidance of a supervisor were accepted for the Competition. The main directions of the Competition were: natural sciences, engineering and technical sciences, social sciences and humanities.

In addition, the Student Scientific Society actively continued to maintain contact with other student scientific societies in Russia and took part in the Association of Student Scientific Societies of the Republic of Tatarstan.

The academic year at Kazan Federal University ended quite fruitfully and effectively.

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