Volume 5 ▪ Winter 2020 ▪ Number 1

KAZAN UNIVERSITY LAW REVIEW

Volume 5 ▪ Winter 2020 ▪ Number 1

KAZAN UNIVERSITY LAW REVIEW

KAZAN UNIVERSITY LAW REVIEW

Volume 5, Winter 2020, Number 1

kazanlawreview.org

KAZAN UNIVERSITY LAW REVIEW

Volume 5, Winter 2020, Number 1

kazanlawreview.org

«KAZAN UNIVERSITY LAW REVIEW»
(registered by The Federal Service
for Supervision of Communications,
Information Technology
and Mass Communications in Russia
on 17 November 2016
(certificate number PI № FS 77-67763
(ПИ № ФС 77-67763))

Editorial office:
room 326, 18 Kremlyovskaya St.,
Kazan, 420008 Russia

Founders of the mass media:
Federal State Autonomous Educational Institution of Higher Education "Kazan (Volga region) Federal University"; "Publishing house "STATUT" Ltd.; "Yurlit" Ltd.

ISSN 2541-8823 (print)
ISSN 2686-7885 (online)

Publication:
four issues per year (one issue per quarter)

Dear readers,

I would like to present for your attention the first regular issue of the journal "Kazan University Law Review" in 2020.

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 Doctor of Legal Science, Vice Rector for Research and International Relations of the D. A. Kunaev Eurasian Law Academy Gulnar Alibaeva «Constitutional reform in Kazakhstan: stages of historical state evolution». In this article, the author analyzes the process of constitutional reform in the Republic of Kazakhstan. The researcher focuses on the fact that a series of reforms provided for the redistribution of certain power functions, in particular, their transfer from the President to other governing bodies of states, in order to increase the efficiency of the functioning of the state apparatus. It should be noted that the redistribution of powers was carried out as carefully as possible so that, by increasing the efficiency of the state, in no case should it be weakened.

The issue is continued by the article of our colleague from Perm, Doctor of Economics Science, Candidate of Legal Science Igor Zagoruiko, Perm State National Research University, titled «The specifics of the registration of real estate rights with no construction permit required». The author argues that the regulation of legal relations dealing with the real estate is influenced by the reforms carried out in the Russian civil law over the last 2 years. A lot of changes related to real estate were introduced. We shall outline the introduction of new objects of civil law rights of changes in the Land Code and changes in duration of state registration of real estate property rights.

I am very pleased to introduce the research of Kristina Morkovskaya, Candidate of Legal Science, Senior Lecturer at the Department of Civil Procedure of the Saratov State Law Academy: «The procedural status of the subjects of bankruptcy proceedings». The author analyzes the subjects of bankruptcy proceedings. The author argues that the doctrine and practice show no single understanding of the procedural status of subjects of bankruptcy proceedings. The court acts and procedural documents submitted to the court sometimes fail to convey the procedural

place of the arbitration trustee, the former Head of the debtor and the current payment creditor.

The "Commentaries" section has interesting article by three skilled researches from Moscow and Kazan: Alexander Epikhin, Professor, Doctor of Legal Science, and Andrei Mishin, Associate Professor, Candidate of Legal Science, from Kazan (Volga region) Federal University, written in collaboration with Oleg Zaitsev, Doctor of Legal Science, Professor of the Institute of Legislation and Comparative Law under the Government of the Russian Federation, titled «The specifics of the registration of real estate rights with no construction permit required». The authors argue that the main issue of criminal proceedings correlates with proving person guilty or innocent of in the incriminated event. This complex process is diverse and unpredictable, since the collection of sufficient evidence for a criminal case (Article 73 of the Code of Criminal Procedure of the Russian Federation) can be hindered by an unlawful act preventing crimes' detection, impeding the investigation and the offender's evasion from criminal punishment.

The practical section of the current issue "Conference Reviews" concludes with the material of our colleagues from Kazan and Yoshkar-Ola on the event, which was held at Mari State University in the autumn of 2019.

With best regards,
Editor-in-Chief ***Damir Valeev***

TABLE OF CONTENTS

ARTICLES

Gulnar Alibaeva

Doctor of Legal Science, Vice Rector for Research and International Relations of the D. A. Kunaev Eurasian Law Academy

CONSTITUTIONAL REFORM IN KAZAKHSTAN: STAGES OF HISTORICAL STATE EVOLUTION

https://doi.org/10.31085/2541-8823-2020-5-1-6-17

Abstract: In this article, the author analyzes the process of constitutional reform in the Republic of Kazakhstan. The legal system is a necessary attribute of any state applying for sovereign status. The Constitutional Law on State Independence (1991), the first Constitution (1993), laid its foundation and the subsequent development of the new law and the new system of legislation was carried out based on the ideas and norms enshrined in the 1995 Constitution currently in force. At the same time, this document was also subjected to subsequent reform in 1998, 2007 and 2017, which allowed strengthening both the power vertical and the status of the head of state. At the same time, a series of reforms provided for the redistribution of certain power functions, in particular, the transfer from the President to other governing bodies of states, in order to increase the efficiency of the functioning of the state apparatus. It should be noted that the redistribution of powers was carried out as carefully as possible so that, by increasing the effectiveness of the state, in no case should it be weakened.

Keywords: Kazakhstan, constitution, reform, statehood, president, management, authority.

The ongoing modernization of the state in the Republic of Kazakhstan done to face modern global challenges and meet national interests of the country is still a relevant course of transformations of the political system, state form, civil society institutions, diverse mutually responsible relations between an individual and the government. This fact is confirmed by key decisions and practical measures taken recently.

The transfer of the supreme power marks the first half of 2019 as a historical landmark in Kazakhstan.

On March 19, 2019, the President of the Republic N. A. Nazarbayev voluntarily announced his resignation and resigned as the current Head of State.

Paragraph 1 of Article 48 of the Constitution states that, in this case, the Chairman of the Senate of the country's Parliament receives the powers of the President of the Republic of Kazakhstan. K.-Zh. Tokaev took an oath to the people and took office as the President of the Republic of Kazakhstan in March 20, 2019.

This marks a new stage in the state, due to the presence of two powerful political institutions in the political system and the state of the Republic of Kazakhstan.

Evidentially, the process of modernizing the country's governance is challenging due to numerous objective and subjective factors hindering the introduction of progressive innovations. Firstly, it is the lack of common approaches in understanding certain terms, phenomena and institutions. Next, it may be due to a divergence of the approaches followed by law representatives, economists, political scientists, sociologists, and other humanities. Practice is ahead of doctrine, and foreign experience is hardly implemented. That is why further in-depth study of theoretical positions using updated arguments and clarification of complex issues is required.

The current Constitution of the Republic of Kazakhstan is timely modernized and ensures the functioning of the state apparatus. The law of the country guarantees the transformation of the state apparatus.

Kazakhstan needed a fundamentally new system of internal organization of social life at the stage of gaining state independence. It was necessary to legislatively determine the spheres of functioning of state bodies and the democracy mechanisms, consolidate the corresponding organizational and legal forms, and subsequently gradually strengthen and develop them.

The formation and development of Kazakhstan as an independent state occurred in a specific historical period and involved certain peculiarities, such as the individual characteristics of human potential, the economic, financial and banking system; the political and legal system; sociocultural relations and psychology; the possibilities of scientists of Humanities; the international conditions, etc.

The above-mentioned social grounds of state power were reformed (or first built) along with the emergence of the state as a special political organization characterized by specific functions, tasks, bodies, organizations, forms and

methods of activity. At the same time, it was inappropriate to plan ahead or slow down.

The legal system is a prerequisite of any state that claims to be sovereign. The foundation of the legal system was laid by the Constitutional Law on State Independence (1991), the first Constitution (1993). The subsequent development of the new law and the new system of legislation was based on the provisions of the current Constitution established in 1995. It ensured political stability, interethnic and interfaith trust, prevention and conflict-free eradication of the social contradictions.

The Constitution of the Republic of Kazakhstan is characterized by recognition of a person, his life, rights and freedoms, the State and people's sovereignty, unity and separation of state power, parliamentarism, election and other institutions of direct democracy, and local self-government as the highest values.

Modern globalization contributes to a deep structural transformation of the State power.

Of particular importance are the norms of the Constitution of the Republic of Kazakhstan, that trace a certain system of checks and balances among the branches of power in order to provide a mechanism for implementing the principles of a democratic, secular, legal and social state, democracy, priority of human and civil rights and freedoms.

The Kazakhstan system of government is based on the presidential form of government, enshrined in the Constitution of the Republic of Kazakhstan in 1995 and modernized during the subsequent reform of the Basic Law in 1998, 2007 and 2017.

Let us briefly recall *the period between 1990 and 1995*, when the country faced a deep reform of the state apparatus due to objective harsh conditions of a change in the social formation. The Kazakhstan state scientists classify varieties of the Kazakh form of government of modern historical development in details.

N. A. Nazarbayev described the reforms of that period in the book 'Era of Independence' in the following way: "I have considered the issue of improving the executive system since the first days of independence. I knew that the country's daily life largely depends on the coordinated work of all the state institutions, and the reforms' success depends on an effective management system uniting central and local government bodies, and I believed that strong power will stabilize the state ... The new executive and administrative system power was built over three years of independence. This system does not oppress but serves the people"[1]. [1, p. 38, 40.]

The works of Kazakhstan researchers help to uncover this issue. We share the opinion of V. A. Malinowski, who suggests four stages of the evolution of state based

[1] *Назарбаев Н.* Эра независимости. – Астана, 2017 [Nazarbayev Nursultan, Era of Independence (Astana, 2017)].

on the systemic understanding of the integral construction of Kazakhstan state in specific historical conditions.

The first stage ('Soviet-Parliamentary Republic') is provided in the Law of April 24, 1990 'On the establishment of the office of President of the Kazakh SSR and amendments and additions to the Constitution (Basic Law) of the Kazakh SSR' as follows, "The head of the Kazakh Soviet Socialist Republic is the President of the Kazakh SSR". The second stage ('Soviet-Presidential Republic') is marked with the adoption of the Law 'On improving the structure of State power and administration in the Kazakh SSR and introducing amendments and additions to the Constitution (Basic Law) of the Kazakh SSR', dated November 20, 1990. According to the Article 144: "The President of the Kazakh SSR is the Head of the Kazakh Soviet Socialist Republic, its highest executive and administrative power". The third stage ('The Semi-Presidential Republic with the enhaced Supreme Council') related to the action of Constitution in 1993 and the practical implementation of its rules. Article 75 states that "The President of the Republic of Kazakhstan is the Head of State and the Head of a single system of executive power". The fourth phase ('The fifth Republic') is the implementation of the Constitution of the Republic of Kazakhstan in 1995.

In his opinion, each of the four stages represents a corresponding period of transition of the form of government from the 'Republic of Soviets', which existed for about 80 years, to the new form of government provided for by the Constitution of the Republic of Kazakhstan. It looks like a semi-presidential republic. The first three stages focused on the formation of horizontal and vertical relations in the executive branch of government and among representative and executive bodies. The modern stage focuses on the change in the design of the principles of the unity of state power and the separation of powers, the mission and organization of all branches of power[1] [2, p. 81].

Having briefly studied recent past, we will consider the original form of the government in accordance with the Basic Law and subsequent adjustments. We will analyse the Constitutional status of the President of the Republic, the Constitutional statuses of the Parliament and the Government, the foundations of the relationship between the legislative and executive branches of the government. We will also consider the status of the Constitutional Council, the judicial and the prosecutor's power.

The provisions of the Constitution of the Republic of Kazakhstan, adopted at the Republican Referendum on August 30, 1995.

---

[1] *Малиновский В.А.* Лидер: президентская власть в Казахстане на рубеже эпох. – Астана: Норма-К, 2012. [Malinovsky Victor *Leader: presidential power in Kazakhstan at the turn of the eras.* (Astana, 2012)].

The Constitutional status of the President of the Republic. According to Paragraph 3 of the Article 3 of the Constitution of the Republic of Kazakhstan, dated 1995, "the right to speak on behalf of the people and the state belongs to the President, as well as to the Parliament of the Republic within his constitutional powers. The Government of the Republic and other state bodies act on behalf of the state within the limits of their delegated authority".

The President of the Republic of Kazakhstan is the Head of State and the highest official of the State. The Constitution defines the main directions of domestic and foreign policy. It also regulates other functions of the President (Article 40 of the Constitution). The competencies of the President of the Republic define the Head of State as the undisputed leader of the entire executive branch. The government is almost entirely monitored by the President of the Republic.

The public administration system (the 'Presidential form of government'), established by the Constitution of the Republic of Kazakhstan in 1995, is much alike the Presidential Republic and the Parliamentary Republic. Therefore, the Kazakhstan form of government is a 'mixed' or 'Semi-Presidential' Republic.

It stabilized the state and the political system as a whole by a dense executive power (in its horizontal and vertical constructions) of the Head of the State and his dominance in the Government, limited possibilities for the influence of the Parliament on the executive branch of the Government and akims (akimats).

Liberalization, carried out during the State independence between 1995 and 2007, also affected the public administration system. It refers to the socio-political foundations and all institutional components in particular. It launched the process of distancing the President of the Republic from the executive branch.

The constitutional reform introduced by the Law of October 7, 1998 'On Amendments and Additions to the Constitution of the Republic of Kazakhstan' (the first constitutional reform) aimed at the adjustment of certain constitutional regulations stimulated by the results of the first years of the functioning of the public administration system[1].

The following changes were made to the constitutional status of the President of the Republic. Firstly, the qualifications of the Presidential candidate were clarified; the quorum of the turnout of voters was withdrawn to recognize the elections as valid. The institution of transferring the Presidential powers for the remaining term was introduced instead of elections in the event of early dismissal or removal from office or death of the President of the Republic of Kazakhstan. The Head of State

[1] Закон от 7 октября 1998 года «О внесении изменений и дополнений в Конституцию Республики Казахстан» [The Law «On Amendments and Additions to the Constitution of the Republic of Kazakhstan» (October 7, 1998) available at https://online.zakon.kz/document/?doc_id=1010769].

resigned as Chairman of the Supreme Judicial Council and received the right to make an appointment to this position.

The terms of office of deputies of the Senate and the Mazhilis in the Parliament of the Republic of Kazakhstan were increased. The term of office of Deputies of the Senate was also clarified (it depends on the term of office of the Senate, and not Parliament).

One of the most important innovations was the introduction of a proportional electoral system in the elections of some Deputies of the Mazhilis of the Parliament.

The guarantees of control powers of Deputies have been enhanced.

The Parliament was provided with additional guarantees for the adoption of amendments to the Constitution, with which the Head of State does not agree.

The Constitutional status of the Government of the Republic of Kazakhstan has also been changed. The development of the Republican budget and the appointment of four members of the Accounts Committee for Monitoring the Implementation of the Republican Budget for five years (Subparagraphs 2 and 9 of Article 66) are excluded from the powers of the Government.

The personal responsibility of the members of the Government (including the Prime Minister) was increased while maintaining the status of the Government as a unified entity.

There are two more changes that allowed *progressive 'short stories' in the judicial system and local government*.

Firstly, Paragraph 2 of the Article 75 is supplemented by the provision that "the jury is introduced to the criminal proceedings in cases provided by law".

Secondly, Paragraph 4 of the Article 87 changes the following statement "Akims of other administrative entities are appointed by superior akims" into "Akims of other administrative entities are appointed or elected as determined by the President of the Republic of Kazakhstan."

The first amendment promoted the introduction of jury trials in criminal proceedings, as a worldwide practice; the second amendment initiated the democratization of local government and self-government by introducing elective akims.

The second constitutional reform, implemented by the adoption of the Law of the Republic of Kazakhstan dated May 21, 2007 'On Amendments and Additions to the Constitution of the Republic of Kazakhstan' continued the liberalization of state power. The Parliamentary involvement in the Presidential form of government was enhanced[1].

---

[1] Закон РК от 21 мая 2007 года «О внесении изменений и дополнений в Конституцию Республики Казахстан» [The Law «On Amendments and Additions to the Constitution of the Republic of Kazakhstan» (May 21, 2007) available at https://www.zakon.kz/87556-zakon-respubliki-kazakhstan-ot-21-maja.html].

The Constitutional status of the President of the Republic. Article 41 of the Constitution of the Republic of Kazakhstan amends the term of the Presidential mandate (a five-year term was set instead of the seven-year period introduced by the Law of the Republic of Kazakhstan dated October 7, 1998 'On Amending and Adding to the Constitution of the Republic of Kazakhstan'). The changes affected the residency qualification presented to the Presidential Candidate (a Candidate should be Kazakhstan residents not only "for fifteen years as a whole", but "for the last fifteen years"). Article 42 adds the following: the established restriction for the same person on being the elected President of the Republic more than two times in a row "does not apply to the First President of the Republic of Kazakhstan". Paragraph 2 'On the obligation of the President to suspend from a political party when exercising his powers' was deleted from the Article 43. Article 44 was added the following powers of the Head of State: to form, abolish and reorganize state bodies directly subordinate and accountable to the President of the Republic, appoint and dismiss their leaders – Subparagraph (5); appoint the Chairperson and two members of the Central Election Commission for five-year posts – Subparagraph (7). The powers stipulated by the new Subparagraphs (5) and (7) were previously enshrined in the constitutional laws on the President of the Republic and on elections. The status of the Assembly of the People of Kazakhstan and the Supreme Judicial Council was changed in Subparagraph (20). Article 46 was supplemented by Paragraph 4: "The status and powers of the First President of Kazakhstan are determined by the Constitution of the Republic and constitutional law." The introduction of a new institution for the early dissolution of the Majilis (only one of the Chambers of the Parliament) was clarified in Paragraph 3 of the Article 47.

By the law of May 21, 2007, the President of the Republic of Kazakhstan is vested with the right of legislative initiative (Paragraph 1, Article 61 of the Constitution).

The Constitutional status of the Parliament of the Republic of Kazakhstan. The vast majority of amendments and additions made to the Constitution by the Law of the Republic of Kazakhstan dated May 21, 2007 enhance the Parliamentary involvement in the Kazakhstan government.

The bans on the merge of public and state institutions, as well as state financing by public associations are removed from Paragraphs 1 and 2 of Article 5. The President of the Republic must consult with factions of political parties of the Majilis prior to submitting the candidacy of the Prime Minister to the Majilis. In such a way modern party system and civil society were created. Moreover, political parties were involved into the state mechanism and became the main tool to reveal the people's will and further transform it into the state power.

The representative beginning of parliamentarism was expanded. The significance of the representative function of the Parliament was increased and added additional guarantees.

The statuses of the Mazhilis and the Senate of the Parliament were updated significantly. A number of powers were transferred within the Parliament from joint meetings to the Chambers, from the Chairmen of the Chambers to the Chambers themselves. The composition and activities of the Mazhilis were determined to perform party programs. The the Deputies' responsibility was increased, i. e. a free mandate is evaded and a party may initiate a decision on early termination of a deputy's mandate on the grounds provided for in Paragraph 5 of Article 52 of the Constitution.

The Parliament received additional guarantees through enabling the Head of State to dissolve both the Parliament as a whole, and the Mazhilis, within the continued adoption of the constitutional laws and laws by the Senate, until the new Mazhilis election, etc.

The measures taken caused the expansion of the social representation in the Parliament and increase in the quality of its representative function (in particular, the elections to the Mazhilis on January 15, 2012), legislative and control activities.

The auxiliary office of the chambers was enhanced by the public involvement.

The constitutional status of the Government of the Republic of Kazakhstan and the basis of relations between the President, the Parliament and the Government. The Law of the Republic of Kazakhstan dated May 21, 2007 adjusted the role of the Government. Paragraph 2 of the Article 64 states that "As a unified entity the Government is fully responsible to the President of the Republic, and in cases provided for by the Constitution, to the Majilis of the Parliament and the Parliament" (this Paragraph emphasizes the enhanced unified nature of the supreme executive authority). Subparagraph (2) is excluded from the Article (67). The Paragraph stated that the Prime Minister was obliged to report on the Government Program to the Parliament within a month after his appointment (accordingly, the hearing of this report and the consequences of its non-approval by the Parliament were excluded from Article 53). The Article 68 clarifies the inadmissibility of a member of the Government to belong to the governing body or the supervisory board of a commercial organization, unless performing their official duties provided by the law.

Thus, *relations between the Parliament and the Government* were strengthened as follows:

- the role of the Majilis to reflect the interests of voters in the formation of the Government by the President was increased;
- the new mechanisms of the relationship between the legislative branch of government, i. e. the Parliament and the Majilis, primarily, and the executive branch, i. e. the Government were established;
- the powers were redistributed between the President, the Parliament and the Government. It involved gradual stabilization of the Parliament's role

in the Kazakhstan 'Presidential government' (the replacement in Article 63 of the Constitution of the specific grounds for dissolution of the Parliament by the President also approved by the Head of State and the Chairmen of the Houses of Parliament and the Prime Minister, etc.).

The Constitutional Council was also enhanced and able to consider resolutions adopted by the Parliament and its Chambers for compliance with the Constitution of the Republic, in accordance with the addition to Article 72 of the Constitution.

The decentralization of the Presidential government is associated with the strengthening of the local bodies of representative power and a brand new local self-government. It allowed the introduction of this essential democratic institution. The Head of the State coordinates the appointment of akims of the Republic's regions, the capital, the city and the maslikhats.

The law, dated 21 May, 2017 initiated the *judicial authorization of procedural actions by the investigative bodies*. Paragraph 2 of the Article 16 states that 'Arrest and detention are allowed only in cases provided for by the law and only when approved by the court and with the right of appeal to the arrested. Without sanction, a convict may be detained for no longer than 72 hours".

The distance between the President and the Government declared at the adoption of the Constitution was confirmed.

The tendency to enhance the Party involvement in the statehood, laid down by constitutional reform, also affected the Presidency. The elected President of the Republic was no longer obliged to suspend activities in a political party as long as he exercises his powers.

In general, constitutional reform offered new conceptual approaches to understand the main socio-political institutions and the prospects for their development. A number of amendments and additions made to the Constitution in their correlation refromulate the purpose of the State power and its functions, determine the principles of relations between the state bodies, public associations and citizens, involve civil society institutions in solving state-significant issues, and establish legal standards accorded with changing public relations.

The second constitutional reform held in 2007 established a set of measures to stimulate the formation of a modern party system, enhance the status of the Parliament, improve its representative function and the legislative activity, and gradually establish the functional and organizational proximity of the Parliamentary government and correlation of the activities of legislative and executive bodies of a single state power. The reform aimed at creating strong relations between the state and the people of Kazakhstan. However, it did not affect the essential foundations of the "Presidential government" of the Republic of Kazakhstan.

The third constitutional reform was implemented by the adoption of the Law of the Republic of Kazakhstan dated March 10, 2017[1] 'On Amendments and Additions to the Constitution of the Republic of Kazakhstan'.

In general, the amendments to the Constitution aim at ensuring its supremacy in the existing law and unconditional implementation throughout the country, enhanced protection of the constitutional rights and freedoms of citizens, ensuring their fulfillment of constitutional duties, and improving the state management. Further democratic modernization of the Presidential government involved the enhanced role, independence and responsibility of the Parliament and the Government, redistribution of individual powers between the President, the Parliament and the Government, based on the principle of unity and separation of the State power.

The Constitutional status of the President of the Republic involved the expanded qualification requirements for candidates for the Head of State (Paragraph 2 of the Article 41 of the Constitution). The President of the Republic renounced his reserve legislative powers, which he had never used during the Constitution adopted in 1995.

The Head of State empowered the Parliament with the authority to determine the procedure for being appointed or elected to the Office, as well as dismissing akims of other administrative districts other than regions, cities of Republican significance and the capital (clause 4 of Article 87 of the Constitution). Currently, this order is determined not by an act of the President, but by the law of Parliament.

The state programs and a unified system of financing and remuneration of employees for all budgetary bodies, which will be implemented by the Government in agreement with the Head of State is approved by the Government instead of the Head of State.

At the same time, the functions of the President of the Republic as the highest state official, giving the main directions of the domestic and foreign policy of the state representing Kazakhstan within the country and in international relations, are preserved. He symbolizes and guaranees the unity of the people and state power, the inviolability of the Constitution, the rights and freedoms of man and citizen. The Head of the State coordinates functions of all branches of state power and responsibility of authorities (Article 40 of the Constitution).

Constitutional status of the Parliament of the Republic of Kazakhstan. The amended Paragraph 1 of Article 49 of the Constitution states that the Parliament "is the highest Republican representative body exercising legislative power". Given clarification of the purpose of the Parliament stems from the refusal of the Head of State to authorize the laws issuance, legal decrees and the exercise of legislative powers when delegated

---

[1] Закон РК от 10 марта 2017 года «О внесении изменений и дополнений в Конституцию Республики Казахстан» [The Law «On Amendments and Additions to the Constitution of the Republic of Kazakhstan» available at https://online.zakon.kz/Document/?doc_id=32937557].

to him by the Parliament, as well as by ordering the Government to introduce the draft law into the Mazhilis of the Parliament. At the same time, the President of the Republic retains the right of legislative initiative and the right to prioritize consideration of draft laws, i. e. they should be adopted by the Parliament as a matter of priority within two months (Clause 2 of Article 61 of the Constitution).

The role of the Mazhilis of the Parliament in the formation of the Government is increasing. Based on the new procedure for the Government formation, the Prime Minister submits the candidacies of members of the Government to the Head of State having consulted with the Mazhilis of the Parliament. An exception is provided for posts of Ministers of Foreign affairs, Defense and Internal affairs, which are appointed and dismissed by the President independently.

The regulation establishing the abolition by the Government of its powers before the newly elected Majilis of the Parliament is a complete innovation. Evidently, the political parties represented in the Majilis are involved in the Government formation.

The constitutional status of the Government of the Republic of Kazakhstan. The enhanced accountability and control of the Government to the Parliament and its Chambers increases the responsibility and effectiveness of the branches of state power. Decisions made by the Deputies, coordination or consultations with the Deputies are present at all stages of the 'life' of the highest executive body.

The independence and responsibility of the Government are ensured by eliminating the right of the Head of State (1) to cancel or suspend the acts of the Government and the Prime Minister, (2) to form, abolish and reorganize central executive bodies and central executive bodies that are not members of the Government, (3) and also due to other powers transferred by the President to the Government. The Head of State keeps the right to preside at meetings of the Government on especially important issues, however the presidence is limited to 'necessity'.

The powers of *the Constitutional Council were expanded, the constitutional foundations of the judicial system and the prosecutor's office were clarified*. The Constitutional review received the right for final decisions on the proposed constitutional amendments (mandatory constitutional review). The Article 81 of the Basic Law states that the Supreme Court does not supervise the activities of local and other courts but considers relevant court cases in cases provided for by law. Paragraph 3 of the Article 79 of the Constitution states that the requirements for judges of the courts of the Republic are determined by Constitution. Paragraph 1 of Article 83 of the Constitution states that "the Prosecutor's Office, on behalf of the state, exercises, in the limits and forms established by law, the highest supervision of compliance with the law on the territory of the Republic of Kazakhstan, represents the interests of the State in court and carries out criminal prosecution on behalf of the State".

The protected constitutional values were added. "The independence of the state established by the Constitution, the unitarity and territorial integrity of the Repub-

lic, its form of government, as well as the fundamental principles of the Republic established by the Founder of independent Kazakhstan, the First President of the Republic of Kazakhstan – Elbasy, and its status are unchanged" (Paragraph 2 of Article 91 of the Constitution). This confirmes the historical mission of Nursultan Abishevich Nazarbayev as the Founder of the new independent State of Kazakhstan. He ensured its unity, protection of the Constitution, human and civil rights and freedoms. His constitutional status and personal qualities allowed the formation and development of sovereign Kazakhstan, including the constitutional values of the Basic Law and the fundamental principles of the Republic.

The performed redistribution of powers between branches of government does not affect the Presidential government.

Moreover, the Presidential government is implemented in the presidential vertical in local government (the akims of the respective administrative entities are representatives of the President and the Government), the existing procedure for appointing akims of the Republican regions, cities and the capital by the President with the consent of the relevant maslikhat.

The constitutional reform initiated by the President of the Republic of Kazakhstan, Elbasy, is in line with the logic of the country's historical evolution and ensures the further democracy, increases the responsibility of the Parliament and the Government, and unchanged Presidential government.

"The constitutional reforms of 2007 and 2017 and the 2015 national plan to implement Five Institutional Reforms," claims the President of the Republic, Elbasy "correlated the country's economic growth phase and its political modernization".

References

Nazarbayev Nursultan, *Era of Independence* (Astana, 2017)

Malinovsky Victor *Leader: presidential power in Kazakhstan at the turn of the eras* (Astana, 2012)

Information about the author

Gulnar Alibaeva (Almaty, Kazakhstan) – Doctor of Legal Science, Vice Rector for Research and International Relations of the D. A. Kunaev Eurasian Law Academy (107, Kurmangazy St., 050000, Almaty; e-mail: g.alibayeva@mail.ru).

Recommended citation

Alibaeva G. A. Constitutional reform in Kazakhstan: stages of historical state evolution. Kazan University Law Review. 2020; 1 (5): 6–17. https://doi.org/10.31085/2541-8823-2020-5-1-6-17.

Igor Zagoruiko

Doctor of Economics Science, Candidate of Legal Science, Professor of the Perm State National Research University

THE SPECIFICS OF THE REGISTRATION OF REAL ESTATE RIGHTS WITH NO CONSTRUCTION PERMIT REQUIRED

https://doi.org/10.31085/2541-8823-2020-5-1-18-26

Abstract: The regulation of legal relations dealing with the real estate is influenced by the reforms carried out in the Russian civil law over the last 2 years. A lot of changes related to real estate were introduced. We shall outline the introduction of new objects of civil law rights of changes in the Land Code and changes in duration of state registration of real estate property rights. The conditions for the notaries to participate in the preparation and make real estate deals were recreated. At the same time social and economic projects implemented in the country aim at reviving the economy, in particularly, through the involvement of new lands in civil commerce and development of construction sector. As a whole, it continuously supports the scientific interest in the legal regulation of civil relations of the real estate.

The aim of this work is to study the procedures of state registration of real estate rights in cases when the construction permission is not required.

Keywords: registration of real estate rights, building permission, real estate, law, enterprise right.

Introduction

The development of civil commerce is one of the essential tasks of modern Russian civilistics. Article 219[1] of the Civil Code of the Russian Federation states

[1] Гражданский кодекс Российской Федерации (часть первая): Федеральный закон от 30.11.1994 № 51-ФЗ (ред. от 03.07.2016) // СЗ РФ. 1994. № 32. Ст. 3301; 2015. № 27. Ст. 3945 [The Civil Code of the Russian Federation (Part One): Federal Law of November 30, 1994 No. 51-FZ Article 3945].

that 'the right of ownership of buildings, structures and other newly created real estate subject to public registration arises since the registration'. It highlights the primary legal importance of the state registration. Construction correlates with the creation of real estate. As one of the key sectors of the economy, it contributes to many related industries. The legal regulation is challenging as the construction industry bears special social significance.

Article 51 of the Town Planning Code of the Russian Federation[1] views the procedure for obtaining a construction permit according as one of the most difficult administrative procedures. In most cases it is time- and money-consuming for the developer. At the same time the procedure for obtaining a construction permit is not the ultimate goal of participants in a civil life. It is an intermediate stage of putting an object into operation and further registration of its ownership. A property becomes a full-fledged object of civil rights and satisfies the interests of participants in civil commerce, only after the registration of right. In general, the process of managing a real estate is represented in Figure 1.

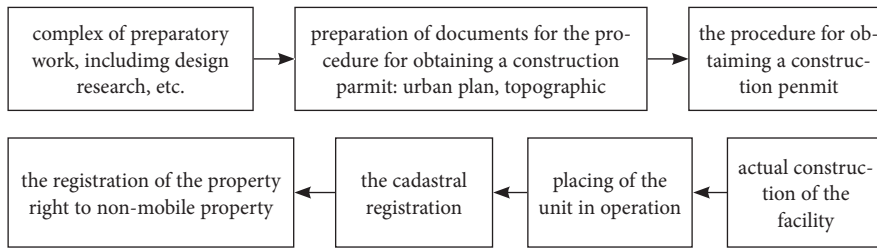

Figure 1. The process of managing a real estate

However the Federal legislation modifies the specified scheme for the management of a real estate. In particular, Paragraph 17 of Article 51 of the Town Planning Code of the Russian Federation[2] defines a list of cases with no construction permission required. In particular, Subparagraph 3 indicates that a building permit is not required in case of construction of auxiliary buildings and structures on the land plot.

This exception allows the participants of civil commerce to achieve their ultimate goal under certain conditions. In other words, to register ownership without intermediate administrative procedures.

---

[1] Градостроительный кодекс Российской Федерации: Федеральный закон от 29.12.2004 № 190-ФЗ (ред. от 03.07.2016) // СЗ РФ. 2005. № 1. Ст. 16 [The Town Planning Code of the Russian Federation: Federal Law dated December 29, 2004 No. 190-FZ Art. 16].

[2] Там же.

The stages of creating and introducing a real estate object into the civil commerce predetermine its specifics. Namely, the process is controlled by the Federal Service for the State Registration, Cadastre and Cartography (Rosreestr) represented by its territorial administrations, local self-government bodies, executive branch of a subject. Several federal laws, by-laws, laws of constituent entities of the Russian Federation, acts of local self-government bodies, to some extent, regulate these legal relations. Such a variety of legal acts causes different interpretations and application of legal acts and the implementation of certain procedures. In contrast, the Federal Tax Service is crucial in taxation, registration of legal entities and individual entrepreneurs. The service performs relevant registration actions, administrative procedures, and supervision. Due to the large scope of powers, it can formulate uniform approaches to the process of implementing its functions.

Thus, legal regulation of the creation of a real estate is a combination of technical norms and requirements, administrative regulations and civil law on emergence, exercise and protection of property rights.

The Supreme courts thoroughly analysed and generalized law enforcement recent practice of exercise and protection of property rights to real estate. As a result, the Decision of the Plenum of the Supreme Court of the Russian Federation No. 10, the Plenum of the Supreme Arbitration Court of the Russian Federation No. 22 dated April 29, 2010, the information letter of the Presidium of the Supreme Arbitration Court of the Russian Federation dated December 9, 2010 No. 143, and the information letter of the Presidium of the Supreme Arbitration Court of the Russian Federation dated 15.01.2013 No. 153 were published.

Important findings are given in specific case judgments. In particular, the Decision of the Presidium of the Supreme Arbitration Court of the Russian Federation dated September 24, 2013 No. 1160/13 in the case of No. A76-1598 / 2012 is essential. Taradanov R. A. analyzed the court position manifested in this decision[1].

The court faced several issues in resolving the dispute. Firstly, is a fence considered as a property? Secondly, if fence is a real estate property, is it necessary to register its ownership? The applicant's claims were dismissed, citing this provision.

However, the applicant questioned the need for permission to build a fence as real estate. He tried to prove the fence to be the auxiliary property and the apply to Subparagraph 3 of Paragraph 17 Article 51 of the Town Planning Code of the Russian Federation.

---

[1] *Тараданов Р. А.* К вопросу о допустимости придания вспомогательным зданиям, строениям и сооружениям статуса недвижимого имущества. Комментарий к Постановлению Президиума ВАС РФ от 24.09.2013 № 1160/13 // Вестник ВАС РФ. 2014. № 6. С. 54–65 [*Taradanov R. A.* On the issue of the permissibility of giving auxiliary buildings, structures and structures the status of real estate].

This issue is the subject of present research. Currently, participants of the civil commerce erect real estate-like buildings without a construction permit. It may cause further problems in registering property rights, administrative and civil liability.

The key task is to determine the criteria for classifying real estate as auxiliary[1]. The current legislation gives no clear answer. A systematic analysis of the legislation of the Russian Federation showed that certain norms and provisions on the 'auxiliary use' are found in legal acts regulating the construction industry. The Town Planning Code of the Russian Federation does not define auxiliary use.

In the letter dated June 25, 2009 the Ministry of Regional Development of the Russian Federation No. 19669-IP / 08 defines buildings and facilities for auxiliary use as facilities of a reduced level of responsibility according to GOST 27751-88 'Reliability of Building Structures and Foundations' in 2009, namely greenhouses, summer pavilions, small warehouses and etc. The letter also indicated that buildings are classified as auxiliary in case there is also the main building, construction or structure on the indicated area. In such a way the function of a new building or structure is auxiliary to the main one. However, since July 1, 2015, GOST 27751-88 was substituted by the interstate standard GOST 27751-2014 'Reliability of building structures and foundations. Basic provisions'. It gives no criteria of auxiliary use objects when classifying buildings and structures.

The auxiliary buildings and structures are mentioned in Paragraph 10 of Art. 4 of the Federal Law of 30.12.2009 No. 384-FL 'Technical Regulation on the Safety of Buildings and Structures'[2]. The law states that buildings and structures of a lower level of responsibility involve buildings and auxiliary facilities related to the construction or reconstruction of a building or structure, or located on land plots provided for individual housing construction.

Thus, the nature of auxiliary use of the property is only interpreted by the law.

At the same time, the legislation has established a simplified procedure to register ownership of the real estate available for constructed auxiliary facility. The Article 25.3 of the Federal Law dated July 21, 1997 No. 122-FL 'On the state

---

[1] *Ширвиндт А. М., Щербаков Н. Б.* О понятии строений и сооружений вспомогательного использования: к вопросу о целях градостроительного законодательства и корректном толковании закона // Имущественные отношения в Российской Федерации». 2016. № 7. С. 24–37 [*Shirvindt A. M., Scherbakov N. B.* On the concept of buildings and structures of auxiliary use: to the question of the goals of urban planning legislation and the correct interpretation of the law (2016)].

[2] «Технический регламент о безопасности зданий и сооружений»: Федеральный закон от 30.12.2009 № 384-ФЗ (ред. от 02.07.2013) // СЗ РФ. 2010. № 1. Ст. 5 [Technical regulation on the safety of buildings and structures': Federal Law dated 30.12.2009 No. 384-FZ].

registration of rights to real estate and its transactions'[1] enumerates the grounds for state registration of ownership of the created real estate (if its construction does not require building permits), namely, documents confirming the erection and describing the real estate, title document of the real estate location.

To register ownership of the real estate, one needs to apply to the Federal Service for the State Registration, Cadaster and Cartography (Rosreestr). It makes the entry in the State register of rights. Before registering the right, the indicated property is introduced into the State cadastre as provided in the Federal Law dated 24.07.2007 No. 221-FL 'On the State Real Estate Cadastre'.

Article 25.3 of the Federal Law dated July 21, 1997 No. 122-FL states that no reports, decisions or other documents of state (municipal) authorities requiring no building permit are needed.

Paragraph 235 of the Order of the Ministry of Economic Development of Russia dated 09.12.2014 No. 789 'On approval of the Administrative Regulations of the Federal Service for the State Registration, Cadastre and Cartography for the provision of state services of state registration of rights to real estate and transactions with it' (Registered in the Ministry of Justice of Russia on 28.04.2015 No. 37039) states that "when conducting a legal examination of the submitted documents, the state registrar is obliged to take the necessary measures to obtain additional documents (information), for the state registration of rights, in particular confirmation of the submitted documents' authenticity or the reliability of the information indicated therein". The obligation rests on the Article 19 of the Federal Law of July 21, 1997 No. 122-FL.

The Federal Service for the State Registration, Cadaster and Cartography (Rosreestr) performs the required verification independently. The results of the measures taken are not available for the applicant of the registration of the right. At the same time, the actions are strictly limited by the established legal procedural terms. The authorized bodies cannot always provide an accurate comprehensive answer for a request, since there are fewer documents submitted by the applicant under article 25.3 of the Federal Law dated July 21, 1997 No. 122-FL as compared to the the list of documents required for obtaining a building permit in the Paragraph 7 Article 51 of the Town Planning Code of the Russian Federation.

Thus, after legal examination, and determination of grounds for the state registration of law, the registrar decides on the need of a building permit to

---

[1] «О государственной регистрации прав на недвижимое имущество и сделок с ним»: Федеральный закон от 21.07.1997 №122–ФЗ (ред. от 03.07.2016) // СЗ РФ. 1997. № 30. Ст. 3594 ['On state registration of rights to real estate and transactions with it': Federal Law dated July 21, 1997 No. 122 – FZ].

construct the specified facility. In such a way, the registrar determines the need to comply with the permit requirements and restrictions.

The review of the regulatory legal basis concerning the permits for urban development in the largest cities of the Volga Federal Region showed that municipal and administrative units often fail to perform a preliminary analysis of design and other documentation and do not confirm the need for the permit. The specified powers are not directly provided for by the regulations of these bodies. As a result, the control by the local government is rather subsequent but not preliminary.

Thus, prior to applying for a building permit or for the state registration of a right to real estate, participants in a civil commerce cannot know for sure whether the property they are building is subject to the exception established by Subparagraph 3 of Paragraph 17 of Article 51 of the Town Planning Code of the Russian Federation.

In these conditions, the legal uncertainty faced by a participant in a civil commerce may be revealed through a systematic analysis of federal, regional and local legislation. It leads to serious negative consequences due to the following types of responsibility:

— administrative liability for the construction of the facility without permission to build and operate it, established in Part 1 and Part 5 of Article 9.5 of the Administrative Code of the Russian Federation[1];
— civil liability due to an unauthorized construction of a facility as provided in the Article 222 of the Civil Code of the Russian Federation.

At the same time, the executive bodies of legal entities face certain risks. Essentially, the Head can initiate and authorize the construction of a facility violating the law, which may cause losses and civil prosecution[2].

Alternatively, legal uncertainty caused by the lack of clear criteria for accurate identification of the object of auxiliary use, stimulates the unfair participation in the civil commerce.

On the one hand, the decision by the state registrar to register ownership of a facility with an auxiliary use actually eliminates the need to obtain a building permit, the examination of the project, etc. The decision of the registrar provides a person with a property right, which subsequently may be disputed only in court.

---

[1] Кодекс Российской Федерации об административных правонарушениях: Федеральный закон от 30.12.2001 № 195-ФЗ (ред. от 06.07.2016) // СЗ РФ. 2002. № 1 (ч. 1). Ст. 1 [Code of Administrative Offenses: Federal Law dated December 30, 2001 No. 195-FZ Art. 1].

[2] *Богданов А. В., Клячин А. А.* Условия и основания гражданско-правовой ответственности лица, осуществляющего функции единоличного исполнительного органа акционерного общества // Вестник Пермского университета. Юридические науки. 2012. № 3. С. 62–72 [*Bogdanov A. V., Klyachin A. A.* Conditions and grounds for civil liability of a person acting as the sole executive body of a joint stock company (Perm, 2012)].

It makes the registrar the ultimate authority. The legal and linguistic uncertainty, i. e. the use of vague, uncommon an ambiguous terms and categories for evaluation, is viewed as a factor promoting corruption (see the Decision of the Government of the Russian Federation, dated 26 February, 2010 No. 96). In this case, assumingly, the term 'auxiliary use' in Subparagraph 3 of Paragraph 17 of Article 51 of the 'Town planning Code of the Russian Federation' is uncertain even when considered within legal provisions.

On the other hand, a real estate ownership may be registered without permits as an unfair civil commerce. This may be due to several reasons: to save time and money for the construction; actual discrepancy between the constructed object and the requirements of urban planning, land and other legislation.

The court is a final stage in protecting the rights of a person who erected a property without a building permit and faced legal uncertainty.

The Article 12 of the Civil Code of the Russian Federation claims legal recognition as one of the ways to protect civil rights. Persons apply to the court for recognition of a real estate ownership. This issue, however, bears certain specifics. Namely, the State cadastral registration, the State registration of property rights, and obtaining permits are administrative procedures. Following the objectives of the legal proceedings, the court should not replace the legitimate functions of the state bodies in registering rights to real estate. The substitution of administrative procedures is described in similar terms in the Decision of the Federal Antimonopoly Service of the Volga Region dated December 19, 2012 (case of No. A55-10278 / 2011), the Resolution of the Presidium of the Supreme Arbitration Court of the Russian Federation dated 12.05.2009 No. 17373/08 (case of No. A06-470 / 2008-9). The courts indicated that court application bypassing administrative procedures, was in fact a circumvention of the law on state registration.

The Paragraph 26 of the Decision of the Plenum of the Supreme Court of the Russian Federation No. 10, the Plenum of the Supreme Arbitration Court of the Russian Federation No. 22 dated 04.29.2010 clarifies the issue of illegal construction and states that the court must determine whether the legalization measures were taken for the illegal construction, in particular, obtaining the building permit and / or the act of putting the facility into operation. In case of the permit refusal, the reason should be clarified.

Conclusions. In general, the legislation provides the obligations of participants in civil commerce to obtain a building permit for a real estate. At the same time, the established exceptions are provided in Subparagraph 3, Paragraph 17, Article 51 of the Town Planning Code of the Russian Federation. However, implementing the specified right, the participants in the civil commerce may face certain legal risks. Present research work suggests a number of recommendations.

To avoid and eliminate given legal uncertainty, the term 'real estate of auxiliary use' should be clarified and correlated with the classifications of facilities provided in legal acts and regulations, building codes, rules, and standards. The participants in civil commerce should assess legal risks and validity of the rules' application.

Methods of research: The research is based on a complex of methods of scientific cognition. The research applies both to the general and specific scientific methods such as analysis, synthesis, formal and comparative methods.

Conclusions: The research reveals legal uncertainty in the legal procedures of the state registration of real estate rights.

Research perspective: Given research work studies a number of specific features of state registration of a new or old real estate correlated with standards of the Town Planning Code of the Russian Federation and existing state standards. The research perspective is to study other trends and features of legal regulation and assess their impact on civil commerce of a real estate.

Practical relevance: The research results can be used in legal practices of commercial companies as the research briefly discusses issue of simplified procedure of rights' registration.

Social relevance: Currently, civil law defines the State registration of rights as the final and integral element to acquire real estate property right. A number of complex and financially consuming administrative procedures including building permission should be performed prior to registration of a real estate right. At the same time the legislation provides a simplified procedure of registration, removes additional administrative barriers in certain cases, and reduces duration of acquisition of rights for a new real estate. Many participants of civil commerce seek simplified procedure of registration of rights which contributes to the detailed research work.

Significance: The research work is of practical and theoretical significance to the students, Master's degree students, those who study entrepreneurial and proprietary right and lawyers who deal with state registration of real estate rights.

References

Bogdanov A. V., Klyachin A. A. *Conditions and grounds for civil liability of a person acting as the sole executive body of a joint stock company* (Perm, 2012)

Naumova O. V. *Transformation of the institution of unauthorized construction*

Taradanov R. A. *On the issue of the permissibility of giving auxiliary buildings, structures and structures the status of real estate*

Shemetova N.Yu. *Assignment of property to real estate in Russian law: criteria and properties of real estate* Scientific Yearbook of the Institute of Philosophy and Law of the Ural Branch of the Russian Academy of Sciences. 2014. Volume 14. Vol. 4.

Shirvindt A. M., Scherbakov N. B. *'On the concept of auxiliary buildings and structures: to the question of the goals of urban planning legislation and the correct interpretation of the law* // Property Relations in the Russian Federation', 2016, No. 7.

Information about the author

Igor Zagoruiko (Perm, Russia) – Doctor of Economics Science, Candidate of Legal Science, Professor of the Perm State National Research University (2, Dzerzhinsky St., 614068, Perm, building 5; e-mail: 89082750080@mail.ru).

Recommended citation

Zagoruiko I. U. The specifics of the registration of real estate rights with no construction permit required. Kazan University Law Review. 2020; 1 (5): 18–26. https://doi.org/10.31085/2541-8823-2020-5-1-18-26.

Kristina Morkovskaya

Candidate of Legal Science, Senior Lecturer
at the Department of Civil Procedure of the
Saratov State Law Academy

THE PROCEDURAL STATUS OF THE SUBJECTS OF BANKRUPTCY PROCEEDINGS

https://doi.org/10.31085/2541-8823-2020-5-1-27-39

Abstract: The scope of procedural rights and obligations depends on the procedural status of a person. The diverse and complex court cases of insolvency (bankruptcy) and numerous disputes arising in these cases prove the correlation of a procedural status and effective protection of violated or disputed rights and legitimate interests. However, the powers of all the subjects should be equal. The doctrine and practice reveal no single understanding of the procedural status of subjects of bankruptcy proceedings. The court acts and procedural documents submitted to the court sometimes fail to convey the procedural position of the arbitration trustee, the former Head of the debtor and the current payment creditor. The difficulties are caused by both, the complex legal status of subjects and the lack of detailed legislative regulation of the status itself. Limited right to study the case files applied to the subjects of bankruptcy proceedings is revealed in court practice. In certain disputes given limitation causes only partial protection of the subjects' rights.

Keywords: Powers, representative, procedural status, bankruptcy, bankruptcy trustee, debtor.

There is a steady increase in the number of cases of insolvency (bankruptcy) every year. Partially, it is due to the fact that a natural person may be recognized as bankrupt since October 2015[1].

[1] There is a steady increase in the number of applications for declaring the debtor bankrupt submitted to court during six months 2018 and six months of 2019. In total there were 41,221 applications –

It takes time to establish and legally register the debtor's insolvency.

G. F. Shershenevich notes 'payments' termination causes no legal changes. Only legal certification of insolvency may affect an individual or an owner.

The bankruptcy affects many parties, including those not directly involved in the court proceedings. Paragraph 4 of Article 20.3 of the Federal Law, dated October 26, 2002 No. 127-FL 'On Insolvency (Bankruptcy)'[1] (hereinafter referred to as the Bankruptcy Law) notes that 'The bankruptcy trustee must act conscientiously and reasonably for the benefit of the debtor, creditors and society when implementing bankruptcy case procedures'.

The Bankruptcy Law (Article, 34) also highlights persons involved in a bankruptcy case, namely, the debtor; bankruptcy trustee; bankruptcy creditors; authorized bodies; federal executive bodies and executive bodies of the constituent entities of the Russian Federation and local governments; person providing security for financial recovery.

Besides, the participants of the bankruptcy arbitration process (Article 35) are also involved. The paper classifies them into two groups:

— *participants* to be elected / elected upon the conditions (as the representatives of employees; debtor is the owner of the property, i. e. unitary enterprise, founders (participants) of the debtor, etc; or if the bankruptcy trustee accesses the state secret when exercising the powers);
— persons *entitled to participate* in the processes related to violation of their rights or an obligation (creditors for current payments in issues related to violation of creditors' rights for current payments; self-regulatory organization of bankruptcy trustees, control (supervision) entities when considering the approval of bankruptcy trustees).

The persons belonging to the second group 'have the right to study the bankruptcy case files, make extracts from them, and copy[2]'. However, in practice, they exercise the right only being involved in disputes.

In such a way, the creditor can request the bankruptcy trustee (without reference to a specific procedure) or study the case file in court in order to track the money the debtor's account, the sum, dates of receipts, and payments. The Article

15,975 against legal entities and 1,717 against individual entrepreneurs and 23,529 cases against natural persons in 2018. The number increased in 2019, i. e. 61,394 total applications are distributed accordingly – 21,292, 2,219 and 37,883.
See: Data from judicial statistics // Official site 'Judicial Department'.

[1] Федеральный закон от 26.10.2002 № 127-ФЗ (ред. от 02.12.2019) «О несостоятельности (банкротстве)» // СЗ РФ. 2002. С. 43. Ст. 4190; Российская газета. 2019. № 275 [Federal Law No. 127-FZ (amended on December 2, 2019) "On Insolvency (Bankruptcy)"].

[2] Article 35 Paragraph 3.

provides the right of acknowledgement, since the creditor seeks receiving funds transferred to the debtor's account. Moreover, the registered creditors face more favorable repayment terms based on the Bankruptcy Law (Article 134).

Upon the request and for a fee, the bankruptcy trustee specifies each credit sum and the expected refund. The trustee is not required to report the track of money on the debtor's account. However, the trustee registers the track, receipt and repayments.

Paragraph 3 of Article 133 of the Bankruptcy Law states that these reports are monthly submitted to the arbitration court and creditors' committee upon request. Article 12 of the Bankruptcy Law states that current payment creditors are not bankruptcy creditors and thus do not participate in creditors' committee and are not allowed to study the materials submitted for the meeting.

Paragraph 3 of the Resolution of the Plenum of the Supreme Arbitration Court of the Russian Federation dated July 23, 2009 No. 60 'On the adoption of Federal Law dated 30.12.2008 No. 296-FL 'On amending the Federal Law 'On Insolvency (Bankruptcy)', states that the Bankruptcy Law gives current payment creditors the right to participate in the bankruptcy proceedings by appealing the actions or omissions of the bankruptcy trustee that violate their rights and legitimate interests (Paragraph 4, Article 5 and Subparagraphs 4 of Paragraph 2 and Paragraph 3, Article 35 of the Bankruptcy Act). However, all the information required to protect the rights of creditors on current payments is not provided.

The bankruptcy trustee determines the status of the creditor for current payments and includes the creditor into the register for current obligations. Thus the creditor only monitors the bankruptcy procedure and the transfer of the information about current creditors to a new trustee. Otherwise, the status of a creditor for current payments would remain ambiguous[1].

The courts dismiss appeals against bankruptcy trustees who fail to review the reports on control and force the trustee to allow the creditor on current payments to study this report[2].

Moreover, the Courts refuse the appeal of the creditors on current payments to study trustee's report as it is submitted to the court and belongs to the main court case.

E.g., waiting for the repayment, the current payment creditor studies https://kad.arbitr.ru/ and reveals the completion of the bankruptcy proceedings. The registry debt is repaid partially later than the current debt was formed. He submits

---

[1] See the 'Decision of the Twelfth Arbitration Court of Appeal', dated June 15, 2018 in case No. A57-1970 / 2014.

[2] See the 'Decision of the Judicial Collegium for Economic Disputes of the Supreme Court of the Russian Federation of January 29, 2016 No. 302-ES15-10995' in the case No. A33-13581 / 2013.

a complaint against the bankruptcy trustee for violation of the repayment order. The current lender, as an involved specialist, failed to reveal the inaccuracy of the remuneration given to an involved specialist, made by the bankruptcy trustee, as he could not track activities of the specialists included in the report of the bankruptcy trustee. The Courts dismissed complaint of trustee's actions[1].

It forces the current creditor to apply to the court claiming bankruptcy trustee to refund (the outstanding debt in the bankruptcy case). Based on the claim 'The Court requests the case files A57-1970 / 2014 for a court review[2]'. The creditor could not study the case files due to the 'limitations' of the procedural status in the bankruptcy case.

The former head of the debtor, as a legal entity, faces a similar problem as the bankruptcy trustee may initiate processes and claim subsidiary liability, demand documents, contest a transaction, etc.

Being supervised, the Head of the debtor maintains his authority. Therefore, the restrictions provided in Article 64 of the Bankruptcy Law must be followed; namely, transactions should be complied with interim trustee in writing. However, Paragraph 1, Article 69 of the Bankruptcy Law states that the arbitration court suspends the Head of the debtor upon the request of the interim trustee if the Bankruptcy Law requirements are violated. Still, the courts rarely take such measures[3] and consider the application until bankruptcy proceedings to legally suspend the Head.

The Head of the debtor is legally suspended as soon as the arbitration court decision declared the debtor bankrupt and bankruptcy proceedings started. The former Head must transfer debtor's accounts, documentation, seals, stamps and other values to the bankruptcy trustee within three days from the date of approval of the bankruptcy trustee (Article 126). The documents are later studied by the bankruptcy trustee, who arranges bankruptcy proceedings (based on the documents or inquiries), analyses the debtor's finances, and analyses possible deliberate bankruptcy.

Thus, the bankruptcy trustee receives and keeps all the documents of the former head. The copies of documents are stored as appendices to reports, financial reports and arbitrary court decisions added to the main case file.

The bankruptcy trustee requests the court to prosecute the former Head of the debtor (participant or liquidator) for the following reasons: the inability to refund in

---

[1] See the 'Decision of the Volga District Arbitration Court', dated August 23, 2018 in case No. A57-1970 / 2014; The determination of the Supreme court of the Russian Federation No. 306-ES17-6414 dated December 17, 2018 in case No. A57-1970 / 2014.

[2] See the 'Decision of the Arbitration Court of the Saratov Region' dated September 24, 2019 in case No. A57-20133 / 2019.

[3] See the 'Decision of the Arbitration Court of the Saratov Region', dated 03.05.2019 in case No. A57-11274 / 2018.

full; absence of submission (or late submission) of the debtor's application; violation of the legislation of the Russian Federation on insolvency (bankruptcy). In these cases, the guilt of the person controlling the debtor is presumed until proved the opposite.

Thus, the former Head of the debtor will have procedural rights of a defendant in a separate dispute applied by the bankruptcy trustee. The rights, however, are exercised only within a separate dispute.

At the same time, such cases are hard to solve and, thus, the status of former Head of the debtor is vulnerable as all the files were transferred and there is no chance to study the case or copy the data.

Obviously, a party may petition the case review in the court and demand a file required to resolve the dispute. Thus, the former Head should study all the case volumes which is time-consuming (as bankruptcy cases comprise many volumes). Even if the papers are readily available it will take time for parties to describe the motivation in writing. The court may not satisfy the request and not provide the case files for review in case the party's motivation is not sufficient. For this reason, the former Head of the debtor has little chance to prove his position.

The former Head cannot copy numerous documents before handing them to the trustee. In case the former Head does not meet the given deadline for the documents transfer, he needs to pay daily penalty[1].

Thus, currently, the procedural rights provided by the legislation are not sufficient to protect the rights of the above-mentioned persons efficiently.

In order to consider the case efficiently and in full and to protect the rights of the subjects of bankruptcy proceedings in the arbitration courts, current payments creditors and debtor monitoring persons need to have the right to study the main case files. They get this right only being the applicants, persons concerned, a third party with independent applications in a separate dispute.

Equal rights of the parties will help to correlate the procedural status of the persons involved.

The bankruptcy trustee is one of the most interesting and controversial figures in the bankruptcy procedure. The legal and procedural statuses of an bankruptcy trustee are disputable.

Paragraph 4 of Article 59 of the Arbitration Procedure Code of the Russian Federation (hereinafter APC RF) notes that in the arbitration court the organizations' cases are dealt by their bodies, who follow federal law, regulatory legal acts or corporate documents of organizations.

A court session validates the creditor(s) requirements and approves the bankruptcy trustee as soon as the debtor was proved insolvent (bankrupt).

---

[1] See 'the Decision of the Arbitration Court of the Saratov Region', dated 10.09.2019 in case No. A57-11274 / 2018.

The current legislation defines the bankruptcy trustee as a person participating in the bankruptcy case and his powers depend on the bankruptcy procedure. Moreover Article 34 of the Bankruptcy Law highlights a debtor's participation in a bankruptcy case. Undoubtedly, the bankrupt natural person has the right to participate in the court on his own behalf throughout the entire bankruptcy procedure. However, a debtor *я* legal entity is likely to 'merge' with the bankruptcy trustee throughout the proceedings.

Article 64 of the Bankruptcy Law states that 'the supervision limits but not terminates the powers of the debtor's governing bodies'.

The former bodies of debtor's supervision are retained in the course of financial recovery and restricted by Chapter V of the Bankruptcy Law. Being approved, the bankruptcy trustee performs the supervision.

The power of the Head of the debtor terminates since the introduction of external management that controls the debtor's case (part 1, Paragraph 1, Article 94 of the Bankruptcy Law). The power of the debtor's governing bodies and the owner of the debtor's property, i. e. the unitary enterprise is considered as an exception (the powers are provided in Paragraphs 2 and 3 of Article 94 of the Bankruptcy Law).

The powers of the Head of the debtor, other governing bodies of the debtor and the owner of the property of the debtor – a unitary enterprise are terminated as a consequence of the bankruptcy proceedings. Subparagraph 2 of Article 126 of the Bankruptcy Law highlights the exceptions of agreements on refunding by a third party or parties on behalf of the debtor, i. e. unitary enterprise (the powers of the general meeting of participants of the debtor, owner of the debtor's property).

The explanations given in Paragraph 42 of the Decision of the Plenum of the Supreme Arbitration Court of the Russian Federation dated June 22, 2012 No. 35 'On some procedural issues related to the consideration of bankruptcy cases'[1] states that the introduction or termination of the bankruptcy trustee's powers is an operative part. It is relevant if only the operative part on the approval of the bankruptcy trustee or the suspension of the bankruptcy trustee was announced (the court resolution may be appealed as soon as it is complete).

The remuneration of the bankruptcy trustee also depends on the operative part of the approval or suspension of the trustee[2].

---

[1] Постановление Пленума ВАС РФ от 22.06.2012 № 35 (ред. от 21.12.2017) «О некоторых процессуальных вопросах, связанных с рассмотрением дел о банкротстве» // Вестник ВАС РФ. № 8, август, 2012; Российская газета. 2017. № 297. ['The Decision of the Plenum of the Supreme Arbitration Court of the Russian Federation dated 22.06.2012 No. 35 'On some procedural issues related to the consideration of bankruptcy cases'].

[2] См.: абзац 2 пункта 2 Постановления Пленума ВАС РФ от 25.12.2013 № 97 «О некоторых вопросах, связанных с вознаграждением арбитражного управляющего при банкротстве» // Вестник ВАС РФ. № 3, март. 2014. [Subparagraph 2, Paragraph 2 of the Decision of the Plenum of the

Evidently, the powers of the bankruptcy trustee start as soon as the resolution part (full text) of the judicial act on the approval of the trustee is announced.

The remuneration of the bankruptcy trustee does not consider the period between the application submission by the bankruptcy trustee for bankruptcy proceeding and the entry in the Unified State Register of Legal Entities on the debtor's liquidation. However, the trustee still has certain powers during this period[1]. Exercising the powers (namely, court participation in appealing bankruptcy proceedings), the trustee can apply to the court for a remuneration due to the amount and complexity of the work performed during this period. Articles 110–112 of the APC RF state that the remuneration may be granted to the bankruptcy trustee by persons who lost the relevant litigation.

The powers of the trustee are established and confirmed by court. In fact, the powers are prescribed either by the Arbitration Court independently[2], or by declaring the debtor bankrupt[3] and a decision on the financial recovery[4], monitoring[5], but not a separate court act.

The appointed trustee starts to work even before his approval as he needs to express his consent. The written consent is submitted to the main (bankruptcy) case and is a prerequisite for approval of the trustee.

The bankruptcy trustee has procedural and extra-procedural powers. The former involve all possible court activities of the bankruptcy trustee: applications to appeal the debtor's transactions; feedback on the creditors' applications on inclusion into the Register of debtor creditors' claims (hereinafter – RCC); statement on subsidiary liability for persons controlling the debtor, etc.

The procedural powers originate from the Bankruptcy Law, namely, to hold a creditors' meeting (however, the submission of the results of the creditors'

Supreme Arbitration Court of the Russian Federation dated 25.12.2013 No. 97 'On some issues of the remuneration of the arbitrary trustee of the bancruptcy').

[1] See Paragraph 2 of the Resolution of the Plenum of the Supreme Arbitration Court of the Russian Federation dated December 25, 2013 No. 97 'On Certain Issues Related to the Remuneration of an Arbitration Trustee in Bankruptcy'.

[2] See, 'the Decision of the Arbitration Court of the Saratov Region' dated April 11, 2019 in case No. A57-11274 / 2018.

[3] See, 'the Decision of the Arbitration Court of the Saratov Region' dated September 6, 2018 in case No. A57-10510 / 2018; The decision of the Arbitration Court of the Penza Region dated 05/12/2014 in case No. A49-9747 / 2013.

[4] See, 'the Decision of the Arbitration Court of the Samara Region' dated 03.10.2015 in case No. A55-12436 / 2014.

[5] See, 'the Decision of the Arbitration Court of the Saratov Region' of 02.10.2018 in case No. A57-11274 / 2018.

meeting with a petition to attach them to the bankruptcy case files is a procedural authority); to upload information into the Unified Federal Register of Bankruptcy Information, to send information to the 'Kommersant' newspaper and local media; to send inquiries in order to form the bankruptcy estate of the debtor; to assess property and its auction sale, etc.

The property inventory and dismissal of employees are ordinary powers of the Head of the organization. However, the bankruptcy trustee performs the same powers according to the terms stipulated by the Bankruptcy Law. E.g., Subparagraph 1, Paragraph 1 of Article 129 states "...the property inventory needs to be performed no later than three months since the introduction of the bankruptcy proceedings... ". Therefore, these powers are regarded as procedural ones for the bankruptcy trustee.

Interestingly, approval and exercising of both types of powers by the bankruptcy trustee is directly related to the judicial act itself. As it approves and extends the powers of the trustee / trustee and the duration of the proceedings within the corresponding procedure.

The retaining of the powers of a bankruptcy trustee is questioned in case the court specified the procedure's duration and set the date of the proceedings to review the results. The bankruptcy trustee seeks a 5-days break of the proceedings to consider the results. The court grants the application extending for no longer than the term of the introduced procedure, and therefore the duration of the bankruptcy trustee powers. Moreover, the proceedings to review the results may be postponed for a month and the decision on the proceedings' adjournment does not focus on powers of the bankruptcy trustee for this time.

Consequently, the powers of a bankruptcy trustee terminate within the indicated periods that have gone beyond the term of an open bankruptcy procedure. Thus, he cannot control the debtor's account and open an bank account for tendering, due to a number of requirements set to confirm the powers of the trustee in the Bank, namely, a court act is required to approve the trustee in the bankruptcy procedure, a court introduces (opens) the bankruptcy procedure and, a court extends the procedure in case it expired.

The legislation does not specify this issue. As it seems, the judge needs to both declare a break and extend the powers of the bankruptcy trustee.

The substantive status of the bankruptcy trustee is also considered alongside his approval and suspension[1]. The focus should be made on the legal aspect of the subject in question.

---

[1] *Popondopulo V. F.* The legal status of the arbitration trustee in the insolvency (bankruptcy) case // Leningrad Journal of Law. 2006. No. 2.

Firstly, the Civil Cassation Department of the Governing Senate[1] and Ya M. Hesse consider the jury trustee (trustee) a representative of the debtor. Secondly, the jury trustee acts "on behalf of the creditors"[2]. Thirdly, S. I. Halperin suggested that the jury trustee (trustee) does not protect the property interests of either the debtor or the creditors, but represents the state and public interest. He is empowered by the court and, primarily, considers the bankruptcy process socially and meets the interests of all parties involved[3].

Paragraph 2 of Article 24.5 of the Code of Administrative Offenses, dated December 30, 2001 No. 195-FL defines the legal representatives of a legal entity as the Head or another person determined by the law or constituent documents of a legal entity[4]. The position is confirmed officially.

Tax legislation defines the legal representative of an organization as a person legally authorized to represent the organization[5].

E. g., the bankruptcy trustee submits an application form No.R14001 approved by the Federal Tax Service of Russia Order dated 25.01.2012 No. MMV-7-6 / 25 @[6] to the tax authority. Thus, the trustee specified as 'bankruptcy trustee', is added into the section 'information about the person acting on behalf of the legal entity without an attorney'

Article 182 of the Civil Code of the Russian Federation[7] states that 'the civil legal representation aims at creating, amending and terminating civil rights and obligations for the person in question'.

The representation in the civil process aims at protecting the interests of the person represented in court, helping to exercise procedural rights and duties.

---

[1] See The Civil Cassation Department of the Senate of the government's decision of 1884.

[2] See *Bardzky A.* About the limits of power of a district court when appointing jury trustees for insolvent debtors // Journal of Civil and Criminal Law. 1886. 10.

[3] See *Halperin S. I.* Rights and obligations of a jury trustee in a case of commercial insolvency // Journal of the Law Society: December. At the Imperial St. Petersburg University. S.-Pb.: Type. Governing Senate, 1898, Prince 10. P. 13–14.

[4] See: Code of the Russian Federation on Administrative Offenses of December 30, 2001, 195-FZ (amended on December 2, 2019) // SZ RF. 2002. No. 1 (part 1). Art. 1.

[5] Clause 1 of Article 27 of the Tax Code. See: Tax Code of the Russian Federation (Part One) dated July 31, 1998 No. 146-FZ.

[6] See: Federal Tax Service of Russia dated January 25, 2012 No. MMV-7-6 / 25 @ (amended on May 25, 2016) 'On the approval of forms and requirements for the execution of documents submitted to the registration authority during state registration of legal entities, individual entrepreneurs and farmer households'.

[7] See: Civil Code of the Russian Federation (Part One) dated November 30, 1994 No. 51-FZ (amended on July 18, 2019) // No. 32. Art. 3301; Art. 3844.

Paragraph 4 of Article 20.3 of the Bankruptcy Law states that the bankruptcy trustee 'acts conscientiously and reasonably for the benefit of the debtor, creditors and society'. His interests extend the debtor whom he represents.

Some scientists argue that the arbitration trustee has a special legal status[1].

Up to January 1, 2011[2] legal scientists claimed that being defined as an individual entrepreneur, the bankruptcy trustee does not meet the requirements of the Bankruptcy Law. The bankruptcy trustee was even claimed to be considered as one of the 'privileged' professions, such as notaries, lawyers, auditors, doctors, as they perform socially significant functions for and thus, refuse the profit[3].

V. F. Popondopulo believes that "the bankruptcy trustee should not be viewed as a representative of any of the participants in the bankruptcy case, being the case participant himself …"[4].

Many norms of the Bankruptcy Law regulate the procedural position of the bankruptcy trustee, his rights and obligations in the bankruptcy case. Moreover, Article 40 of the Arbitration Procedure Code of the Russian Federation determines that in cases of insolvency (bankruptcy), the case participants are applicants and interested parties.

The specificity of the procedural status of the bankruptcy trustee is manifested in his case interest, since he is not directly involved in the property conflict caused by the insolvency of the debtor. The trustee has no direct interest to property or other results of the trial. The interest of the bankruptcy trustee may only be related to the return of the property to the bankruptcy estate. The property must be sold and the register refunded by debtor. Subparagraph 13 of Article 20.6 of the Bankruptcy Law states that 'the remuneration of the bankruptcy trustee is determined by the satisfied appeals of creditors included in the register of creditors' appeals'. It 'motivates' the trustee and indirectly makes him seek positive financial outcome of the processes.

Acting independently, the bankruptcy trustee follows various managing techniques within the bankruptcy proceedings, limited by the Bankruptcy Law requirements. The trustee reports his actions to all creditors and submits supporting materials to the court.

---

[1] See *Kalinina E. V.* The legal status of the arbitration trustee (Volgograd, 2005).

[2] Subparagraph 9 of Article 4 of the Federal Law of December 30, 2008 No. 296-FZ 'On Amendments to the Federal Law 'On Insolvency (Bankruptcy)'.

[3] See *Dorokhina E. G.* Problems of entrepreneurial activity of the arbitration trustee (St. Petersburg, 2004).

[4] See: *Popondopulo V. F.* The legal status of the arbitration trustee in the insolvency (bankruptcy) case // (St. Petersburg, 2006).

The bankruptcy trustee makes the procedural decisions fairly and independently and has procedural rights equal to creditors and the debtor[1].

Thus, the bankruptcy trustee has applicant's rights in the main case since his approval. Firstly, these are case volumes, including a statement declaring the debtor bankrupt. Next, files of the creditors' meetings registering the procedure and the trustee's petition to extend the procedure, move to the next procedure (e. g., bankruptcy proceedings after observation), and a petition to complete the procedure are attached to the main case.

Thus, the bankruptcy trustee has the procedural rights of the applicant in the cases considered above.

The bankruptcy trustee has all the rights possible for the separate disputes in the bankruptcy case, regardless of his position;

— application for the invalidity of the transaction (applicant);
— approval of the Regulation on the procedure, terms and conditions for the sale of debtor's property (applicant);
— a complaint about the actions (inaction) of the bankruptcy trustee (interested party), etc.

The procedural status of the bankruptcy trustee in a particular separate dispute in one bankruptcy case predetermines his rights and obligations at all stages (procedures) of bankruptcy. It is due to different legal regimes of bankruptcy[2]. In Russia the bankruptcy trustee has the special legal status since he always represents himself, but acts in the interests of others[3].

However, the bankruptcy trustee may also face procedural difficulties in case, a complaint of the bankruptcy case or an application for refunding is submitted against the bankruptcy trustee after he has been discharged or suspended. In a given procedure the trustee has ceased his powers, but he is responsible for his actions (inaction) in the case. In the initiated separate dispute, the bankruptcy trustee is granted a full range of rights specific to the person concerned. But, at the same time, he faces the above-mentioned problem, i. e. the former leader of the debtor and the chance to study the materials of the main case. So the bankruptcy trustee is forced to petition the demand for the case files to protect his rights and obtain the information required[4].

---

[1] See Arbitration process (ed. By V. V. Yarkov). 'Statute', 2017.

[2] See *Dorokhina E. G.* The legal status of an external trustee in conducting external management // Judicial Arbitration Practice of the Moscow Region. Enforcement issues. 2004. No. 3.

[3] See *Tokar E. Ya.* Issues of the application of the design of the representative office by business companies: monograph. M.: Justicinform, 2018.

[4] See 'Decision of the Arbitration Court of the Udmurt Republic', dated 01.27.2020' in the case No. A71-8536 / 2014.

Certain participants of the bankruptcy proceedings should have the right to study the main case files under certain conditions (a certain procedural status in a separate dispute).

The cases considered above reveal legislative gaps and inaccuracies in the regulation of the procedural status of certain participants of the bankruptcy proceedings due to insufficient doctrinal development of their legal status.

By indicating 'bankruptcy trustee' (external trustee, etc.) instead of the procedural provision (whether it is the applicant, interested person, etc.) in the court submissions the participants confirm difficulty in determining in principle the procedural status of such a person but not their legal illiteracy.

The procedural rights and obligations correlate with the procedural status of a person. The complexity of the insolvency (bankruptcy) cases and many separate disputes arising in a bankruptcy case prove that the possibility to implement the process goal, i. e. to protect violated or disputed rights and legitimate interests, depends on the correct determination of the procedural status of a person. At the same time, the artificial expansion of the powers of some entities over others is unacceptable. However, the powers of all the subjects should be equal.

References

Arbitration process: *Textbook (7th edition, revised and supplemented) (ed. By V. V. Yarkov)*. 'Statute', 2017.

Bardzky A. *About the limits of power of a district court when appointing jury trustees for insolvent debtors* // Journal of Civil and Criminal Law. 1886. 10.

Dorokhina E. G. *Problems of entrepreneurial activity of the arbitration trustee* // Jurisprudence. St. Petersburg: Publishing House St. Petersburg. University, 2004. No. 1.

Dorokhina E. G. *The legal status of an external trustee in conducting external management* // Judicial Arbitration Practice of the Moscow Region. Enforcement issues. 2004. No. 3.

Halperin S. I. *Rights and obligations of a jury trustee in a case of commercial insolvency* (St. Petersburg, 1998).

Kalinina E. V. *The legal status of the arbitration trustee.* (Volgograd, 2005).

Popondopulo V. F. *The legal status of the arbitration trustee in the insolvency (bankruptcy) case* // Leningrad Journal of Law. 2006. No. 2.

The Civil Cassation Department of the Senate of the government's decision of 1884. Yekaterinoslav: Type. Book Publishing L. M. Rotenberg, 1905.

Tokar E.Ya. *Issues of the application of the design of the representative office by business companies* (Moscow, 2018).

Information about the author

Kristina Morkovskaya (Saratov, Russia) – Candidate of Legal Science, Senior Lecturer at the Department of Civil Procedure of the Saratov State Law Academy (1, Volskaya St., 410056, Saratov; e-mail: kristink-m@yandex.ru).

Recommended citation

Morkovskaya K. S. The procedural status of the subjects of bankruptcy proceedings. Kazan University Law Review. 2020; 1 (5): 27–39. https://doi.org/10.31085/2541-8823-2020-5-1-27-39.

COMMENTARIES

Alexander Epikhin

Doctor of Legal Science, Professor of the Kazan (Volga Region) Federal University (Kazan)

Oleg Zaitsev

Doctor of Legal Science, Professor of the Institute of Legislation and Comparative Law under the Government of the Russian Federation (Moscow)

Andrei Mishin

Candidate of Legal Science, Associate Professor of the Kazan (Volga region) Federal University (Kazan)

GENESIS OF THE INTER-BRANCH INDIVIDUAL SAFETY INSTITUTE IN THE RUSSIAN CRIMINAL LEGAL PROCEEDINGS

https://doi.org/10.31085/2541-8823-2020-5-1-40-51

Abstract: The safety of witnesses, victims and other participants in the criminal process correlates with increasing effectiveness of evidence and protection of the rights and legitimate interests of the participants. To study the laws of development and establishment of the institution of personal security, it is relevant to identify new vectors for the development of criminal proceedings and eliminate existing intersectoral contradictions. It is also essential to compare respective Russian legal acts with the international standards.

The main issue of criminal proceedings correlates with proving person guilty or innocent of in the incriminated event. This complex process is diverse and unpre-

dictable, since the collection of sufficient evidence for a criminal case (Article 73 of the Code of Criminal Procedure of the Russian Federation) can be hindered by an unlawful act preventing crimes' detection, impeding the investigation and the offender's evasion from criminal punishment. By providing substantial evidence, the parties to criminal proceedings face risks a priori. For these reasons, ensuring the security of an individual in criminal proceedings correlates with its purpose, principles and tasks. It also implements the constitutional priorities and security of an individual (rights, freedoms and legitimate interests).

Keywords: witness and victim protection; the process of establishing the institution; security; state protection; criminal proceedings; criminal prosecution; anonymous witness.

The ongoing processes in modern Russian society and the condition of law enforcement practice highlight the scale of the socio-legal issue of ensuring state protection and procedural safety of an individual at every stage of criminal proceedings. In this regard, the most important task of Russian criminal policy at present is to develop and implement the strategies and tactics aimed at ensuring the security of bona fide participants of criminal procedures (hereinafter the protected persons). Moreover, the degree of participants' protection is one of the main criteria to determine the compliance of the principles of the criminal process and the level of civil society.

At the same time, both Russian[1] and foreign researchers[2] study numerous problems of protecting witnesses, victims and other participants in criminal proceedings.

---

[1] See *Alexander Yurevich, E., Oleg Aleksandrovich, Z., Ekaterina Pavlovna, G., Andrey Viktorovich, M., & Gulnar Isaevna, A.* INTERNATIONAL LEGAL PROTECTION OF JUVENILE VICTIMS (CHILD VICTIMS) FROM CRIME. Humanities & Social Sciences Reviews, 7 (5), 687–691; *Epihin, A. Yurievich, Gataullin, Z. Shakirovich, Zaitsev, O. Aleksandrovich, Grishina, E. Pavlovna, & Mishin, A. Viktorovich* (2019). CRIMINAL PROSECUTION OF TERRORIST CRIMES IN JURY TRIAL: LEGALITY AND APPROPRIATENESS. Humanities & Social Sciences Reviews, 7 (5), 674–677; *Epihin, A. Yurievich, Zaitsev, O. Aleksandrovich, Grishina, E. Pavlovna, Mishin, A. Viktorovich, & Aliyeva, G. Isaevna* (2019). ANTI-CORRUPTION THE CRIMINAL PROCEDURE LEGISLATION OF RUSSIA. Humanities & Social Sciences Reviews, 7 (5), 646–649; *Epikhin, A.* THE SUBJECT MATTER OF CRIMINAL EVIDENCE RELATING TO THE DISCLOSURE OF INFORMATION ON SECURITY MEASURES APPLICABLE TO LAW ENFORCEMENT OR CONTROL OFFICIAL / Epikhin, A., Zaytsev, O. // Internal Security. 2018. Volume 10. Issue 1, pp. 261–270; *Epikhin, A. Y. et al.* Protection by the government and security support for the parties of modern criminal process in Russia: Problems and perspectives, Journal of Legal, Ethical and Regulatory Issues Volume 19, Special Issue, 2016; *Epikhin, A. Y. et al.* Protection of the Witnesses and Victims: International Legal Acts, Legislation of some States and the Modern Russian Legislation. Journal of Advanced Research in Law and Economics, [S.l.], v. 7, n. 2, pp. 313–322, may 2016; *Epikhin, A. Y. et al.* Problem of Definition of Personal Security in the Modern Russian Criminal Procedure. Journal of Advanced Research in Law and Economics, [S.l.], v. 7, n. 6, pp. 1539–1545, Feb. 2017 and other.

[2] See *Monica Semrad, Thea Vanags, Navjot Bhullar.* Selecting witness protection officers: developing a test battery for Australian police // Police Practice and Research. 2014. No. 1. Pp. 6–16; *Rezana*

The victims, witnesses and other persons assisting the investigating and judicial authorities contribute to the criminal proceedings. E. g., by giving testimony regarding the circumstances of the crime[1].

The investigative and court practice suggests that the interested parties related to victims and witnesses often face with unlawful criminal acts preventing the investigation and consideration of a criminal case, or a revenge for conscientious participation in the proceedings[2]. As a result, such an impact creates real prerequisites for evading the perpetrators of criminal responsibility for the crime committed and hinders the criminal statement.

In this regard, currently, ensuring the safety of persons contributing to the crime solving and investigation as well as to the objective court study of evidence is an integral prerequisite to succeed in the goals of the criminal proceedings (Article 6 of the Code of Criminal Procedure of the Russian Federation).

At the same time, the investigation and court practice suggests that the issues related to the development of a set of effective and coordinated means of criminal, procedural and criminalistic personal security requires further development and modernization at all stages of criminal proceedings.

The historical background of witness protection in the domestic criminal process is predetermined by the relevant Russian socio-political conditions.

The issue of ensuring the safety of participants in Russian criminal proceedings emerged as a result of intensified unlawful acts against victims, witnesses and other participants of criminal proceedings in the early 90s. It was stimulated by

---

Balla. Witnesses protection in fighting organized crime // European Scientific Journal. URL: http://eujournal.org/index.php/esj/article/viewFile/550/623 (accessed: 08/19/2016); *Markus Eikel*. Witness Protection Measures at the International Criminal Court: Legal Framework and Emerging Practice // Criminal Law Forum. 2012. No. 1. Pp. 97–133; *Felföldi Enikö*. The rising importance on the protection of witnesses in the European Union // Revue Internationale de droit penal. 2006. No. 77. Pp. 313–322; *Pamela E. Hart*. Falling Through the Cracks: The Shortcomings of Victim and Witness Protection Under § 1512 of the Federal Victim and Witness Protection Act // Valparaiso University Law Review. 2009. No. 2. Pp. 771–858 and others.

[1] In this case, the applicant, the eyewitness, the suspect, the accused (including the one who concluded a pre-trial cooperation agreement in accordance with Chapter 40.1 of the Code of Criminal Procedure), the defendant, the convict, the acquitted, as well as the persons with terminated criminal case or criminal prosecution, a criminal record canceled or withdrawn in the manner prescribed by law may apply to other persons.

[2] In the first half of 2019, the state defense units of the territorial bodies of the Ministry of Internal Affairs of Russia ensured the safety of 1,528 protected persons as participants in criminal proceedings and their relatives. The share of witnesses and victims reached 28.5% and 27%, suspected and accused – 12.4%, close protected persons – 30%; 4195 security measures were applied to protect them. See Issues of improving the safety of persons subject to state protection. Information and reference materials of the All-Russian meeting-seminar of the Ministry of Internal Affairs of the Russian Federation. Krasnodar, October 2–4, 2019 p. 4.

the increased of organized and professional crime in Russia. For this reason the protection of witnesses and victims was introduced into the Judicial Reform[1] as one of the fundamental elements.

The legal standards for the protection of persons contributing to criminal proceedings are provided in the Criminal Code of the Russian Federation, adopted in 1996. In particular, the code reports on the criminal liability for the security measures applied to the judge and the participants in the criminal process (Article 311), for the disclosure of security measures applied to the judge and the participants in the criminal process (Article 320) and for the disclosure of the preliminary investigation (Article 310).

The relevant regional legal documents were adopted by certain constituent entities of the Russian Federation due to the lack of a unified federal law on the protection of the participants of criminal proceedings.

The Russian Federation's new Code of Criminal Procedure was adopted on 18 December 2001[2]. In Russian the code is the normative basis for the creation and functioning of the criminal procedure measures ensuring the safety of participants in criminal proceedings. It contains the grounds, conditions, types of criminal procedural security measures, the subjects of their implementation and the list of protected persons (Part 3 of Article 11 of the Criminal Procedure Code). The security measures provided in the new Code of Criminal Procedure reflect the legislator's intention to consider effective means of affecting crime.

The adoption of (1) the Federal Law 'On the State Protection of judges, officials of Law enforcement and Control bodies' in 1995[3] and (2) the Federal Law 'On the State Protection of victims, Witnesses and other participants in Criminal proceedings' in 2004[4], as well as (3) subordinate legislation that develops their main provisions initiates the legislating safety of participants in criminal proceedings.

---

[1] Постановление ВС РСФСР от 24.10.1991 № 1801-1 «О Концепции судебной реформы в РСФСР» // Ведомости СНД и ВС РСФСР. 1991. № 44. 31 окт. Ст. 1435 [Decree of the Supreme Soviet of the RSFSR № 1801-1 'On the Concept of Judicial Reform in the RSFSR' (10.24.1991)].

[2] УПК РФ принят Государственной Думой 22.11.2001 // СЗ РФ. 2001. № 512 (ч. 1). Ст. 4921 [The Code of Criminal Procedure of the Russian Federation Art. 4921].

[3] Federal Law of 20.04.1995 No. 45-FL (amended on February 3, 2014) 'On state protection of judges, officials of law enforcement and regulatory bodies' // Collection of Legislative Acts of the Russian Federation. 24.04.1995. No. 17. Art. 1455.

[4] Федеральный закон от 20.04.1995 № 45-ФЗ (ред. от 03.02.2014) «О государственной защите судей, должностных лиц правоохранительных и контролирующих органов» // СЗ РФ. 1995. № 17. 24 апр. Ст. 1455 [Federal Law No. 119-FZ 'On state protection of victims, witnesses and other participants in criminal proceedings' No. 34. Article 3534. (08/23/2004)].

Currently, the fourth State program regulates the system of financing the state protection measures for participants of criminal proceedings.

On June 29, 2009, Federal Law No. 141-FL 'On Amending the Criminal Code of the Russian Federation and the Code of Criminal Procedure of the Russian Federation', section X of the Code of Criminal Procedure was supplemented by chapter 40.1 'Special Procedure for Making Judicial Decisions when Concluding Pre-trial Cooperation Agreements'[1]. This measure aims at ensuring the cooperation between the suspect, accused and the investigating authorities (the court) in order to disclose and investigate the crime and criminal prosecution of accomplices. Also, the measure aims at humanization of the state's attitude to the individual. The Paragraph 3 of Art. 317.4 states that 'in case the safety of a suspect or accused, who concluded a pre-trial cooperation agreement, his close relatives, relatives and close persons, is at threat, the investigator stores the documents referred to in Part 2 of this Article, in a sealed envelope'.

Currently, the legislator takes consecutive measures to further improve the process of ensuring the safety of participants in criminal proceedings in legal regulation of ensuring personal security in Russian criminal proceedings. There are several novelties of the legislation on the state protection and ensuring the safety of participants. Namely, the Federal Law dated 07.02.2017 No. 7-FL On Amending the Federal Law 'On State Protection of judges, officials of Law enforcement and Control bodies' and the Federal Law 'On State Protection of victims, Witnesses and other participants in Criminal proceedings'[2]; the Federal Law dated 28.03. 2017 No. 46 – FL 'On Amending to the Criminal Procedure Code of the Russian Federation'[3]; the Federal Law of 28.03.2017 No. 50-FL 'On Amendments to the Criminal Procedure Code of the Russian Federation to improve the procedure of state protection'[4]; the Federal Law dated 17.04.2017 No. 73-FL 'On amending the Code of Criminal Procedure of the Russian Federation'[5].

---

[1] Федеральный закон от 29.06.2009 № 141-ФЗ «О внесении изменений в Уголовный кодекс Российской Федерации и Уголовно-процессуальный кодекс Российской Федерации» // СЗ РФ. 2009. № 26. Ст. 3139. [Federal Law No. 141-FZ 'On Amendments to the Criminal Code of the Russian Federation and the Code of Criminal Procedure of the Russian Federation' Article 3139].

[2] URL: http://www.kremlin.ru/acts/bank/41687.

[3] The official Internet portal of legal information. URL: http://www.pravo.gov.ru. 03/28/2017.

[4] Там же.

[5] СЗ РФ. 2017. № 17. 24 апр. Ст. 2455 [Collection of Legislative Acts of the Russian Federation. 24.04.2017. No. 17. Art. 2455].

The Doctoral dissertations by professors O. A. Zaitsev[1], L. V. Brusnitsyn[2], A. Yu. Epikhin[3] and A. A. Dmitrieva[4] lay the theoretical grounds studying the notion of personal security in criminal proceedings. These research works encouraged a number of candidate dissertations on this topic.

The legal regulation of individual security measures (e. g., a pseudoname interrogation – M. N. Naduyev[5], security measures applied to criminal proceedings – M. E. Kaats[6] and others) received a thorough legal study tends in the last decade.

In a monographic study performed by the team of authors of the Institute of Legislation and Comparative Law under the Government of the Russian Federation reflects the most urgent problems of legal protection of the victim in foreign countries (Great Britain, the USA, Australia, Germany, France, Czech Republic, Switzerland, etc.). It describes the doctrinal and legislative approaches to the procedural status of the victim in a number of countries, and defines his role in the criminal process, etc.[7].

---

[1] *Зайцев О. А.* теоретические и правовые основы государственной защиты участников уголовного судопроизводства: дис. … д-ра юрид. наук. М., 1999 [*Zaitsev O. A.* Theoretical and legal foundations of state protection of participants in criminal proceedings (Moscow, 1999)].

[2] *Брусницын Л. В.* Теоретико-правовые основы и мировой опыт обеспечения безопасности лиц, содействующих уголовному правосудию: дис. … д-ра юрид. наук. М., 2002 [*Brusnitsyn L. V.* Theoretical and legal foundations and world experience in ensuring the safety of persons contributing to criminal justice (Moscow, 2002)].

[3] *Епихин А. Ю.* Концепция обеспечения безопасности личности в сфере уголовного судопроизводства: дис. … д-ра юрид. наук. Сыктывкар, 2004 [*Epikhin A. Yu.* The concept of personal security in criminal proceedings (Syktyvkar, 2004)].

[4] См.: *Дмитриева, А. А.* Меры безопасности, применяемые в отношении участников процесса на стадии предварительного расследования уголовного дела // Российский следователь. 2017. № 1; *Она же.* Предпосылки модернизации процесса безопасного участия личности в современном российском уголовном процессе // Общество и право: научно-практический журнал. 2017. № 1; *Она же.* К вопросу о содержании теоретической модели безопасного участия личности в российском уголовном судопроизводстве // Вестник Краснодарского университета МВД России : научно-практический журнал. 2017. № 1; и др.
[*Dmitrieva, A. A.* Security measures applied to participants in the process at the stage of preliminary investigation of a criminal case (2017)].

[5] См., например: *Надуев М. Н.* К вопросу о механизме реализации допроса под псевдонимом при возбуждении уголовного дела [*Naduev M. N.* To the question of the mechanism for the implementation of interrogation under a pseudonym during criminal proceedings available at http://pravmisl.ru/index.php?option= com_content & task = view & id = 1857].

[6] *Каац М. Э.* Институт уголовно-процессуальных мер безопасности [Текст]: монография. Уфа: Уфимский ЮИ МВД России, 2016 [*Kaats M. E.* Institute of Criminal Procedure Security Measures (Ufa, 2016)].

[7] Правовая защита потерпевшего в зарубежных странах: монография / В. Ю. Арменов, И. С. Власов, Н. А. Голованова [и др.]; отв. ред. С. П. Кубанцев, М.: Институт законодательства и сравнительного правоведения при Правительстве Российской Федерации: ИНФРА-М, 2017.

Currently, the security of participants in criminal proceedings is covered in the intersectoral research.

In particular, N. A. Tikhonov (1995) analysed criminal procedural measures taken to ensure the honor, dignity and personal safety of the victim and witness. In his Ph.D. thesis, V. A. Bulatov (1999) researched the duty of the investigator to ensure the rights, legitimate interests and safety of victims and witnesses. In the dissertation paper, M. A. Ignatieva (2000) studied the procedural and organizational issues of respecting the rights and legitimate interests of victims and ensuring their personal safety. The tactics of ensuring personal security in criminal proceedings are described in the candidate's dissertation of V. V. Voinikova (2002). M. V. Novikova (2006) studied the main problems of ensuring the safety of participants in criminal proceedings that guarantee the administration of justice in modern conditions. A. A. Tymoshenko (2006) describes non-disclosure of the identity of the victim and witness as a criminal procedure security measure. N. V. Maltseva (2007) highlights the legal regulation of ensuring the safety of victims and witnesses sentenced to imprisonment. I. A. Mishchenkova (2008) studied the protection of witnesses and victims in the Russian criminal proceedings. N. S. Tomilova (2009) explains the system of principles of state protection for victims, witnesses and other participants in criminal proceedings. The dissertation research of V. I. Krainov (2009) thoroughly analyses the features of the state protection of the victim and witness in criminal proceedings. Yu.V. Anokhin's (2009) considers safety as one of the components ensuring the rights and freedoms of the individual in the law enforcement of the internal affairs bodies. Babkina (2009)[1] aims to ensure the safety of witnesses during the preliminary investigation.

Currently, the determination of the forensic contents of ensuring the safety of persons contributing to criminal proceedings is of particular relevance. This branch of forensics lacks deep understanding and, in our opinion, requires mandatory scientific justification.

The protected persons should be ensured with a sufficient level of security for the participation and forensic support at every stage of criminal proceedings. For these reasons he investigator and the forensic court are introduced into the practical work. Moreover, the skills and abilities to use tactical and forensic tools and scientific recommendations are applied to solve tactical tasks of the procedural protection of these persons.

[Legal protection of the victim in a foreign country V.Yu. Armenov, I.S. Vlasov, N.A. Golovanova (2017)].

[1] *Дмитриева А. А.* Теоретическая модель безопасного участия личности в российском уголовном судопроизводстве: дис. … д-ра юрид. наук. М., 2016. С. 16 [*Dmitrieva A. A.* A theoretical model for the safe participation of individuals in Russian criminal proceedings (Moscow 2016)].

It seems that, currently, tactical and criminalistic support of the criminal process should priorities the safe participation of the victims, witnesses and other persons contributing to justice in the proceedings. These persons provide more effective evidence-based activities in criminal proceedings; help to reduce and eliminate the opposition to justice exerted by criminals and their environment; increase the effectiveness of investigative and judicial actions involving criminal procedural security measures and allow to optimize the tactics of their production; contribute to finding optimal solutions to tactical security tasks.

In our opinion, the forensic security of participants in criminal proceedings should be viewed as an independent concept of the structural system of forensic science.

We believe that, forensically, the security of protected persons includes the following components: a typical forensic characteristic of unlawful acts; forensic tools and methods for detecting and neutralizing unlawful acts in typical situations; the tactics of separate investigative and judicial actions involving criminal procedural security measures.

The need to ensure the safety of protected persons is one of the important tasks of the preliminary investigation and trial, which is a specific set of certain tactical issues determined by the need to take security measures in the course of investigative and judicial actions.

The tactical and criminalistic means to ensure the safety of protected persons are viewed as the intellectual act of will of the investigator (court) to take security measures, due to the specific conditions of the case investigation associated with tactical behavior[1].

The tactical decisions of the task in question constitute the program for coordinated interaction of all subjects of forensic activity, in particular, during investigative (judicial) work applying measures of criminal procedural security.

The formation and options for solving the tactical task of ensuring the safety of protected persons should be based on the forensic analysis and assessment of the situation by the investigator (court) at a particular moment of the investigation or judicial review, as well as predicting and planning the use of the necessary tactical means (tactics and tactical complexes).

It appears that the process (technology) of making a decision to ensure the safety of persons contributing to the investigation made by the investigator (court) comprises the following stages: to analyze the investigative (judicial) situation and construct its model; to understand the task (goal) of tactical impact; to chose

[1] In the process of ensuring the safety of protected persons, the investigator takes along with tactical and other decisions (procedural, organizational and managerial, technical, planning, etc.) that differ from each other in their content.

variable tactical means of the solution; to identify the implementation methods; to assess the results.

The tactics of ensuring the security of protected persons may be provided by the investigative and judicial actions related to criminal procedural security measures (in accordance with Part 9 of Article 166 of the Code of Criminal Procedure of the Russian Federation (hereinafter CCP RF); Part 2 of Article 186 of the CCP RF; Article 186.1 of the CCP RF; Part 8 of Article 193 of the CCP RF; Clause 4 of Part 1 of Article 241 of the CCP RF; Part 5 of Article 278 of the CCP RF).

In fact, the choice of the reasonable tactics to ensure the security of protected persons should rest on the assessment of all options possible, during each of the indicated procedural actions. In this case, the decision of the investigator (court), allowing tactical task (goal), should be considered reasonable. The adoption and implementation of such a decision (1) increase the efficiency of procedural actions performed by the security measures, (2) resolve complex (problematic) investigative and judicial situations and (3) eliminate the errors of the subjects of proof.

In our opinion, currently, forensics should be applied to improve the tactics and organization of procedural actions associated with the application of security measures, as well as their legislative regulation[1].

The tactics of investigative and judicial actions applying criminal procedural security measures of protected persons is specific. In particular, this is due to organization and tactics established by an investigator or the court for the safe participation of protected persons when implementing these actions.

The investigator or the court should establish sufficient grounds (conditions) before investigation and judicial actions implementing criminal procedural security measures for protected persons. Moreover, the existence (objectivity) of the threat of unlawful act against the participant should be considered. At the same time, the tactics of the actions taken should be planned and prepared thoroughly in advance. It would contribute to the effective cooperation of protected persons with the bodies of preliminary investigation and justice.

For practical reasons, we believe, special forensic programs should be developed to assists in designing the tactics ensuring the safety of protected persons in typical investigative and judicial situations. The programs will facilitate the tactics' choice for the investigator and the court in specific criminal, procedural and other security measures appropriate for the given conditions of the preliminary investigation and trial.

---

[1] См. подробнее: *Епихин А.Ю.* Обеспечение безопасности лиц, содействующих уголовному судопроизводству: учеб. пособие / А. Ю. Епихин, А. В. Мишин. – Казань: Изд-во Казан. ун-та, 2018. С. 82–92 [*Epikhin A.Yu.* Ensuring the safety of persons contributing to criminal proceedings (Kazan, 2018].

Of primary concern should be the criminalistic characteristics of unlawful acts against participants in criminal proceedings, the classification of typical acts of the kind, and tactical means to resolve the acts.

In our view, there are practical reasons to develop a group criminalistic methodology for investigating the assault of participants in a criminal process.

Essentially, the development of the institution of security in criminal proceedings correlates with the improvement of the criminal procedure legislation itself. An analysis of recent amendments and additions made to a number of laws shows that the Russian legislation aims to consistently enhance and protect individuals in criminal proceedings.

At the same time, admittedly, the legal regulation of personal security in the criminal process and its separate stages, in particular, tends to be specified.

Improving the effectiveness of protecting participants of criminal proceedings correlates with the need for intersectoral and interdisciplinary studies that extend criminal procedure itself. The studies, as we believe, should combine the data from (1) different branches of law, such as forensic science, criminal law, criminology, prosecutorial supervision, criminal-executive law, as well as (2) other sciences, for example, psychology, conflict resolution.

We believe that Russian legislation and law enforcement may use positive international practices in applying security measures to protected persons in a criminal case. Such an implementation would enrich the contents of the modern doctrine of ensuring personal security in Russian criminal proceedings.

References:

Armenov V. Yu., *Vlasov I. S., Golovanova N. A. Legal protection of the victim in a foreign country: monography* / V. Yu. Armenov, I. S. Vlasov, N. A. Golovanova [et al.]; Editor-in-chief of S. P. Kubantsev, M.: Institute of Legislation and Comparative Law under the Government of the Russian Federation: INFRA-M, 2017.

Brusnitsyn L. V. *Theoretical and legal foundations and world experience in ensuring the safety of persons contributing to criminal justice* (Moscow, 2002).

Dmitrieva A. A**.** *A theoretical model for the safe participation of individuals in Russian criminal proceedings* (Moscow 2016).

Dmitrieva A. A. *On the content of the theoretical model of the safe participation of individuals in Russian criminal proceedings* // Bulletin of the Krasnodar University of the Ministry of Internal Affairs of Russia: a scientific and practical journal. 2017. No. 1.

Dmitrieva A. A. *Prerequisites for the modernization of the process of safe participation of an individual in the modern Russian criminal process* // Society and Law: a scientific and practical journal. 2017. No. 1.

Dmitrieva A. A. *Security measures applied to participants in the process at the stage of preliminary investigation of a criminal case* // Russian investigator. 2017. No. 1.

Epihin A. Yurevich, Gataullin Z. Shakirovich, Zaitsev O. Aleksandrovich, Grishina E. Pavlovna & Mishin A. Viktorovich *CRIMINAL PROSECUTION OF TERRORIST CRIMES IN JURY TRIAL: LEGALITY AND APPROPRIATENESS* // Humanities & Social Sciences Reviews, 7(5) (2019).

Epihin A. Yurevich, Zaitsev O.Aleksandrovich, Grishina E. Pavlovna, Mishin A. Viktorovich, & Aliyeva G. Isaevna, *ANTI-CORRUPTION CRIMINAL PROCEDURE LEGISLATION OF RUSSIA* // Humanities & Social Sciences Reviews, 7(5) (2019).

Epihin Alexander Yurevich, Oleg Aleksandrovich, Z., Ekaterina Pavlovna, G., Andrey Viktorovich, M., & Gulnar Isaevna, A. *INTERNATIONAL LEGAL PROTECTION OF JUVENILE VICTIMS (CHILD VICTIMS) FROM CRIME* // Humanities & Social Sciences Reviews, 7(5) (2019).

Epikhin A. Yu. *Ensuring the safety of persons contributing to criminal proceedings: textbook. allowance* (Kazan, 2018).

Epikhin A. Yu. *The concept of personal security in criminal proceedings* (Syktyvkar, 2004).

Epikhin, A. *THE SUBJECT MATTER OF CRIMINAL EVIDENCE RELATING TO THE DISCLOSURE OF INFORMATION ON SECURITY MEASURES APPLICABLE TO LAW ENFORCEMENT OR CONTROL OFFICIAL* / Epikhin, A., Zaytsev, O. // Internal Security. 2018. Volume 10. Issue 1.

Epikhin, A. Y. et al. *Protection by the government and security support for the parties of modern criminal process in Russia: Problems and perspectives,* Journal of Legal, Ethical and Regulatory Issues Volume 19, Special Issue, 2016.

Epikhin, A. Y. et al. *Protection of the Witnesses and Victims: International Legal Acts, Legislation of some States and the Modern Russian Legislation.* Journal of Advanced Research in Law and Economics, [S.l.], v. 7, n. 2, p. 313–322, may 2016.

Felföldi Enikö. *The rising importance on the protection of witnesses in the European Union* // Revue Internationale de droit penal. 2006. No. 77. Pp. 313–322.

Kaats M. E. *Institute of Criminal Procedure Security Measures* (Ufa, 2016).

Markus Eikel. *Witness Protection Measures at the International Criminal Court: Legal Framework and Emerging Practice* // Criminal Law Forum. 2012. No. 1. Pp. 97–133.

Monica Semrad, Thea Vanags, Navjot Bhullar. *Selecting witness protection officers: developing a test battery for Australian police* // Police Practice and Research. 2014. No. 1. P. 6–16.

Naduev M. N. *To the question of the mechanism for the implementation of interrogation under a pseudonym during criminal proceedings* available at http://pravmisl.ru/index.php?option= com_content & task = view & id = 1857.

Pamela E. Hart. *Falling Through the Cracks: The Shortcomings of Victim and Witness Protection Under § 1512 of the Federal Victim and Witness Protection Act* // Valparaiso University Law Review. 2009. No. 2.

Rezana Balla. *Witnesses protection in fighting organised crime* // European Scientific Journal. Available at http://eujournal.org/index.php/esj/article/viewFile/550/623.

Zaytsev O. A. *Theoretical and legal fundamentals of the state protection of participants of criminal procedure* (Moscow, 1999).

Information about the authors

Alexander Epikhin (Kazan, Russia) – Doctor of Legal Science, Professor of the Kazan (Volga Region) Federal University (18, Kremlyvskaya St., 420008, Kazan; e-mail: doc@epihin.ru).

Oleg Zaitsev (Moscow, Russia) – Doctor of Legal Science, Professor of the Institute of Legislation and Comparative Law under the Government of the Russian Federation (82, Vernadsky Avenue, 119571, Moscow, building 1; e-mail: oleg010663@mail.ru).

Andrei Mishin (Kazan, Russia) – Candidate of Legal Science, Associate Professor of the Kazan (Volga Region) Federal University (18, Kremlyvskaya St., 420008, Kazan; e-mail: av-mishel@mail.ru).

Recommended citation

Epikhin A. Yu., Zaitsev O. A., Mishin A. V. Origin of the intersectoral institution of personal security in Russian criminal proceedings. Kazan University Law Review. 2020; 1 (5): 40–51. https://doi.org/10.31085/2541-8823-2020-5-1-40-51.

CONFERENCE REVIEWS

Zavdat Safin

Doctor of Legal Science, Professor, Head of the Department of Environmental, Labor Law and Civil Procedure of Kazan (Volga Region) Federal University

Zarina Kondratenko

Candidate of Legal Science, Associate Professor, Head of the Department of Civil Law and Procedure of Mari State University

Elena Luneva

Candidate of Legal Science, Associate Professor of the Department of Environmental, Labor Law and Civil Procedure of Kazan (Volga Region) Federal University

REVIEW OF THE INTERNATIONAL SCIENTIFIC AND PRACTICAL CONFERENCE 'MANAGING LAND AND OTHER NATURAL RESOURCES: LEGAL REGULATION AND JUDICIAL PRACTICE'

https://doi.org/10.31085/2541-8823-2020-5-1-52-60

Abstract: The article reports on the preparation, course and results of the joint International Research and Practice Conference of the Kazan (Volga Region) Federal University and Mari State University 'Managing land and other natural resources: legal regulation and judicial practice' held in October 11–13, 2019. The conference was sponsored by the Russian Fund of Fundamental Research. The conference covered three main areas: (1) improvement of legal regulation of land

management; (2) improvement of legal regulation of environmental protection and rational nature management; (3) management of regional and municipal land and other natural resources: legislative issues and ways to overcome them.

The article reports on the international level of the conference, its research and practice specifics. The conference scale is vividly represented by participation statistics. The main results and decisions made are listed.

In conclusion, the article shows the Conference impact on the competitiveness of the Kazan (Volga region) Federal University. The conference supported scientific relations with the scientific communities of the Republic of Belarus, the Kyrgyz Republic, the Republic of Kazakhstan, the constituent entities of the Russian Federation, dealing with legal issues of managing land and other natural resources. The Conference improved cooperation with public authorities, public and private organizations.

Keywords: environmental management, land, natural resources, conference, grant, Russian Fund of Fundamental Research.

The joint International Research and Practice Conference of the Kazan (Volga region) Federal University and Mari State University 'Managing land and other natural resources: legal regulation and judicial practice' (hereinafter the Conference) was held in the Mari State University (Yoshkar-Ola) between October 11 and 13. The scientific novelty of the event is to develop new approaches to modern methods of managing land and other natural resources, to recommend amendments to the legislation, i. e. algorithms to implement innovative management methods.

Initially, a working group of the representatives of Kazan and Mari State Universities was formed for the purpose of the conference. Namely,

— Safin Zavdat Fayzrahmanovich, the Head of the Department of Environmental, Labor Law and Civil Procedure of KFU, Doctor of Law, Professor;
— Kondratenko Zarina Kamilevna, the Head of the Department of Civil Law and Process of MarSU, Candidate of Law, Associate Professor;
— Luneva Elena, Associate Professor, the Department of Environmental, Labor Law and Civil Procedure, Federal University, Candidate of Law, Associate Professor.

The application (project No. 19-011-20154) for the Conference submitted by the working group was supported and financed by the Russian Fund of Fundamental Research.

The conference Proceedings were published prior to its beginning (cite as: 'Managing land and other natural resources: legal regulation and judicial practice' Proceedings of the International Research and Practice Conference, October 11–13, 2019).

The plenary session held on the first day of the conference (October 11), was moderated by Safin Zavdat Fayzrahmanovich – the Chairman of the Conference Organizing committee and Volkov Gennady Alexandrovich – Professor of the Department of Environmental and Land Law of Moscow State University named after M. V. Lomonosov. The plenary session included the reports on Environmental and Land Law of leading researchers: Sergey Alexandrovich Bogolyubov (Moscow, Institute of Legislation and Comparative Law under the Government of the Russian Federation), Gennady Alexandrovich Volkov (Moscow State University named after M. V. Lomonosov, Moscow), Makarova Tamara Ivanovna (Belarus State University, Minsk), Krasnova Irina Olegovna (Russian State University of Justice, Moscow), Ustyukova Valentina Vladimirovna (Institute of State and Law of the Russian Academy of Sciences, Moscow), Safin Zavdat Fayzrahmanovich (Kazan (Volga Region) Federal University, Kazan), Lipsky Stanislav Andzheyevich (State University of Land Management, Moscow), Zlotnikova Tamara Vladimirovna (Moscow State University of Geodesy and Cartography, Moscow), Lizgaro Victoria Evgenievna (Belarus State University, Minsk), Salpieva Nurgul Sharshenbekovna (the Higher School of Justice at the Supreme Court of the Kyrgyz Republic, Bishkek), Otorova Baktygul Kanybekovna (Kyrgyz National University named after Zhusup Balasagyn, Bishkek) and Sarybaev Omurbek Ryskulovich (Uzgen District Court of the Osh Region of the Kyrgyz Republic, Osh).

Three main research areas were discussed on the second day (October 12) of the Conference. Namely, (1) improving the legal regulation of land management, (2) improving legal regulation of management of environmental protection and rational nature management, (3) regional and municipal management of land and other natural resources: legislative issues and ways to overcome them.

A significant number of Russian and foreign scientific and educational institutions participated in the Conference. Foreign participants came from the Republic of Belarus (T. I. Makarova, Doctor of Law, Professor, the Belarus State University, V. E. Lizgaro, Candidate of Law, Associate Professor, the Belarus State University), Kyrgyz Republic (N .Sh. Salpieva, Candidate of Law, executive director of the Association of Lawyers of Kyrgyzstan, Senior lecturer of the Higher School of Justice under the Supreme Court of the Kyrgyz Republic, B. K. Otorova, Candidate of Law, Associate Professor of Kyrgyz National University named after Zhusupa Balasagyna, O. R. Sarybaev, judge of the Uzgen district court of the Osh region of the Kyrgyz Republic, A. A. Kadyrov, acting Associate Professor of the Kyrgyz National University named after Zhusup Balasagyn) and the Republic of Kazakhstan (A. K. Kukeev, Senior lecturer of the South Kazakhstan State University named after M. Auezov).

Traditionally, the topic of given Conference covers two major research areas: (1) improving the legal regulation of land management, (2) improving legal regula-

tion of management of environmental protection and rational nature management. It is used to categorize submitted papers and reports.

The reports made on the improvement of the legal regulation of land management, focused on the following results and conclusions: the limitations of land ownership (Z. A. Akhtet'yanova); court practice: cases of violation of land legislation (L. A. Bitkova); legal regimen for defense and security lands (N. S. Vavilov); constitutional guarantees of the protection of rights to land and other real estate (G. A. Volkov); court protection and effectiveness of land administration (T. V. Volkova); free provision of land to families with children (I. V. Vorontsova, R. R. Dolotina); methods of legal regulation of land formation (E.Ya. Gryada); legal regulation of forests in modern conditions (E. V. Ivanova, N. V. Semenova); court contesting acts, decisions and actions of public authorities on land rights (A. V. Kamaeva); legal regulation of servitude land law relations (A. A. Kozodubov); issues on the provision of land required for the implementation of concession agreements, public, municipal and private partnership agreements (Z. K. Konratenko); grounds to acquire and terminate the right of municipal land ownership (I. B. Kondratenko); use of agricultural land as part of implementing governmental policy (S. V. Krasheninnikov); functions of managing land resources by state and their legislative provisions in post-Soviet Russia (S. A. Lipski); digital technologies in land law (E. V. Luneva); issues of legislative regulation and law practice of providing land to citizens and legal entities (ownership) (A. V. Malysheva); legal and economic tools of modern Far Eastern land policy (T.Yu. Mashkova); targeted provision of land for large-scale investments (N. S. Mustakimov); social functions of land rights (E. F. Nigmatullina); issues on law practice on disputes of ensuring the housing rights of the owner of a residential property on withdrawal of a land for public needs (N. N. Smirnov); legal regime of land withdrawn from use (V. V. Ystyukova); local authorities in municipal land control viewed as a form of land fund management (L. K. Fazlieva); invalidation of auctions and contracts of sale and rent of land owned by state or municipal bodies (O. M. Fominykh); state legal regulation of land control (E.Yu. Chmykhalo); legal conflicts of land use and development viewed within the legalization of unauthorized buildings (O. I. Sharno).

The reports made on the improvement of legal regulation of management of environmental protection and rational nature management focused on the following results and conclusions: legal regulation of public administration aimed to conserve forest biodiversity (E. N. Abanina); legal support of natural resources and other areas of sustainable development (S. A. Bogolyubov); the history of the development of Russian natural resource and land law (I. Ya. Boyarintseva); the notion of 'land and other natural resources management'; management viewed as an environmental and legal category (M. M. Brinchuk); the state management of land use and protection; issues of ensuring international legal protection and marine protection from

atmospheric pollution (K. B. Valiullina); legal regulation of certification and planning as environmental management tools (I. N. Zhochkina); the significance of forestry borders' registration (G. L. Zemlyakova); the correlation of law, nature, economics and geopolitics in the modern Arctic (T. V. Zlotnikova); legal support for the environmental requirements for urban planning (N. V. Kichigin); public involvement in ecological expertise of business projects (I. O. Krasnova); management features in the exercising public ownership of natural resources (T. N. Malaya); legal compensation for land resources' damage due to waste disposal (M. V. Ponomaryov); environmental insurance standards within legal regulation of environmental protection and efficient management (S. V. Pushkaryov); the improvement of legal regulation of hunting for efficient and sustainable environmental management (T. V. Rednikova); organizational and legal issues of managing water reservoir (Z. F. Safin); legal issues of developing areas of traditional nature management by local settlements of the North, Siberia and the Far East of the Russian Federation (N. I. Khludeneva); legal regulation of public court hearings on the issues of state and municipal environmental protection (R. V. Gornev).

The conference outlined a number of essential scientific issues:

— modern approaches to managing state ownership of natural objects and resources within economical 'digitalization';
— new elements in the legal public administration of environmental protection and efficient management of nature;
— 'digital' management of the legal protection and use of land and other natural resources;
— innovative ways to manage land and other natural resources;
— the Constitutional state within transformation of the state management of natural resources;
— legal issues of land management (in case of land zoning);
— the trends in the development of legislation on land management;
— the limitations of land ownership within the land management system;
— the improvement of methods of land use control by the State;
— modern approaches to the organization of land use aimed at legal stimulation of ownership, capitalization and restructuring.

The researchers (lawyers, scientists, university scholars, Public Chambers representatives) and public authorities discussed modern methods of managing land and other natural resources, i. e. developing e-government mechanism tools, 'digitalization' of regulations, introducing a number of electronic procedures, switching to electronic trading, etc. The participants revealed legal gaps impeding law enforcement and suggested possible ways to improve the management of land and other natural resources the Russian legislation and the legislation of the constituent entities of the Russian Federation. Foreign participants shared their

countries' experience similar in history and traditions; it can be further applied to Russian legislation practices.

Among 110 Conference participants (n = 102 Russian, n = 8 foreign countries) there were 14 Doctors of Sciences and 46 PhD[1].

The participants came from more than 20 universities:

- Bashkir State University;
- Belarus State University;
- Volgograd State University;
- the Academy of Justice of the Supreme Court of the Republic of Kazakhstan;
- the State University of Land Management;
- The Institute of State and Law of the Russian Academy of Sciences;
- The Institute of Legislation and Comparative Law under the Government of the Russian Federation;
- Kazan (Volga region) Federal University;
- Kazan Law Institute of the Ministry of Internal Affairs of the Russian Federation;
- Kazan Law Institute of the University of the Prosecutor's Office of the Russian Federation (branch);
- Kuban State University of Agriculture named after I. T. Trubilin;
- Kyrgyz National University named after Jusup Balasagyn;
- Mari State University;
- Interregional Open Social Institute;
- Ogaryov Mordovia State University;
- Moscow State University of Geodesy and Cartography;
- Moscow State University;
- Kutafin Moscow State Law University (MSAL);
- Orel State University named after I. S. Turgenev;
- Russian State University of Agriculture – Moscow Timiryazev Academy of Agriculture;
- Russian State University of Justice;
- Saratov State Law Academy;
- Sevastopol Institute of Economics and Humanities of the 'Crimean Federal University named after V.I Vernadsky' (branch);
- Branch of the Academy of Management of the Ministry of Internal Affairs of Russia 'Bolshevo';

[1] The website of the Faculty of Law of the Kazan (Volga Region) Federal University, information on the joint International Research and Practice Conference of the law faculties of KFU and MarSU 'Managing land and other natural resources: legal regulation and judicial practice' Available at https://kpfu.ru/law/sovmestnaya-mezhdunarodnaya-nauchno-379291.html.

— Chuvash State University;
— South Kazakhstan State University named after M. Auezov;

The state and local authorities, state and private organizations also participated in the Conference. Namely,

— Law Office 'Reznik, Gagarin and partners' (Moscow);
— 'Yoshkar-Ola City' authorities (Yoshkar-Ola);
— The Court of Arbitration of the Republic of Mari El (Yoshkar-Ola);
— the Association 'Lawyers of Kyrgyzstan' (Bishkek);
— Volgograd Regional Collegium of Advocates (Volgograd);
— Volga Interregional Environmental Prosecutor's Office (Tver);
— The Arbitration Court of Appeal # 12 (Saratov);
— Yoshkar-Ola City Court of the Mari El Republic (the city of Yoshkar-Ola);
— the Ministry of Internal Policy, Development of Local Self-Government and Justice of the Republic of Mari El (Yoshkar-Ola);
— The Ministry of Natural Resources, Ecology and Environment Protection, the Republic of Mari El (Yoshkar-Ola);
— the LLC 'Real Estate +' (Kazan);
— The prosecutor's office of the Moscow region, Kazan;
— the Union of Criminalists and criminologists (Moscow);
— Uzgen District Court of the Osh Region, the Kyrgyz Republic (Osh city);
— the Department of the Ministry of Justice of the Republic of Mari El (Yoshkar-Ola);
— Federal Service for the State Registration, Cadastre and Cartography of the Republic of Mari El (Yoshkar-Ola);
— the Department of the Federal Service for Supervision of Natural Resources in the Republic of Mordovia (Saransk).

The Conference suggested the following research and practice statements:

Legal science lacks the unified term meaning 'nature management' and uses such notions as 'managing land and other natural resources', 'environmental management', 'nature management controlled by the state', 'state management of individual natural resources', 'environmental protection and effective nature management'; 'managing environmental protection', 'environmental management', etc.

The Conference questions the possibility to manage nature and natural resources directly. As land and natural resources can only be managed indirectly, i. e. implementing measures and requirements to ensure it is rational to protect nature, land, natural resources, and to dispose of owned natural resources. In other words, management correlates with the environmental law. The correlation appears if management is regarded as an environmental and legal entity.

1. The state control of nature management, protection of environment, natural complexes, land and other natural resources is an executive and administrative

activity performed by legal authorities. It aims to implement the requirements of environmental and natural resource legislation consistently and effectively. The executive authorities, i. e., public administration, implements legal acts, promotes legal norms provided in the legislation and adjusts them for public benefit. The laws on environmental and natural resources are formed within enforcing legislation and public administration,

2. The natural resources and other branches of Russian law and legislation apply to the international term 'sustainable development'. It can be interpreted as 'continuously supported', 'self-sustaining', 'acceptable', 'balanced', 'undepleted', 'integral', 'without additional costs when minimizing negative externalities between generations', 'economic, social, natural resource (environmental) directions implied'.

The natural resources (environment) correlate with economy and society within the sustainable development. However, it is not as developed and, therefore, needs to be combined with law, legality, legal support, and other means. The lack of depletion viewed as one of the conditions of sustainable development, implies restoration of mining, the use of other natural resources, in other words, environmentally reasonable economic and social development.

3. The development of long-term environmental education and culture are viewed as an integral part of sustainable development when combined with increasing legal awareness and environmental development policy in Russia. The imperative and dispositive regulations entwine and stabilize the development as natural resources are of primary social and economic concern. Consequently, the more legal support of environment, economy and society is given to the 'sustainable development', the more reliable it becomes.

4. The land and environmental law use certain digital technologies which are planned to be extended. The possible benefits as well as risks and consequences of land law digitalization need to be considered within the wide spreading IT methods. The consequences range from replicating official websites to hacking databases and other abuse of data collection, processing methods, storing, search, use and distribution.

5. The public administration of land use and its protection have two defects: (1) a number of agencies pertaining to the Ministry of Natural Resources of Russia lack corresponding land authority; (2) finding managing functions applied to land controlled by the Ministry of Economic Development of Russia and the Ministry of Agriculture of Russia. The land or 'the basis of the life and work of peoples' (according to a number of provisions of the Constitution of the Russian Federation, (Article 9)) in such a way is 'dispersed' between the Ministry of Economic Development of Russia, the Ministry of Agriculture of Russia and the Ministry of Natural Resources of Russia. Obviously, the tasks and goals of these ministries are

completely different. Therefore, a Federal Agency for Land Resources needs to be established among given environmental authorities.

The research and practice Conference, as it seems, contributed to the environmental science of the Faculty of Law and Kazan Federal University. It improved the collaboration with the researchers from the Republic of Belarus, the Kyrgyz Republic, the Republic of Kazakhstan, and the constituent entities of the Russian Federation dealing with the legal aspects of managing land and other natural resources. The enhanced cooperation with the government, municipal and judicial authorities, law enforcement agencies, public and private organizations as potential employers is beneficial for graduates.

Information about the authors

Zavdat Safin (Kazan, Russia) – Doctor of Legal Science, Professor, Head of the Department of Environmental, Labor Law and Civil Procedure of Kazan (Volga Region) Federal University (18, Kremlyvskaya St., 420008, Kazan; e-mail: zsafin56@gmail.com).

Zarina Kondratenko (Yoshkar-Ola, Russia) – Candidate of Legal Science, Associate Professor, Head of the Department of Civil Law and Procedure of Mari State University (1, Lenin Square, 424000, Yoshkar-Ola; e-mail: mati07@rambler.ru).

Elena Luneva (Kazan, Russia) – Candidate of Legal Science, Associate Professor of the Department of Environmental, Labor Law and Civil Procedure of Kazan (Volga Region) Federal University (18, Kremlyvskaya St., 420008, Kazan; e-mail: vilisa_vilisa@mail.ru).

Recommended citation

Safin Z. F., Kondratenko Z. K., Luneva E. V. Review of the International scientific and practical conference 'Managing land and other natural resources: legal regulation and judicial practice'. Kazan University Law Review. 2020; 1 (5): 52–60. https://doi.org/10.31085/2541-8823-2020-5-1-52-60.

Journal "Kazan University Law Review"
Call for papers

The inaugural issue of the journal was launched by the Law Faculty of Kazan Federal University in December 2016. ISSN number: 2541-8823.

The journal is printed in English and comes out in four issues per year.

The journal has an International Editorial Council and a Russian Editorial Board. All articles are reviewed by a professional copyeditor whose native language is English.

Requirements for submissions:

- The journal accepts articles on fundamental issues of law not previously published elsewhere. The content of articles should reflect the author's original academic approach and developed doctrine of jurisprudence.
- Articles must be submitted in the English language only.
- Recommended number of words/pages: the journal uses the character count method. Articles (text plus footnotes) should contain 40,000 to 120,000 characters including spaces.
- Articles must include an abstract with 150–250 words and a list of at least five Keywords.
- The section 'Information about the author' must appear at the end of the article: it should contain the surname and name of the author, title of the author, place of work (or study), postal address, telephone number and e-mail address.
- For postgraduate students: please attach (as an image file) a review on the article written by a certified supervisor.
- Deadlines for submission of articles:

  Issue no. 1 – January 15 (launch of printed issue is March);

  Issue no. 2 – April 15 (launch of printed issue is June);

  Issue no. 3 – June 15 (launch of printed issue is September);

  Issue no. 4 – October 15 (launch of printed issue is December).
- Citation format: footnotes should conform to the 20th edition of *The Bluebook: A Uniform System of Citation*.

The journal staff may be contacted via e-mail at:

kulr.journal@gmail.com

Kazan Federal University | FACULTY of Law

Faculty of Law welcomes everyone applying for master's degree!

MASTER'S PROGRAMS 2020

- Anti-corruption studies
- European and international business law (in english)
- International human rights law
- Legal analytics
- Legal support of business
- Preliminary investigation and criminal justice
- Litigator in civil, arbitration and administrative proceedings
- Private and business law
- Legal protection of the rights of citizens in criminal proceedings
- Lawyer in governmental authority
- Lawyer in digital economy

KAZAN UNIVERSITY LAW REVIEW

Volume 5, Winter 2020, Number 1

Signed to print 01.03.2020.
Form 70x100 1/16. Volume 4,0 printed sheets
Circulation 400.
Order No

Published by
LLC "Izdatelstvo Prospekt",
107005, Moscow, Lefortovsky lane, 12/50, building 1