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Dear readers,

I would like to present for your attention the fourth regular issue of the journal "Kazan University Law Review" in 2023.

The issue you are now holding in your hands contains articles on topical issues in the theory and practice of Russian and foreign law.

The issue starts with an article by Alavdin Gardaloev, Chairman of the Supreme Court of the Chechen Republic, "The classification as one of the ways to identify the main directions of criminal activity in the Russian financial market". The financial services market is an important and integral element of any economic system. In the Russian Federation, it is developing quite successfully and at a rapid pace. Along with the positive changes in society, it is logically reasonable to note the growth in the number of illegal organizations, whose activities are carried out outside the "legal field". Such organizations can be either companies that do not have a license in cases where it is required, or companies that are simply not included in the register of the Bank of Russia; in other cases — simply fraudulent organizations engaged in the provision of services under the guise of carrying out activities in the field of finance. Illegal activities in the financial market undermine confidence in the financial market and form a negative opinion of the population about financial organizations in general. The article considers actual problems of determining the main directions of criminal activity in the financial market of Russia and establishes cause-and-effect relations with criminal-legal support of this sphere of legal relations. As a result of the analysis, the author has identified new features of the main directions of criminal activity in the financial market, determined their qualitative features and established a number of risks in the sphere of criminal-legal support of the financial market.

The issue continues with a study by Sergey Degtyarev, Doctor of Legal Sciences, Professor of the Department of Civil Law Disciplines, and Irina Makeeva, Candidate of Legal Sciences, Head of the Department of Civil Law Disciplines of the Ural Law Institute of the Ministry of Internal Affairs of Russia, "The right to a name or pseudonym as an object of protection in Russian law".

The article discusses the issues of legal protection of the right of a citizen to a name or pseudonym in the system of legislation of the Russian Federation. The authors analyze various aspects of this right in the constitutional-legal, civil-law, and family-law contexts, as well as in the framework of copyright and patent legal relations. In addition, it is emphasized that the digitalization of society requires the development of a mechanism for the realization of personal non-property rights, including the right to a name, in virtual space. The ways of judicial protection of this right, especially the possibility of applying the institute of compensation for moral damage in case of its violation, are also considered.

I am sincerely glad to present to you the study by Sergey Melnik, Candidate of Legal Sciences, Associate Professor, Professor of the Department of Civil law disciplines of the V.V. Lukyanov Orel Law Institute of the Ministry of Internal Affairs of Russia, and Olga Gomozova, First-year adjunct of the Faculty of Education of Scientific and Pedagogical Personnel of the V.Ya. Kikot Moscow University of the Ministry of Internal Affairs of Russia, "The mediation as a conciliation procedure in civil law legislation". The relevance of the issue is explained by the current conditions of development of the rule of law in terms of the establishment of the traditional form of judicial protection of human and civil rights in conflict resolution. This fact resulted from the positive dynamics and growth of citizens' appeals to the court: according to the Legal Information Agency, at the end of 2020, a total of 20,773,356 cases were considered in civil proceedings, the share of satisfied of which amounted to 98%. These indicators for the same period of 2019 have undergone changes: the number of cases considered in the country as a whole increased by 9.5% (18,804,923 cases), the share of satisfied cases amounted to 97%. The authors have analyzed and made relevant, socially important for legal science and practice conclusions.

The next research is presented by a collective of authors: Aleksandr Makarov, First-year Master's student of the Faculty of Law, and Alfiya Khairullina, Senior Lecturer of the Department of Constitutional and International Law of the Faculty of Law of the TISBI University of Management. In the study entitled "The jurisdictional form of protection of subjective civil rights: the prism of judicial and administrative form of protection" the authors present the problem of determining the types of jurisdictional form of protection of subjective rights. The analysis and conclusions are obtained by the authors on the basis of consideration of judicial and administrative orders of protection, and ways to improve the current judicial system of the Russian Federation are proposed. The form of protection of rights in the study is considered from the point of

view of a set of internally coordinated, organized measures for the protection of subjective rights. Of particular interest is the diversity of forms of protection of rights due to the specificity of the protected rights, as well as legal traditions that determine the complexity or, on the contrary, the simplicity of legal relations.

With best regards,
Editor-in-Chief
Damir Valeev

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THE CLASSIFICATION AS ONE OF THE WAYS TO IDENTIFY THE MAIN DIRECTIONS OF CRIMINAL ACTIVITY IN THE RUSSIAN FINANCIAL MARKET

DOI: 10.30729/2541-8823-2023-8-4-167-176

Abstract. *The financial services market is an important and integral element of any economic system. In the Russian Federation, it is developing quite successfully and at a rapid pace. Along with the positive changes in society, it is logically reasonable to note the growth in the number of illegal organizations, whose activities are carried out outside the "legal field". Such organizations can be either companies that do not have a license in cases where it is required, or companies that are simply not included in the register of the Bank of Russia; in other cases — simply fraudulent organizations engaged in the provision of services under the guise of carrying out activities in the field of finance. Illegal activities in the financial market undermine confidence in the financial market and form a negative opinion of the population about financial organizations in general. The article considers actual problems of determining the main directions of criminal activity in the financial market of Russia and establishes cause-and-effect relations with criminal-legal support of this sphere of legal relations. As a result of the analysis, the author has identified new features of the main directions of criminal activity in the financial market, determined their qualitative features and established a number of risks in the sphere of criminal-legal support of the financial market.*

Keywords: *criminal activity in the financial market, criminal law enforcement, classification in criminal law, criminal law, economic activity.*

Crimes committed in the sphere of economic activity are characterized by complexity, including due to the multilevel system of benefits that are damaged.

Modification of the mechanism of activity of illegal organizations, general increase in the qualitative and quantitative monitoring of illegal activities generally leads to an increase in the number of illegal participants in the financial market. A classic example of such manipulations are financial pyramids, as a rule, in realization of their activity choosing short-term projects with minimal initial payment.

According to the documentation of strategic planning, the banking sector, the microfinance market, the insurance market, professional participants of the securities market and mutual funds management business, as well as the financial consulting market — are allocated in separate independent blocks[1]. Let us point out that these blocks are singled out in this way because they are quite vulnerable and need solutions to maintain their financial stability, which will ensure their increased participation in the financing of economic development. It is also logically reasonable to point out that these blocks are used, being vulnerable, in unfair fraudulent schemes, which is also reflected in the Concept of countering unfair practices in the financial market (developed and presented by the Central Bank of the Russian Federation)[2].

It is impossible not to emphasize the active aspiration of the state authorities to support the development of the financial market. This is facilitated by:

— active rule-making activity aimed at regulating relations in certain spheres of the financial market;

— introduction of special registers of "professional" financial market players; consolidation of control and supervisory functions in one structure;

— establishment of a number of norms of administrative and criminal liability for the protection of certain sectors of the financial market.

At the same time, the law enforcement system inevitably faces the problems of criminal-legal support of this sphere of public relations.

A number of issues are also actualized, without the resolution of which it becomes difficult to make positive forecasts in favor of a high level of protection by criminal-legal means of the considered sphere of legal relations.

Among the crimes "typical for the financial market", the Bank of Russia includes the following corpus delicti: "... fraud — Article 159 of the Criminal Code of

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[1] Osnovnye napravleniya razvitiya finansovogo rynka Rossiyskoy Federatsii na 2023 god i period 2024 i 2025 godov [The basic directions of development of the financial market of the Russian Federation for 2023 and the period of 2024 and 2025]. M., 2022. P. 36–39.

[2] Kontseptsiya protivodeystviya nedobrosovestnym deystviyam na finansovom rynke [Concept of countering unfair practices in the financial market]. M., 2018. Pp. 15–20.

the Russian Federation, insurance fraud — Article 159[5] of the Criminal Code of the Russian Federation, falsification of financial documents of accounting and reporting of a financial organization — Article 172[1] of the Criminal Code of the Russian Federation, organization of activities to attract money and (or) other property — Article 172[2] of the Criminal Code of the Russian Federation, abuse in the issuance of securities — Article 185 of the Criminal Code of the Russian Federation ... etc."[1].

A cursory review of the types of crimes included in Chapter 22 of the Criminal Code of the Russian Federation suggests that the criminal-legal protection of financial market participants from criminal encroachments has an unsystematic and even chaotic character.

The problems arising at attempts to regulate the analyzed and protected by the norms of the Criminal Code of the Russian Federation sphere of public relations and to bring it into conformity with the really existing conditions, originate from the moment of formation of the conceptual and categorical apparatus.

Specialists in the field of criminal law theory[2] for decades have been paying attention to the issue of uncertainty of the conceptual and categorical apparatus and to the issues of interpretation of the criminal law. The lack of due attention to terminology, as well as the unity of understanding of the used categories, determines the difficulties arising not only in research activities, but also in law enforcement practice.

So, before identifying "white spots" in the sphere of protection of interests of financial market participants by criminal law means and analyzing the activities of entities involved in the problematic plane under study, it seems appropriate to reveal the essence and content of the financial market — to determine the conceptual and categorical apparatus used and to classify the illegal components of such a market.

First, attention should be paid to *the institutional aspect* of the phenomenon under study. V.V. Chistyukhin states that "the financial market is a special sphere of economic relations that develop between the state, financial organizations and

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[1] Kontseptsiya protivodeystviya nedobrosovestnym deystviyam na finansovom rynke [Concept of countering unfair practices in the financial market]. M., 2018. P. 11.

[2] *Kudryavtsev V. N.* Obshchaya teoriya kvalifikatsii prestupleniy. 2-e izd., pererab. I dop [General theory of qualification of crimes. 2nd edition, revised and supplemented]. M.: Yurist, 2007. P. 177; *Yatselenko B. V.* Tolkovanie ugolovnogo zakona kak sposob preodoleniya ego neopredelennosti [Interpretation of criminal law as a way of overcoming its uncertainty] // Vestnik Rossiyskoy pravovoy akademii [Herald of the Russian Legal Academy]. 2014. No. 3. Pp. 55–59; *Koval M. I.* Aspekty primeneniya nekotoroy terminologii v ugolovnom i ugolovno-ispolnitelnom zakonodatelstve [Aspects of the application of certain terminology in criminal and penal legislation] // Evraziyskiy yuridicheskiy zhurnal [Eurasian Legal Journal]. 2021. No. 4(155). Pp. 239–240.

consumers of financial services"[1]. Such understanding of the financial market is of a general character due to its spreading (expansive) interpretation, reflecting the most important characteristics of the analyzed phenomenon.

It seems acceptable to use this definition as the main one in the current study, which allows the author to touch upon other features of the financial market without distorting its system-forming elements.

Within the framework of this study, we do not aim to go deep into the study of this problem, but it seems logically reasonable to note that initially the financial market was in some sense synonymous with the capital market. Then the term was used in the sense of money market.

At present, there are two approaches to its understanding:

— the financial market is defined through financial instruments (the so-called product approach);

— financial market as a segment of the economy, where financial products, including goods and services, are circulated[2].

Due to the fact that the financial market is a generic concept, there are several classifications, which differ in a number of ways. In fact, the question about the number of financial markets is purely rhetorical. Intentions and responses of the researcher on the given topic will be determined by the statement of the question itself[3].

Proceeding from the aim of this study — to identify the main directions of criminal activity in the financial sector — let us point out that it is possible to classify by categorization of illegal actions.

The Bank of Russia ranks companies with signs of illegal activities in the financial market into *three groups*:

1) financial pyramids;

2) illegal lenders;

3) illegal professional participants of the securities market, including illegal forex-dealers[4].

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[1] *Chistyukhin V. V.* Finansovyy rynok kak kategoriya finansovogo prava [Financial market as a category of financial law] // Vestnik Universiteta imeni O. E. Kutafina (MGYuA) [Herald of O. E. Kutafin University (MSAL)]. 2021. No. 9(85). Pp. 113–123.

[2] *Arzumanova L. L.* Finansovoe pravo: uchebnik (2-e izdanie, pererab. i dop.) [Financial law: textbook (2nd edition, revised and supplemented)]. M.: Prospekt, 2020. P. 357.

[3] *Guseva I. A.* Finansovye tekhnologii i finansovyy inzhiniring: uchebnik [Financial technologies and financial engineering: textbook]. M.: KnoRus, 2021. P. 35.

[4] Spisok kompaniy s vyyavlennymi priznakami nelegalnoy deyatelnosti na finansovom rynke [List of companies with identified signs of illegal activities on the financial market] // Bank Rossii [Bank of Russia]: [Electronic resource]. — URL: https://cbr.ru/inside/warning-list/#search (date of address: 24.01.2023).

Five clusters are responsible for further classification of companies. They include companies with signs of illegal activities in the insurance industry and companies with signs of illegal activities of investment platform operators[1].

It is important to underline that according to the results of only the first three months of 2023, the list includes: 212 companies with the signs of illegal activities of a professional participant of the securities market, 421 companies with the signs of a financial pyramid scheme, 404 companies with the signs of an illegal lender, 14 companies with the signs of illegal activities in the insurance market, and 7 companies with the signs of an illegal investment platform operator.

In dynamics, the change in the number of companies with identified signs of illegal activities in the financial market can be seen in Table 1.

Table 1

Year	2020	2021	2022	2023 (January—March)
Signs of a "financial pyramid" scheme	272	805	1960	421
Signs of an illegal lender	649	625	1248	404
Signs of an illegal professional securities market participant	363	783	1174	212
Signs of illegal activities in the insurance market	0	0	17	14
Signs of an illegal investment platform operator	0	0	3	7

Earlier we pointed out the growing number of illegal participants in the financial market, as well as the reasons for increasing the quality of monitoring of such activities; however, it is worth noting that the mechanism of operation of illegal organizations has changed, including during the pandemic.

The above-mentioned financial pyramids were considered by us in the sense that such uncomplicated machinations, at first, do not alarm either the forces of the Bank of Russia or law enforcement agencies. It is logical to point out that such activity, even completed in the early stages, has a tremendous negative impact.

In addition, it is worth noting that, in addition to the above-mentioned vulnerable blocks of the economic sector, this list on the use of such models and in fraudulent

[1] Spisok kompaniy s vyyavlennymi priznakami nelegalnoy deyatelnosti na finansovom rynke [List of companies with identified signs of illegal activities on the financial market] // Bank Rossii [Bank of Russia]: [Electronic resource]. — URL: https://cbr.ru/inside/warning-list/#search (date of address: 24.01.2023).

schemes in bad faith, today complements the market of collective investments and trust management.

In doctrinal sources[1] the most common is the classification according *to the sectoral principle*, as the normative regulation is historically based on this approach. However, it is here that there is a polysemy of views.

For example, the Deputy Chairman of the Central Bank of Russia V. V. Chistyukhin identifies 10 types of markets (sectors), including: a) the market of securities and derivatives; b) the market of banking services, insurance market; c) the foreign exchange market, the market of payment services; d) the market of collective investments (which includes the pension market); e) the market of microfinance, etc[2].

Some authors rank illegal activities by types of unfair (fraudulent) schemes based on strategic planning documents: a) cyber fraud; b) "license-free" activities; c) unfair practices related to the concealment of true information; d) misuse of insider information; e) financial pyramids; f) money laundering and terrorism financing; g) insurance market[3].

By the degree of compliance with the requirements established by the law, we can distinguish legal and illegal participants of the financial services market.

By subjects one should identify professional market participants, non-professional and the state.

However, the presented classifications are not without flaws. The above needs clarification.

Thus, an organization registered in accordance with the established procedure and carrying out financial activities in accordance with the regulator's permission may at some point begin to operate on the principle of a financial pyramid, i.e. when the volume of borrowed funds significantly exceeds its own assets, and dividends are paid by attracting new participants in the absence of comparable

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[1] *Chistyukhin V. V.* Finansovyy rynok kak kategoriya finansovogo prava [Financial market as a category of financial law] // Vestnik Universiteta imeni O. E. Kutafina (MGYuA) [Herald of O. E. Kutafin University (MSAL)]. 2021. No. 9(85). P. 28; *Shimshirt N. D.* Finansovye rynki i instituty: uchebno-metodicheskoe posobie [Financial markets and institutions: textbook]. Tomsk: Izdatelskiy dom Tomskogo gosudarstvennogo universiteta, 2015. P. 11; *Barinov E. A.* Rynok dragotsennykh metallov kak segment finansovogo rynka [Precious metals market as a segment of the financial market] // Uchenye zapiski Rossiyskoy akademii predprinimatelstva [Academic notes of the Russian Academy of Entrepreneurship]. 2020. T. 19. No. 2. P. 100.

[2] *Chistyukhin V. V.* Finansovyy rynok kak kategoriya finansovogo prava [Financial market as a category of financial law] // Vestnik Universiteta imeni O. E. Kutafina (MGYuA) [Herald of O. E. Kutafin University (MSAL)]. 2021. No. 9(85). P. 29.

[3] *Nakostik D. D.* Riski uvelicheniya nedobrosovestnykh uchastnikov finansovogo rynka v usloviyakh sanktsiy [Risks of an increase in unscrupulous financial market participants in the context of sanctions] // Vestnik evraziyskoy nauki [Bulletin of Eurasian Sciences]. 2022. T. 14. No. 5. Pp.1–9.

income from business activities. Experts in the field of financial law divide professional participants in the financial market mainly *on a sectoral basis*: a) credit organizations (banks and non-profit organizations); b) professional participants in the securities market (brokers, dealers, registrars, organizations engaged in depository activities); c) subjects of the collective investment market (non-state pension funds); d) joint-stock investment funds; e) specialized depositories; f) subjects of the insurance business (insurers, reinsurers, insurance brokers); g) microfinance institutions (Microcredit organizations, consumer credit cooperatives, pawnshops, agricultural consumer cooperatives, housing savings cooperatives), etc.

As can be seen, there are "overlaps" in this classification.

For example, credit organizations in the form of NPOs are included in microfinance institutions, and collective investment entities can participate in the collective investment market.

An even more difficult task is to rank financial market entities that carry out their activities illegally.

For example, illegal lenders may operate as microfinance companies, pawnshops, commission stores, leasing companies, Internet projects distributed in social networks and (or) messengers. The latter, according to the Central Bank, amounted to 43.1% in 2022[1]. Among financial pyramids, we can distinguish pseudo-credit organizations that issue loans; pyramids that do not hide their "status"; organizations that offer services for refinancing or co-financing of existing accounts payable; organizations that trade in the Forex market; online casinos; Internet resources that sell "turnkey" ready-made sites of high-growth projects, economic games and others. Illegal professional participants of the securities market mainly work under the guise of forex dealers (95%)[2].

Having disclosed some problematic issues of the financial market of Russia, having analyzed regulatory legal acts and used statistical data of the Bank of Russia, having considered classifications (on various grounds of dishonest (fraudulent) schemes and their participants), we were able to cover a large volume of the phenomena under study and avoid one-sidedness in their scientific interpretation.

Thus, the analysis of available in scientific theory classifications and carrying out additional ones allowed us to identify new features of the main directions of

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[1] Protivodeystvie nelegalnoy deyatelnosti na finansovom rynke. Bank Rossii. Analitika. Protivodeystvie nedobrosovestnym praktikam uchastnikov rynka [Countering illegal activities in the financial market. Bank of Russia. Analytics. Countering unfair practices of market participants] // Bank Rossii [Bank of Russia]: [Electronic resource]. — URL: https://docs.yandex.ru (date of address: 24.01.2023).

[2] Ibid.

criminal activity in the financial market of Russia, to determine their qualitative features, which together allowed us to identify a number of risks in the sphere of criminal and legal support of the financial market:

1. Legislative and other regulatory legal acts in terms of determining the rights and obligations of the participants of the analyzed market are at the stage of formation.

2. Conceptual directions of development of the financial market in accordance with the real demand of a society for safety in this sphere of legal relations are not formulated and not fixed in full volume.

3. Inconsistency between the level of financing of the sphere of counteraction to criminal encroachments on the financial market, including electronic circulation of information — electronic keys of access to it (password system) and legislative protection of the latter.

It is realistic to minimize the number of illegal actions in the Russian financial market by improving the quality of the regulatory framework responsible for the designated and formed sector. More effective experience of the regulator in identifying signs and instruments of market manipulation, as well as the use of insider information can be used in the case of a step-by-step application of means of state response to deviant behavior of professional participants, specifically: 1) disciplinary prescription on prevention of violations on transactions by prior agreement with shares, futures contracts, units, bonds; 2) suspension of trading accounts of identified persons; 3) sending materials for bringing to administrative responsibility under Article 15.21 or 15.30 of the Code of Administrative Offenses of the Russian Federation; 4) bringing to criminal responsibility under Article 185^3 or 185^6 of the Criminal Code of the Russian Federation. This approach eliminates the risks of prosecution under objective imputation due to "arbitrary" approaches to assessing the "criminal" financial result under Article 185^3 of the Criminal Code of the Russian Federation, based not on regulations but on the recommendations of the Bank of Russia; a person who disagrees with the regulator's decision can appeal the decision at an earlier stage and present his arguments without the threat of criminal prosecution.

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THE RIGHT TO A NAME OR PSEUDONYM AS AN OBJECT OF PROTECTION IN RUSSIAN LAW

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Abstract. *The article discusses the issues of legal protection of the right of a citizen to a name or pseudonym in the system of legislation of the Russian Federation. The authors analyze various aspects of this right in the constitutional-legal, civil-law, and family-law contexts, as well as in the framework of copyright and patent legal relations. In addition, it is emphasized that the digitalization of society requires the development of a mechanism for the realization of personal non-property rights, including the right to a name, in virtual space. The ways of judicial protection of this right, especially the possibility of applying the institute of compensation for moral damage in case of its violation, are also considered.*

Keywords: *the right to a name, pseudonym, digital space, compensation for moral damage, personal non-property rights.*

Part 1 of Article 19 of the Civil Code of the Russian Federation establishes that a citizen acquires and exercises rights and obligations under their name, which includes the surname and proper name, as well as the patronymic, unless otherwise follows from the law or national custom. And in the cases and in the manner prescribed by law, a citizen may use a pseudonym (fictitious name).

It should be taken into account that the use of the name of a particular person as a pseudonym by another person in creative activity is lawful under two conditions: obtaining consent for the use of the name by the respective person, as well as not causing damage to the bearer of the name by another bearer of the name[1].

It should be taken into account that along with the name in legal practice such a concept as *personal data* is used. The content of Part 2 of Article 24 of the Constitution of the Russian Federation, Paragraph 1 of Article 3 of the Federal Law "On personal data", Article 19 of the Civil Code of the Russian Federation allows referring to the personal data of a person, first, their surname, name, patronymic, year, month, date, and place of birth, address, marital, social, property status, education, profession, income, as well as other information by means of which it is possible to identify a particular person[2].

The right of a citizen to a name or a pseudonym in Russian law usually becomes the subject of serious attention in the following most common aspects of everyday life and relevant legal relations:

— the right to a name or pseudonym in the constitutional-legal aspect, for example, when analyzing and applying Part 1 of Article 23 of the Constitution of the Russian Federation, Part 1 of Article 55 of the Constitution of the Russian Federation[3];

— the right to a name or pseudonym in the civil law aspect (Article 19 of the Civil Code of the Russian Federation),

— the right of a child to a name in the family law aspect (Article 58 of the Family Code of the Russian Federation)[4];

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[1] Obzor sudebnoy praktiki Verkhovnogo Suda Rossiyskoy Federatsii No. 1 (2018), utv. Prezidiumom Verkhovnogo Suda RF 28.03.2018 [Review of judicial practice of the Supreme Court of the Russian Federation No. 1 (2018), approved by the Presidium of the Supreme Court of the Russian Federation 28.03.2018] // Spravochno-pravovaya sistema "KonsultantPlyus" [ConsultantPlus legal reference system]: [Electronic resource]. — URL: https://www.consultant.ru/document/cons_doc_LAW_294792/ (date of address: 14.01.2023).

[2] Opredelenie Tretyego kassatsionnogo suda obshchey yurisdiktsii ot 03.02.2020 No. 88-1304/2020 [Decision of the Third Cassation Court of General Jurisdiction of 03.02.2020 No. 88-1304/2020] // Spravochno-pravovaya sistema "KonsultantPlyus" [ConsultantPlus legal reference system].

[3] See, e.g.: *Vinokurov V. A.* Pravo cheloveka na imya: konstitutsionno-pravovoy aspect [The human right to a name: constitutional and legal aspect] // Konstitutsionnoe i munitsipalnoe pravo [The constitutional and municipal law]. 2019. No. 6. Pp. 46–49.

[4] See, e.g: *Ilina O. Yu.* Interesy rebenka v semeynom prave Rossiyskoy Federatsii [Interests of the child in the family law of the Russian Federation]. M.: Gorodets, 2006. P. 80; *Korol I. G.* Lichnye neimushchestvennye prava rebenka po semeynomu pravu Rossiyskoy Federatsii: Nauchno-prakticheskoe posobie [Personal non-property rights of the child under the family law of the Russian Federation: Scientific and practical textbook]. M.: Prospekt, 2010. P. 132.

— copyright and patent legal relations, where the right to a name (pseudonym) presupposes the existence of an exclusive or copyright (Article 1345 of the Civil Code of the Russian Federation) and others.

In the latter case, it is necessary to take into account the opinion of M.A. Rozhkova, who, speaking about the inclusion of the author's right to a name among the personal non-property rights — a right that is a type of inalienable right to a name (Article 19 of the Civil Code of the Russian Federation), by virtue of Paragraph 1 of Article 7 of the UN Convention on the Rights of the Child, 1989, according to which it is recognized that a child has the right to a name from the moment of birth, notes that "undoubtedly, in the field of intellectual property the content of the right to a name is narrowed down to the power "to use or authorize the use of works of art" (Article 1265 of the Civil Code of the Russian Federation). However, even in this truncated form, it retains the main characteristic feature mentioned by M. Agarkov[1]: "... the right to a name does not give the authorized person the right of exclusive use of his name. Other persons can also use it quite rightfully, but, firstly, when they themselves possess the same name, and secondly, when they do not cause damage by it"[2].

A. V. Zalesov, in this context, reasonably points out that the author's right to a name (pseudonym) is always connected with the work and with its circulation. Therefore, one can clearly trace a rather close correlation between the identity of the author of an artistic work and the fate of the work, including its circulation and even disputes about authorship and protectability[3].

Thus, the right to a name or pseudonym can be directly associated with personal or proprietary spiritual, moral and intellectual rights[4], including in the case of the protection of exclusive rights in the creative environment[5].

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[1] *Agarkov M. M.* Pravo na imya. Izbrannye trudy po grazhdanskomu pravu: V 2 t. T. II [The right to a name. Selected works on civil law: In 2 volumes. V. II.] M., 2002. P. 96.

[2] Tsivilisticheskaya kontseptsiya intellektualnoy sobstvennosti v sisteme rossiyskogo prava: monografiya [Civilistic concept of intellectual property in the system of Russian law: a monograph] / A. A. Bogustov, V. N. Glonina, M. A. Rozhkova i dr.; pod obshch. red. M. A. Rozhkovoy. M.: Statut, 2018. 271 p.

[3] *Zalesov A. V.* Patentnoe pravo kak monopolnoe promyshlennoe pravo patentovladeltsa-investora [Patent law as a monopoly industrial right of the patent owner-investor] // IS. Promyshlennaya sobstvennost [Intellectual property. Industrial property]. 2021. No. 12. Pp. 49–58.

[4] See more: *Ibragimova A. I.* Ponyatie i zashchita lichnykh ili sobstvennykh dukhovno-nravstvennykh i intellektualnykh prav, i grazhdansko-pravovaya otvetstvennost za ikh narushenie [The concept and protection of personal or proprietary spiritual, moral and intellectual rights, and civil liability for their violation] // Rossiyskaya yustitsiya [Russian justice]. 2020. No. 8. Pp. 13–16.

[5] *Shakirova E.* Razreshenie sporov, svyazannykh s zashchitoy isklyuchitelnykh prav v tvorcheskoy srede [The resolution of disputes related to the protection of exclusive rights in the creative environment] // Trudovoe pravo [Labor law]. 2022. No. 1. Pp. 45–58.

Regardless of the legal relations in which a citizen's right to a name or a pseudonym is involved, it is subject to judicial protection by virtue of Article 46 of the Constitution of the Russian Federation, which actually establishes the absolute right to judicial protection of any violated or challenged right or legitimate interest of a citizen.

One of the ways to protect civil rights, including personal non-property rights, is compensation for moral damage (Article 12 of the Civil Code of the Russian Federation). This method recently remains practically the only possibility to restore one's reputation, at least psychologically, if a citizen sees the violation of his right to a name or pseudonym on the Internet, experiences moral or physical suffering (Paragraph 5 of Article 19, Article 151 of the Civil Code of the Russian Federation). Therefore, no one denies or can replace the presence of live, real communication in everyday life, but we cannot doubt the existence of the digital world around us either.

It should be stated that, unfortunately, today we have to spend most of our time "at the computer" — it is both work and training and just communication on the Internet, social networks, etc. Therefore, the digitalization of society, in general, social relations in any spheres of human activity could not but affect civil legal relations, including in such a sensitive area as the existence and realization of personal non-property rights. For objective reasons, we voluntarily or involuntarily transfer our real world perceptions to the sphere of digital relations, where a virtual world is formed, which begins to dictate its rules and laws to us. In fact, mankind is making its first, but confident enough steps into the digital space, as it was in its time with the conquest of the sea and space, so compensation for moral damage as one of the ways to protect the personal non-property rights of a citizen can be considered as a life jacket or a lap at sea, or a spacesuit or a rescue apparatus in space. But this spacesuit or life jacket must belong to you, which is ensured by the protection of your right to a name or pseudonym, including in digital space.

Violation of a citizen's right to a name or a pseudonym must be expressed in its distortion, or use of the name by means or in a form that affects his honor, diminishes dignity or business reputation (Paragraph 5 of Article 19 of the Civil Code of the Russian Federation). Acquisition of rights and obligations under the name of another person is a violation of the rights of this person[1].

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[1] Opredelenie Vosmogo Kassatsionnogo suda obshchey yurisdiktsii ot 04.02.2020 № 88-2829/2020 [Decision of the Eighth Cassation Court of General Jurisdiction of 04.02.2020 No. 88-2829/2020] // Spravochno-pravovaya sistema "KonsultantPlyus" [ConsultantPlus legal reference system]: [Electronic resource]. — URL: https://www.consultant.ru/cons/cgi/online.cgi?req=doc&base=KSOJ008&n=2460#Wd89p4U15IdcSkZ6 (date of access: 14.01.2023).

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Korol I. G. Lichnye neimushchestvennye prava rebenka po semeynomu pravu Rossiyskoy Federatsii: Nauchno-prakticheskoe posobie [Personal non-property rights of the child under the family law of the Russian Federation: Scientific and practical textbook]. M.: Prospekt, 2010. 160 p. (In Russian)

Shakirova E. Razreshenie sporov, svyazannykh s zashchitoy isklyuchitelnykh prav v tvorcheskoy srede [The resolution of disputes related to the protection of exclusive rights in the creative environment] // Trudovoe pravo [Labor law]. 2022. No. 1. Pp. 45–58. (In Russian)

Tsivilisticheskaya kontseptsiya intellektualnoy sobstvennosti v sisteme rossiyskogo prava: monografiya [Civilistic concept of intellectual property in the system of Russian law: a monograph] / A. A. Bogustov, V. N. Glonina, M. A. Rozhkova i dr.; pod obshch. red. M. A. Rozhkovoy. M.: Statut, 2018. 271 p. (In Russian)

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THE MEDIATION AS A CONCILIATION PROCEDURE IN CIVIL LAW LEGISLATION

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Abstract. *The relevance of the topic is explained by the current conditions of development of the rule of law in terms of establishing the traditional form of judicial protection of human and civil rights in conflict resolution. This fact was a consequence of the positive dynamics and growth of citizens' appeals to the court: according to the information provided by the Legal Information Agency, at the end of 2020, a total of 20,773,356 cases were considered in civil proceedings, the share of satisfied of which amounted to 98%. These indicators for the same period of 2019 have undergone a change: the number of cases considered in total for the country increased by 9.5% (18,804,923 cases), the share of satisfied 97%.*

Many legal researchers note the overload of the domestic judicial system, due to the fact that the number of filed lawsuits in courts of general jurisdiction and arbitration courts is so high, the judicial apparatus cannot cope. With the aim of normalizing the activity of courts, the legislator in the Federal Law of 27.07.2010 No. 193-FZ "On alternative dispute resolution procedure with the participation of

a mediator (mediation procedure)" enshrined the institute of mediation, which is able to resolve conflicts out of court.

Keywords: *mediation, civil procedure, arbitration court, settlement agreement, mediator.*

Subsequent modification and evolution of procedural sectors of law have legislated many innovative processes arising in the legal sphere. This also affected the wide spread of mediation procedure in the tenth years of the XXI century — in 2010 the Federal Law of 27.07.2010 No. 193-FZ "On alternative procedure of dispute resolution with the participation of a mediator (mediation procedure)" was adopted, which regulated the issues of dispute resolution with the participation of a mediator. Thus, in accordance with Article 2 of this law, the mediation procedure is understood as "a method of dispute resolution with the assistance of a mediator based on the voluntary consent of the parties with the aim of reaching a mutually acceptable solution"[1].

It is worth noting that the prerequisites for the formation of this sphere of legal relations arose long before its legislative enshrinement. It is known that the beginning of the development of this institution is archaic, as the methods of settlement of relations in society were subject to change in the course of evolution. With the emergence of the judicial form of defense, the mentality of mankind has certainly changed — people have moved from war to peaceful settlement of arising disputes, including international ones. *Appropriate dispute resolution* is a concept that has gained its legal significance in the world on the threshold of the 21st century. First, it became a consequence of the beginning of the activity of international and foreign organizations, first, non-profit ones. The significance of this concept was substantiated by Zeno Sustak within the framework of the study "Philosophy of Mediation"[2]. The philosophy of mediation is not inferior to the philosophy of law, having a more noble character, which puts at the center the act of encouraging the maintenance of harmonious relations between social actors.

The philosophy of mediation is not contradictory, but addresses the topic of philosophy of conflict, which is of low interest to the philosophy of law. Having different objectives, both concepts harmonize interpersonal relations disturbed by

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[1] Federalnyy zakon ot 27 iyulya 2010 g. No. 193-FZ "Ob alternativnoy protsedure uregulirovaniya sporov s uchastiem posrednika (protsedure mediatsii)" [Federal Law No. 193-FZ of July 27, 2010 "On the alternative dispute resolution procedure with the participation of a mediator (mediation procedure)"] // Rossiyskaya gazeta [Russian Newspaper] ot 30 iyulya 2010 g. No. 168.

[2] *Zeno D. S.* Philosophy of Mediation // Mediate. Everything mediation: [Electronic resource]. — URL: https://mediate.com/philosophy-of-mediation/ (date of address: 23.10.2023).

the occurrence of certain disputes. Mediation in civil proceedings is a real solution to the problem of the burden on judges. It is reasonable to support the point of view of O. M. Sviridenko that the institution of mediation represents an important role in several directions, as its practical significance for the justice system and society is to promote anti-corruption campaign, as well as to reduce the workload of judges by 30%[1]. The increase in the workload of judges is substantiated by a comparative analysis of statistical indicators on the work of arbitration courts in the Russian Federation. In 2007, 905,211 cases were heard in first instance[2]. Already in 2022, arbitration courts will hear 1,702,816 cases in first instance, which is twice as many as 15 years ago[3].

The efficiency of dispute resolution through mediation is 50–70%, while the enforceability of decisions reached as a result of the parties' work with the mediator is 90%. Dispute resolution timeframes with the participation of a third party significantly reduce litigation in courts. Dispute resolution timeframe on average is 2–3 months, when the dispute resolution timeframe with the participation of a mediator can be a few days. For example, the Arbitration Court of Moscow issued a decision on the case with a mediation agreement between the parties in 6 days, after the stated requirement[4].

The obvious advantages of the mediation procedure in civil proceedings allow us to express hope that the public approach to mediation agreements will change and the trend of dispute resolution with the participation of a mediator will continue.

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[1] *Zelimov V. N.* Na polzu i pravosudiyu, i grazhdanam… [For the benefit of both justice and citizens...] // Mediatsiya i pravo. Posrednichestvo i primirenie [Mediation and law. Mediation and conciliation]. 2007. No. 3 (5): [Electronic resource]. — URL: https://zelimov.livejournal.com/423179.html?ysclid=lo2jk9geuk521780818 (date of address: 23.10.2023).

[2] Obzor statisticheskikh pokazateley raboty Arbitrazhnykh Sudov Rossiyskoy Federatsii v 2007 godu [Review of statistical indicators of the work of Arbitration Courts of the Russian Federation in 2007] // Arbitrazhnoe pravosudie v Rossii [Arbitration justice in Russia], No. 4 aprel 2008 g.: [Electronic resource]. — URL: https://base.garant.ru/5589471/ (date of address: 23.10.2023).

[3] V 2022 g. uvelichilos chislo arbitrazhnykh sporov s uchastiem grazhdan bez statusa IP [In 2022, the number of arbitration disputes involving citizens without individual entrepreneur status increased] // Advokatskaya gazeta. Organ Federalnoy palaty advokatov RF [Advocates' newspaper. Organ of the Federal Chamber of Lawyers of the Russian Federation]: [Electronic resource]. — URL: https://www.advgazeta.ru/obzory-i-analitika/v-2022-g-uvelichilos-chislo-arbitrazhnykh-sporov-s-uchastiem-grazhdan-bez-statusa-ip/?ysclid=lo2jq2269k774026209 (date of address: 23.10.2023).

[4] Opredelenie ot 10 dekabrya 2013 g. po delu № A40-100034/2013 [Decision of December 10, 2013, in case No. A40-100034/2013] // SudAkt: Sudebnye i normativnye akty RF [SudAkt: Judicial and normative acts of the Russian Federation]: [Electronic resource]. — URL: https://sudact.ru/arbitral/doc/q052UMX9p3ls/?ysclid=lo2jseobc5674304479 (date of address: 23.10.2023).

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THE JURISDICTIONAL FORM OF PROTECTION OF SUBJECTIVE CIVIL RIGHTS: THE PRISM OF JUDICIAL AND ADMINISTRATIVE FORM OF PROTECTION

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Abstract. *This article presents a study of the problem of identification of types of jurisdictional form of protection of subjective rights. The analysis and conclusions are derived by the authors through the consideration of judicial and administrative orders of protection, and ways to improve the current judicial system of the Russian Federation are proposed. The form of rights protection in the study is considered from the point of view of a set of internally coordinated, organized measures for the protection of subjective rights. Of particular interest is the diversity of forms of rights protection due to the specificity of the rights to be protected, as well as legal traditions that determine the complexity or, on the contrary, the simplicity of the established legal relations.*

Keywords: *subjective rights, form of protection, judicial procedure, administrative procedure, protection of rights.*

The norms of the current Russian legislation contain methods and forms of protection of subjective rights and legally protected interests of both citizens —

individuals and legal entities. In this regard, it should be noted that such protection is carried out by specialized bodies and bodies of state power and local self-government. The diversity of jurisdictional bodies determines the difference of procedural obligations imposed on each of the bodies by law. This, in a sense procedural, theory is reflected in the studies of legal scientists[1]. Let us point out that to date, the institution under consideration is still of interest among scholars[2].

It should be recognized that the very existence of the variety of forms and methods of protection of subjective rights is fully dependent on the existence of such legal categories as *violation* of the right and its *restoration*.

Protection of civil rights as a legal institution has a number of identifying features, namely: realization through the application by competent authorities of measures of legal and factual impact provided by law; restoration of violated or disputed rights as an aim[3].

Thus, the protection of civil rights is preceded by the very fact of an offense already committed.

We consider it logically reasonable to define the definition of the term "protection", as well as to determine its subject.

Protection of rights[4] is a complex of organizational and legal measures aimed at the restoration or recognition of violated or challenged rights, as well as the elimination of legal facts and circumstances that prevent the subject from exercising rights.

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[1] *Arapov N. T.* Problemy teorii i praktiki pravosudiya po grazhdanskim delam [The issues of theory and practice of justice in civil cases]. L., 1984. Pp. 61–69.

[2] See more: *Bazilevich A. I.* Formy zashchity subektivnykh grazhdanskikh prav: dis. … kand. yur. Nauk [Forms of protection of subjective civil rights: dissertation of Candidate of Legal Sciences]. Ulyanovsk, 2001. 205 p.; Grazhdanskoe pravo: uchebnik: v 2 t. T. 1. 3-e izd., pererab. i dop. [Civil Law: textbook: in 2 vol. T. 1. 3rd ed., revision and addendum] / S. S. Alekseev, O. G. Alekseeva, K. P. Belyaev i dr.; pod red. B. M. Gongalo. M.: Statut. 2018. 326 p.; Grazhdanskoe pravo: Uchebnik: v 3 tomakh. T. 2. Izd. 5-e, pererab. i dop. [Civil Law: Textbook: in 3 volumes. T. 2. 5th edition, revised and supplemented] / [V. V. Baybak i dr.]; otv. red. Yu. K. Tolstoy, N. Yu. Rasskazova. Sankt-Peterburgskiy gos. un-t. Moskva: Prospekt. 2013. 924 p.

[3] See, e.g. Grazhdanskoe pravo: Uchebnik. V 2 tomakh. T. 1. 2-e izd. pererab. i dop. [Civil Law: Textbook. In 2 volumes. T. 1. 2nd ed. revision and additions] / Pod red. B. M. Gongalo. M.: Statut, 2017. 511 p.

[4] *Vavilin E. V.* Osushchestvlenie i zashchita grazhdanskikh prav [Realization and protection of civil rights]. Moskva: Statut, 2016. 416 p.; *Gribanov V. P.* Osushchestvlenie i zashchita grazhdanskikh prav. 3-e izd. [Realization and protection of civil rights. 3rd edition]. Moskva: Statut, 2022. 414 p.; Zashchita grazhdanskikh prav. Izbrannye aspekty: sbornik statey [Protection of civil rights. Special aspects: edited book] / M. A. Rozhkova, L. V. Kuznetsova, A. F. Pyankova [i dr.] / pod redaktsiey M. A. Rozhkova. Moskva: Statut, 2017. 432 p.

The subject of protection is civil rights and legally protected interests[1]. It should be noted that these concepts are not identical in etymology, but in legal literature they are often mentioned in unity.

With particular confidence we can say that the mechanism of protection contains *ways*, *forms* and *means* of protection of rights[2].

However, the scientific interest in the framework of this study is the form of protection of civil rights, in particular — *jurisdictional*.

Thus, under the form of protection, we will understand a complex of internally coordinated organized measures for the protection of subjective rights.

In research studies[3] we follow the diversity of forms of protection of rights due to, we dare to assume, the specificity of the rights to be protected, as well as legal traditions that determine the complexity or, on the contrary, the simplicity of the established legal relations.

Paying special attention, we will point out that the *jurisdictional form* of protection is the activity of state-authorized bodies to protect violated or disputed subjective rights, the character of which is expressed in the appeal of a person whose subjective civil rights are violated by illegal actions, for protection to the state or other competent authorities authorized to take the necessary measures to restore the violated right and suppress the offense.

Within the jurisdictional form of protection, in turn, there are general and special procedures for the protection of violated rights. As a general rule, the protection of subjective civil rights is carried out in court.

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[1] See, e.g. *Sinyukov V. N.* Doktrina verkhovenstva prava i formirovanie postklassicheskoy pravovoy traditsii [The doctrine of the rule of law and the formation of the post-classical legal tradition] // V sbornike: II moskovskiy yuridicheskiy forum "Gosudarstvennyy suverenitet i verkhovenstvo prava": mezhdunarodnoe i natsionalnoe izmereniya. Plenarnye doklady i materialy konferentsiy [In edited book: II Moscow Legal Forum "State sovereignty and the rule of law": international and national measurements. Plenary reports and conference proceedings]. 2015. Pp. 38–44; *Solovykh S. Zh.* Predely soderzhaniya subektivnogo protsessualnogo prava [The limits of the content of the subjective procedural right] // Arbitrazhnyy i grazhdanskiy protsess [Arbitration and civil procedure]. 2012. No. 10. Pp. 2–6.

[2] See, e.g. Grazhdanskoe pravo: uchebnik: v 2 t. T. 1. 3-e izd., pererab. i dop. [Civil Law: textbook: in 2 vol. T. 1. 3rd ed., revision and addendum] / S. S. Alekseev, O. G. Alekseeva, K. P. Belyaev i dr.; pod red. B. M. Gongalo. M.: Statut. 2018. 326 p.

[3] *Arefyev G. P.* Ponyatie zashchity subektivnogo prava [The definition of the protection of subjective right] // Protsessualnye sredstva realizatsii konstitutsionnogo prava na sudebnuyu zashchitu [Procedural means of realization of the constitutional right to judicial protection]. Kalinin, 1982. 238 p.; *Volozhanin V. P.* Nesudebnye formy razresheniya grazhdansko-pravovykh sporov [Non-judicial forms of civil law dispute resolution]. Sverdlovsk, 1974. 368 p.; *Belykh V. S.* Formy i sposoby zashchity prav khozyaystvennykh organizatsiy: Ucheb. Posobie [Forms and methods of protection of rights of economic organizations: Textbook]. Sverdlovsk, 1985. P. 5; *Sergeev A. P.* Grazhdanskoe pravo. T. 1. Uchebnik [Civil Law. Vol. 1. Textbook] / Pod red. A. P. Sergeeva, Yu. K. Tolstogo. M., 2002. P. 337.

The judicial form of defense is the central form for the domestic system of law, as indicated by a number of system-forming factors:[1]

1. The judicial form of protection is realized through the activity of courts, which are the bearers of judicial power, according to the Constitution of the Russian Federation.

2. The existing feature of the modern period of development of the judicial system — in addition to Arbitration Courts and courts of General Jurisdiction, the real protection of subjective rights is more and more revealed through the activities of the Constitutional Court of the Russian Federation[2].

3. The universal character of the judicial form of protection allows protecting any subjective right and (or) legally protected interest.

All forms of protection of subjective rights are activated through the application of certain means of protection.

Although in the legal literature there is no uniformity of approaches to the definition of the concept of "legal protection means", we will still focus on the point of view of Yu. F. Bespalov, who the means of judicial protection includes a lawsuit (applications, complaints, court rulings), decision (in absentia decision, court order, determinations, approval of a settlement agreement), cassation and supervisory appeal, application for review of the case on newly discovered circumstances[3].

Among the jurisdictional forms of protection of subjective rights considered by us in this study includes the *administrative* form of protection.

Most administrative and legal cases in the Russian Federation are considered in courts of General jurisdiction according to the rules of civil proceedings in the global sense — which, in turn, gave rise to the widely used concept of "*administrative process*". Some scientists believe that administrative process includes the resolution of cases with the application of measures of administrative

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[1] *Chechot D. M.* Subektivnoe pravo i formy ego zashchity [Subjective right and forms of its protection]. L., 1968. P. 53; *Osipov Yu. K.* Podvedomstvennost yuridicheskikh del [Jurisdiction of legal cases]. Sverdlovsk, 1973. Pp. 93–94; *Volozhanin V. P.* Nesudebnye formy razresheniya grazhdansko-pravovykh sporov [Non-judicial forms of civil law dispute resolution]. Sverdlovsk, 1974. P. 33 et al.

[2] *Belkin A. A.* Konstitutsionnaya okhrana: tri napravleniya rossiyskoy ideologii i praktiki [Constitutional protection: three directions of Russian ideology and practice]. SPb, 1995. 142 p.; *Khabrieva T. Ya.* Pravovaya okhrana Konstitutsii [Legal protection of the Constitution]. Kazan, 1995. 217 p.; *Shulzhenko Yu. L.* Konstitutsionnyy kontrol v Rossii: avtoref. dis. … d-ra yurid. nauk [Constitutional control in Russia: abstract of the dissertation of Doctor of Legal Sciences]. M., 1995. 175 p.

[3] *Bespalov Yu. F.* Sredstva sudebnoy zashchity grazhdanskikh prav rebenka [The means of judicial protection of a child's civil rights] // Rossiyskaya yustitsiya [Russian justice]. M.: Yurid. lit., 1997, No. 3. P. 25.

enforcement — which suggests a narrower interpretation of administrative process; however, Professor S. S. Studenikin pointed out that administrative process is nothing but "executive-administrative activity, carried out on the basis of certain procedural rules"[1]; A. E. Lunev formulated the concept of administrative process as follows: "Administrative process is always where the norms of substantive law are applied"[2].

Conclusions of legal scholars give us a clear and unconditional understanding that administrative process is nothing but the activity of jurisdictional bodies on the application of norms of substantive law, being at the same time a type of legal process. Undeniable in this regard is also that the administrative form of defense is part of the administrative process.

It is accepted to believe that the breadth of the system of bodies of administrative jurisdiction, called by the legislation of the Russian Federation, implies a wider differentiation of the system itself, however, we consider indirect attribution of judicial authorities to the bodies carrying out activities aimed at the administrative form of protection of subjective rights to be sufficiently conflicting. We believe that such an identification can have a devastating effect on the entire system of law, while there are separate forms — *judicial* and *administrative* protection of subjective rights.

We should also not forget that there is a special system of bodies to control the observance of legality in the sphere of public administration — *administrative justice*[3].

We consider it logically reasonable to emphasize the problem of administrative justice, which is the main element of legal discussions.

As we noted earlier, in the Russian Federation, most administrative-legal cases fall under the jurisdiction of courts of General jurisdiction and are considered under the general rules of civil proceedings, while it is impossible not to mention the peculiarities of the administrative process, which we consider necessary to consider in detail by specialized courts — for example, we are talking about Administrative Courts[4].

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[1] *Studenikin S. S.* Sotsialisticheskaya sistema gosudarstvennogo upravleniya i voprosy o predmete sovetskogo administrativnogo prava [Socialist system of state administration and questions about the subject of Soviet administrative law]. M., 1949. P. 44.

[2] *Lunev A. E.* Voprosy administrativnogo protsessa [Issues of administrative process] // Pravovedenie [Jurisprudence]. L., 1962. No. 2. P. 43.

[3] Bolshaya yuridicheskaya entsiklopediya [The great legal encyclopedia] / pod red. A. Ya. Sukhareva. M.: INFRA, 1999. P. 14.

[4] *Sazhina V. V.* Administrativnaya yustitsiya v SShA [Administrative justice in the USA] // Gosudarstvo i pravo [State and law]. 1993. No. 3. Pp. 7–51.

Such a system works successfully in countries that use the German model of Administrative Justice (Finland, Austria, Germany).

The essence of administrative justice lies in the fact that the established Administrative Courts receive the status of full legal independence from the courts of General Jurisdiction, while still being somewhat dependent in terms of organizational connection with the governing bodies[1].

In the Russian legal system in recent decades, the issue of the need to organize separate specialized Administrative Courts, which would act on the basis of the general rules of civil proceedings, taking into account the specifics of the administrative process, has been raised more than once in the Russian legal system.

In our opinion, on the one hand, to organize of Administrative Courts would improve and promote more detailed and scrupulous consideration of administrative cases, excluding cursory, incomplete consideration of an administrative case by a court, in whose proceedings and other categories of cases; and on the other hand, this process is a long, complexly organized, generating the need for expansion of the judicial system of the Russian Federation and its inclusion in the judicial system of the Russian Federation.

And yet, raising this issue today, we mean that the creation of administrative justice and separate specialized Administrative Courts in its composition has a place, as it is traditional for Russia to have a high proportion of public administration and participation of the state in the structure of civil society, which could well acquire points of contact in the consideration of administrative-legal cases, with less emphasis on the civil-procedural character in making a decision on the case under consideration.

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