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SELF-EMPLOYMENT OF CITIZENS AS A LEGAL CATEGORY IN THE CONTEMPORARY STAGE OF THE ECONOMIC RELATIONSHIPS DEVELOPMENT IN RUSSIA

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Abstract

The present article introduces the notion and criterion of "self-employment" with the aim of its consolidation as a legal category in legislation and its further implementation in regulatory enforcement. The authors unveil the opportunities of an intersectoral approach to the matter of legal regulation of public relations with the participation of natural persons in the context of self-actualization by carrying out income-yielding activities for meeting their subsistence needs, becoming self-employed without third party intermediaries, including the government, without conducting business operations or along with conducting individual business. Legislator's approaches to legal regulation of persons' activity, fulfilling functions important for state individually beyond the employer's status in comparison to self-employed citizens are considered. The meaning of the liberalization of legislation in civil circulation sphere, aimed at elimination of excessive regularization of economic relationships is noted. Consolidation of the category of "self-employed citizens" in law will allow to fill the lacuna in the sector of economy, to form the stable element of middle class, to solve some social problems, to ensure the interest of citizens in self-development, to minimize risks of commission offences and to raise social responsibility of society.

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Keywords: self-employed persons, income-yielding activities, liberalization of legislation, reform of civil legislation.

1. Introduction

The establishment of parity of public and private interest as the condition of dynamic development of society is a vital task in modern Russia. An important factor of successful economic potential fulfilment of Russian Federation is self-sufficing population interested in its own prosperity and independence from external factors, influencing on forming human priorities in ability to satisfy needs. Stimulation of initiative, economic activity, conscientiousness and responsibility for their destiny and destiny of their relatives must be guaranteed by the creation of conditions and legal safeguards for citizens in modern market state.

The 34 article of Constitution of the Russian Federation attaches citizens' right to free use of their abilities and property for entrepreneurial and economic activities not prohibited by law. The notion of entrepreneurial activity in the 2 article of the Civil Code of the Russian Federation (further the CC RF), where such features as an independence and risk-laden activity, aimed at systematically deriving of profit by selling commodities, transferring property in temporary possession and use, the performance of work or rendering of services by persons, registered in this capacity, are established. The meaning of registration as an entrepreneur is of paramount importance, as it consolidates legitimacy of action supposing a professional character, ensures fiscal interests, control, statistic data and information content both for the government and for other participants of civil circulation.

What presents "another business activity" going beyond entrepreneurship? This phrase is generally understood as "rational basis of human activity, not directed straight at profit earning, but supposing use of his abilities and property for meeting material needs and interests. A peculiarity of this activity is that its nature has an economic basis, although it may be bound both with man's inner world and with his physical nature" (under the general editorship of L.V. Lazarev, 2009). To such activity creative, science work, which is done without concluding labour contract, but on the basis of civil agreements may be related. It also includes the activity bringing income from unsystematic use of property, so called "the passive activity" expressed in receiving income under annuity agreement and permanent alimony in the forms of dividends, percent and others, some kinds of professional activity, which are not acknowledged as entrepreneurial by operation of law.

This poses a natural question – to what extend gradation of man's business activity with the purpose of determining the status and as a result, the legislator's demands for legitimacy in this or that form is done? Criminal and administrative responsibility for illegal business operations is covered by the

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171 article of the Criminal Code of the Russian Federation (further the CC RF). Beside the point, administration of criminal responsibility for illegal business operations is a rarity in the world practice. In fact, the very notion of "illegal business operations" as it is treated in the 171 article of the CC RF is exceptional and limited by Russian and some other former Soviet republics' legal system boundary.

Along with the questions on differentiation of activity according to the features of business, a need to investigate the notions of "employment" and "self-employment" arises. How these notions relate to each other and to individual (entrepreneurial) and professional activity? Does individual income-generating activity exist independently from entrepreneurial activity and by what criteria it is related to such activity from a legal viewpoint? Notions of "income" and "profit" in the context written above are of high interest for the investigation.

The investigation of these questions is important with the aim to determine a meaning of government influence on economic relations as stimulating or preventing the development of citizens' business activity aimed at self-satisfaction of their needs.

2. Methodology

Modern society pursuing the objective of creation a highly effective public administration, advanced economy, human well-being, assurance of political and economic sovereignty is called to express initiative and aspiration for accomplishing goals. An important regulation instrument of economic processes is a legal system providing clear, easily understood rules of behaviour perceived by society.

Civil law, the subject of which mediates property, non-property and corporate relations, serves as a foundation of influence on economic relations. Despite the fact that economic relations are elementary, namely well-built law system allows both economics and the law to exist equally and develop. This is a natural symbiosis, requiring subtle adjustment, sensitive tuning forks, responding to tendencies and trends.

At the same time, it is inappropriate to rely fully on the processes of self-development of legal standards, determined by today's or often by up-to-the-minute needs of society, as economic relations are heterogeneous and the whole complex of interrelated spheres must be taken into account. Particularly this refers to a social sphere, a sphere of employment of population. Therefore, the development of doctrine, conceptual approach to the development of national law system, its separate branches is acknowledged as quite justified action (Gabov A.V. and etc. 2015).

As we see, the employment of population closely neighbour on the social function of the government. The notion of employment is consolidated in the law # 1031-1 "On the employment of population in the Russian Federation".

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The 1 article says: "The employment is the citizens' action bound with the satisfaction of their own and public needs, and it doesn't contradict the legislation of the Russian Federation and as a rule brings them earnings, earned income" (The RF law from 19.04.1991 # 1032-1 "On the employment of population in the Russian Federation"). To a number of employees the law refers a wide range of citizens working on labour agreement, on the basis of civil treaties on rendering of service and work execution, individual entrepreneurs and persons working in private practice as a scrivener, attorney and others (Bondareva E.S. and etc. 2015).

The term "self-employed citizens" is used in Russian legislation as an adjective, not having a statutory character for the designation of invariance of citizens' employment (ФГОСТ FGOST (?) order no. 773n, 2013); usually in the context of arrangement of conditions for non-employed citizens with an objective to do private business operations. The very notion of "self-employment" doesn't reveal itself and as a government program of economic development of society isn't used on a full scale (Bubnovskaya, 2015).

The phrase self-employed citizens in Russian legislation doesn't cover all kinds of citizens' individual activity, working in the sphere of notarial system, advocacy, expert examination, employment on agent agreements and others. It doesn't apply to the citizens, taking income from title use of property, participating in activity of commercial companies, partnership associations.

One way or another, self-employment of citizens supposes carrying out activity, returning interest.

The concept of income and profit interests us in the light of fiscal function, and we can find the given notions in the 41 and the 247 articles of the Tax Code of the Russian Federation (further the TC RF). According to the 41 article of TC RF income is economic benefit in monetary or natural form, which is taken into consideration in the case of its possible evaluation and in that measure, with the help of which such benefit can be evaluated, and is determined in accordance with the chapters "Natural persons' income tax", "Organization profits tax". The concept of profit differs depending on a resident; in our case, the following definition is acceptable: "Profit for the purposes of this chapter is for Russian organizations, which are not participants of tax consolidated group, earned income decreased by value of produced costs which are determined in accordance with this chapter". It is noteworthy that the category "profit" by reason of the operation of provision of the TC RF is peculiar namely to organizations and this fact excludes its application for citizens independently from their status. At the same time, the same formula for tax computation without relatively "income" and "profit" is applied for the purposes of tax assessment – sum decreased by value of costs bound with its getting is taxable as a rule; if unbiased difficulties in assessment of costs emerge, a legislator foresees deductions. In the thmeantime, there exist special

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regimes of taxation used by small business entities, which include a priori individual entrepreneurs, at their own discretion as well as by operation of law (manager of the authoring team N.A. Soloveva 2015).

Concerning the application of the 171 article of the CC RF "Illegal business operations», the law doesn't differentiate between the forms of business organization, putting in charge the following characteristics: non-legitimacy (the absence of state registration and/or the absence of license in the case of necessity of its presence) and "great damage", that had been done to citizens, organizations or government as a result of this action.

As it was pointed out before, there exists regulation of kinds of activities, that aren't referred by the law to entrepreneurship independently from the level of income, its regularity and the way of getting it. For all of them there exists a demand on state and tax registration, maintaining of records and reporting as a business entity. Such form of activity includes as a rule types that earlier (before the market epoch) were done by public authorities, government services or that emerged in modern period with the consolidation of private property in the fundamental Law (The Constitution of the RF) (Van Lang A., Gondouin G., Inserguet-Brisset V. 2002). Particularly it includes notarial service, advocacy, valuation activities and some other types. Persons by art professions – artists, composers, writers and others getting income not being involved in labour relations, are referred to the category "not entrepreneurs". May above-mentioned persons be referred to the self-employed citizens or the range is wider/narrower, stipulated by the extra features, restrictions? Let's try to answer this question.

3. Results

Let's use free encyclopedia Wikipedia where self-employment should be understood as "the act of generating one's income indispensable to life through working directly from customers in distinction from wage labour". It is pointed out that person in his power chooses the way of earning income through his own activity on the basis of civil transaction, but not labour agreement. The person, who conducts business activity – a systematic commercialization, – is not considered an unalloyed entrepreneur, as "he doesn't create gratuitously removed earned value allocating earned income on the foundation of labour participation" (<https://ru.wikipedia.org/wiki/Self-employment>). A crucial factor of self-employment in distinction from business is absence of wage workers; self-employment citizens are able to do collective work in the group of self-employees bound by relative or team relationships. It is also pointed out that self-employees carry the burden of social costs, payment of taxes and safety of their work unassisted.

Premised on the analyses of a presented explanation, it may be concluded that self-employment is an intermediate phenomenon, embracing the category of persons earning income without participating in labour

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relationships, but it is not business, aimed at systematic deriving of profit, using wage labour for this. Income from such activities is spent for meeting daily expenses, connected with vital rhythm, necessary wants. Orientation at increasing yield is usually bound with increase of needs, but does not overlap it. Nevertheless, the question of business purpose of self-employed citizens and the way of its execution, accountability and control remains debatable.

In Russian legal system there exists the differentiation of entities-entrepreneurs on account of number of employees in enterprise and gross profit, and the form of conducting business – individual/collective.

A legal category "small business" reveals itself through the concept "entities of small and medium businesses" and criteria of reference to such kind of entities in the federal law # 209-ФЗ "On the development of small and medium businesses in the Russian Federation".

To the subjects of small and medium businesses refer consumer cooperatives and profit making organizations entering the Unified State Register of Legal Entities (except state and municipal unitary enterprises), and also private individuals entering the Unified State Register of Individual Entrepreneurs and carrying out business without company formation (further - individual entrepreneurs, IE), peasant farms complying with the following terms: restrictions of participation interest in the organization of public entities, some non-profit-making organizations and foreign investors; restrictions in staff of organization and total revenue within particular period of time (Vaipan V.A. 2015).

It should be noted that criteria and requirements as supportive measures are averaged.

The CC RF consolidates some considerable differences in formal aspects of business entities in dependence of statutory position: individual entrepreneur without company formation or commercial organization. Simplified approach to the registration of entrepreneur's status for IE, administration of simplified accounts and reports in contrast to legal entity may be noted as positive. The individual entrepreneur cannot conduct some kinds of activity, and is actually deprived of the opportunity to limit his liability by ringfencing of property used in entrepreneurship (Ershova I.V., 2013).

Carrying out business without company formation is in popular demand, and kinds of activity done by individual entrepreneurs, way of organization and level of income are quite different. Along with citizens having small income, a number of individual entrepreneurs have gross turnover and get profit comparable with successfully developing profit-making organization (Ershova. I.V., 2014).

Tax legislation foresees some differentiation of individual entrepreneurs, offering simplified tax regime on the basis of patent (chapter 26.6 of the Internal Revenue Code of the Russian Federation (further the IRC

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RF) for persons involved in service industry and consumer work. As for other revenue bodies, first of all retirement fund, such preferences are not envisaged.

In the midst of specialists there was an idea of consolidation of a new category of persons, who conduct an activity that brings regular income, not demanding the status of entrepreneur. The State Duma Budget and Taxation Committee considered a bill on introduction of a particular patent system for self-employees not using wage labour and recommended it to the enactment in the first reading in the Parliament. This bill was proposed by the Ministry of Economic Affairs and Development.

Initially the idea was sounded in the report of the RF Presidential Commissioner for the Rights of Entrepreneurs Boris Titov. In the report there was noted absence of a special legal status "self-employed citizen" in the Russian legal system, actually there are about 3 million of such persons. As argumentation of consolidation of the legal category the thought of necessity to remove "from the shadow" and legalize an independent economic activity of citizens, who created the best conditions for the state fiscal system and for the development of self-employment was sounded. For this purpose it was suggested to make changes in the 23 article of the CC RF "Business activity of a citizen" by the consolidation of the provisions on the possibility to carry out business without registration of the status of individual entrepreneur on the basis of a patent system, to minimize risks proper for business in order to fix a suggested list of activity types conducted by "self-employed citizens" and to prohibit wage labour.

The bill echoed the report; statutes on the patent system were consolidated. Having got a patent a citizen legitimized his economic activity not registering the status of entrepreneur. A demand on the payment of contributions to social funds in the amount corresponding to standards set by the IRC RF for individual entrepreneurs with annual income not over 300 thousand rubles. With termination of patent, there came dispensing of a duty to pay social transfers, and passing procedure envisaged while liquidating the status of individual entrepreneur was not required. Currently this idea is not put into the action and the bill didn't gain the status of law.

4. Discussion

Development of civil legislation on the basis of built up science conceptions is a significant phenomenon in developing of Russian market economy and law-governed state (Mozolin V.P., 2008). The conception essentially presents a strategic plan with the help of which the legislation improves and dramatically changes step-by-step in one or another sphere of public relations (Belych V.S., 2007).

It appears that there emerged a vital necessity of invention of conceptual approach to the development of socio-economic sector of economics by creation of flexible system of business undertaking, multiple-vector fiscal

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and social policy aimed at initiative, independent citizens' activity giving income, emergence of interest in self-provision in all spheres of life. An element of a systemic approach in achievement of this goal may be self-employment of population.

In recent years in Russian midst a phrase "self-employment citizens" sounds more often. It is usually understood as individual entrepreneurs conducting their practical activity independently not involving external workers. Actually, it goes about modern artisans providing themselves with income through announced suggestion and received orders for rendering of service, performance of work, and also suggesting their production for sale, often doing it by rule of thumb. As a matter of fact a special tax regime – patent taxation system was established exactly for this category of entrepreneurs (Nikolaeva T.A., 2015, Soifer V.G., 2013).

Usually such businessmen have not so significant income, quite comparable with income of medial wage workers countrywide. Such kind of activity attracts citizens for various reasons: flexible working hours, absence of administrative machinery and line manager, ability to manage finances and their creativity in their own, conduct activities remotely, bring it in coincidence with other activities, including wage labour and others (Sous la dir. de R. Guillien, J. Vincent. Paris: Dalloz, 2007). Service or works done by citizen are not usually related to expensive one; this fact minimizes risks of considerable financial losses in case of non-fulfillment or improper performance of obligation.

Such kind of activity supposes full employment, but doesn't exclude the possibility to conclude work relationships with a strange employer, and is primary resource of income.

In point of fact, intermediate state of self-employed citizens – not exactly entrepreneurs, but not involved in work relationships, – let find an independent form of economic working arrangement of social implication aimed at satisfaction of necessary wants.

Analyzing various approaches to the notion of "self-employment" it may admitted that "self-employment" should be understood as independent business activity yielding profit aimed at meeting subsistence needs of citizens.

An important positive factor of such kind of activity is independency and initiativity of citizens, intention to guarantee well-being to themselves, manage with their talents and possibilities.

The place of conducting activity by self-employed citizens may be restricted by private space and space of family; premises owned by citizens, their property. It doesn't go about artificial constraint, but about citizen's need or its absence in office and workplace. May creative professionals, intellectual workers whose activity doesn't require special conditions and in some cases is conducted remotely be referred to this category? This is about consultants, computer experts, writers etc. Why not? It's quite possible, especially taking

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into account the fact that in this question not all the things are determined by fiscal interests of state.

Nevertheless, questions concerning taxation and social policy of state remain debatable. An issue of such entrepreneurs' responsibility to third parties in case of non-fulfillment or improper performance of obligations is interesting (Sergevnin S.L., 2015).

There exist several approaches touching upon the issue of taxation of such activity, where the simplest one is use of a patent system. A patent may be received for various terms, and after its purchase all official relations with the government in financial sphere are discontinued. Income tax may be also applied on the basis of declaration of income and costs. The first system is more liberal, the second allows to follow some economic indicators and to form a habit to maintain records. It is possible to combine various systems simultaneously in order to find out the most effective one (Popova I.A., 2012).

It is worth to return to the question of ensuring performance of obligations by citizens-employees, who don't have a status of IE, and it will be done in our future investigations. We should also reexamine the issues of imposition of sanctions, performance of legislative provisions in the sphere of consumer rights protection, demands of administrative procedure, ways of disputes settlement and others.

5. Conclusion

The theme discussed in the present article is a supposition for deeper investigation by specialists in the spheres of economics, jurisprudence, social politics. But the fact that there exist and develop public relations aimed at self-employment for various reasons oughtn't to be ignored. The matter is not so much in legitimacy, but in wider aspect – this phenomenon is able to create a tendency of transferring from Russian globalized economic model to multipolar model with the direction at convergence and positive result.

"Self-employed citizens" are able to gain some objectives. Except the fact that they guarantee themselves income, they can on the basis of gained experience with minimum costs and risks go to the next stage of professional growth – conduct of business as an individual entrepreneur without company formation or by formation of legal entity. Such move will be more conscious, intelligent, qualitative and professional (Kireenko A.P., Klimova M.O., 2012).

Self-employed citizens will allow to decrease burden of state bound with guarantee of employment of citizens, fiscal control, and reduction of corruption in this sphere (Zakharin V.R., 2015).

A next stage may become a new approach to establishment of basic principles of pension provision, health insurance with respect to self-employed citizens; it is oriented at wider range of tools for assurance of social aspects of citizens' life-sustaining activities.

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Such kind of activity is able to develop sense of responsibility for oneself, one's life, to define one's priorities, to elicit potential to fuller extent, to be engaged in the scope of activities of lower profit rank for so to say professional business entities and at the same time to create a competitive playing field, to close a great amount of "small" directions not burdening citizens with extra, not always justified expenses (Zaitseva O., 2011).

This approach is able to produce an economic effect by legalization of such kind of activity and income of citizens on condition of maintenance of effective income tax rate that should be used in appropriate rate of employment incomings if a patent system will be not put into the action or two systems will coexist (Kozachun G.U., Legchilina E. YU., 2012).

At the same time all this actions don't require additional expenses from state except costs bound with development of the appropriate mechanism of legal regulation.

Taking into account small incomings of "self-employed citizens", and also social significance of existence of such persons it would be rational within development of civil legislation, introduction of amendments to the CC RF and appropriate laws, to define their statutory position excluding them from business entities demanding registration without company formation.

The provisions of tax legislation should be overviewed with the help of applying a tax regime meant for citizens, that don't carry out activity aimed at systematically deriving a profit (business).

In view of (regular) reformation of pension legislation peculiarities of accumulation of pension assets should be considered. A system of insurance contributions to other social funds should be devised (Grishina YA.S., 2012).

There emerged a necessity to form an institute "self-employed citizens" on the basis of a multifaceted approach to the establishment of a legal status of entities, guarantee of security of their activity and assistance; creation of non-discriminatory fiscal conditions and other forms of influence on economic relations. An effective mechanism of legal regulation of relations, being a subject of civil law, will allow society to commit a quantum leap in economics, to build up equal, mutual trustworthy relations with the state (Abramova E.A., 2012).

Creation of conditions for harmonious development of society is a primary objective of law, in particular, of a civil law as the most adapted to daily needs of citizens branch of law. Improving civil legislation a role of civil laws in the formation of perception of law by society as a system that promotes progressive development aimed at maintenance and protection of private interests without injury of state interests should be taken into account.

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References:

- [1] Abramova E.A. Krizisnaya samozanyatost v Rossii: klassifikatsiya, struktura i urovni razvitiya // *Sovremennye naukoemkie tekhnologii. Regionalnoe prilozhenie*. Ivanovo: Izd-vo Ivanovskogo gosudarstvennogo khimiko-tekhnologicheskogo universiteta, 2012. # 4.
- [2] Bubnovskaya T.A. Samozanyatost v rossiyskom turizme kak sposob importozameshcheniya v dannoy otrasli // *Turizm: pravo i ekonomika*. 2015. # 3. S. 25 - 28.
- [3] Vaypan V.A. Osnovy pravovogo regulirovaniya deyatelnosti subyektov malogo i srednego predprinimatelstva // *Pravo i ekonomika*. 2015. # 12. S. 4 - 19.
- [4] Grishina YA.S. Sotsialnoe predprinimatelstvo kak innovatsionno-pravovaya model obespecheniya sotsialno-imushchestvennykh potrebnostey / Pod redakstiey professora N.A. Barinova. Saratov: Izd-vo "Slovo", 2012.
- [5] Zaytseva O. Netipichnye formy zanyatosti v Rossii: voprosy teorii i praktiki // *Voprosy trudovogo prava*. 2011. # 8.
- [6] Zakon RF ot 19.04.1991 # 1032-1 (red. ot 09.03.2016) "O zanyatosti naseleniya v Rossiyskoy federatsii" // "Sobranie zakonodatelstva RF", # 17, 22.04.1996, st. 1915.
- [7] Zakharin V.R. Subyekty malogo predprinimatelstva: pravovoe polozhenie, uchet, nalogi // *Ekonomiko-pravovoy byulleten*. 2015. # 11. 160 s.
- [8] Yershova I.V. Definitiya subyekta malogo i srednego predprinimatelstva: zakonodatelnye, statisticheskie, doktrinalnye podkhody // *Aktualnye problem rossiyskogo prava*. 2013. N 9.
- [9] Kireenko A.P., Klimova M.O. Samozanyatost naseleniya i rynek truda v Rossii // *Problemy ekonomiki (Kharkov)*. 2012. # 3.
- [10] Kozachun G.U., Legchilina YE.YU. Samozanyatost kak napravlenie gosudarstvennoy politiki v oblasti upravleniya chelovecheskimi resursami v innovatsionnom predprinimatelstve // *Vestnik sibirskoy avtomobilno-dorozhnoy akademii (Omsk)*. 2012. # 4.
- [11] Kommentariy k zakonu RF ot 19 aprelya 1991 g. # 1032-1 "O zanyatosti naseleniya v Rossiyskoy Federatsii" (postateynyy) / Bondareva E.S., Shavin V.A., Chershintseva E.A., Zenkov M.YU., Biryukova T.A., Bogatyreva N.V., Slesarev S.A., Tishin R.V. // *SPS KonsultantPlyus*. 2015.

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- [12]Kommentariy k konstitutsii Rossiyskoy Federatsii (pod obshch. redaktsiyey L.V. Lazareva). - OOO "Novaya pravovaya kultura", 2009 g.
- [13]Kontseptsiya razvitiya grazhdanskogo zakonodatelstva Rossiyskoy Federatsii (odobrena resheniem Soveta pri Prezidente RF po kodifikatsii i sovershenstvovaniyu grazhdanskogo zakonodatelstva ot 07.10.2009) // Vestnik VAS RF. 2009. # 11.
- [14]Maloe i srednee predprinimatelstvo: pravovoe obespechenie / L.V. Andreeva, T.A. Andronova, N.G. Apresova i dr.; otv. red. I.V. Yershova. M., 2014.
- [15]Monografiya V.S. Belykh "Pravovoe regulirovanie predprinimatelskoy deyatel'nosti v Rossii" vklyuchena v informatsionnyy bank soglasno publikatsii - Prospekt, 2009.
- [16]Nikolaeva. T.A. Pravovoe regulirovanie ekonomicheskoy deyatel'nosti v Rossiyskoy Federatsii // Konstitutsionnoe i munitsipalnoe pravo. 2015. N 12. S. 24 - 26.
- [17]Mozolin V.P. Sovremennaya doktrina i grazhdanskoe zakonodatelstvo. M., 2008. S. 142.
- [18]Popova I.A. Zakonodatelnye mery, napravlennye na razvitie predprinimatelskoy aktivnosti v strane // Pravo i biznes: sbornik statey I ezhegodnoy mezhdunarodnoy nauchno-prakticheskoy konferentsii, priurochennoy k 80-letiyu so dnya rozhdeniya professora V.S. Martemyanova / M.YU. Abramkina, M.G. Abramova, A.A. Alpatov i dr.; pod red. I.V. Yershovoy. M.: Yurist, 2012. 770 s.
- [19]Pravo i ekonomicheskaya deyatel'nost: sovremennye vyzovy: monografiya / E.G. Azarova, A.A. Ayurova, M.K. Belobabchenko i dr.; otv. red. A.V. Gabov. M.: IZiSP, Statut, 2015. 400 s.
- [20]Sergevnyin S.L. K voprosu ob obshcheteoreticheskikh karakteristikakh razlichnykh modeley vzaimodeystviya gosudarstva i ekonomicheskoy sfery obshchestva // Yurist. 2015. # 23. S. 7 - 10.
- [21]Soyfer V.G. Problemy pravovogo obespecheniya dostoy'nogo truda i sovremennykh form zanyatosti // Zakonodatelstvo i ekonomika. 2013. # 5.
- [22]"101 termin nalogovogo prava: kratkoe zakonodatelnoe i doktrinalnoe tolkovanie " (ruk. avt. kol. N.A. Solovyeva) / "Infotropik Media", 2015.
- [23]Van Lang A., Gondouin G., Inseguet-Brisset V. Dictionnaire de droit administratif. Paris: Armand Colin, 2002. P. 289 - 290.
- [24]Lexique des termes juridiques / Sous la dir. de R. Guillien, J. Vincent. Paris: Dalloz, 2007. P. 602.

LAW AND JURISPRUDENCE

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THE DEBATE ON THE EFFECTIVENESS OF MEDIATION IN RUSSIA

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Abstract

This article includes the discussion on the prospects of the practical usage of mediation in Russia. It is suggested that formal current law on mediation in Russia should be popularized to make its use more effective.

Keywords: mediator, conciliation, voluntary agreement, pre-trial stage, legal help.

В настоящее время все большую известность в российском законодательстве получает формирование такого понятия, как «медиация». Так как данный институт относительно недавно сформировался в российском законодательстве, то это порождает ряд дискуссий по поводу его эффективности на практике.

Сейчас все больше и больше говорится о данном виде деятельности, который помогает разрешить споры во внесудебной обстановке, и который способен оказать значительное влияние на правовую деятельность страны в целом. Однако, не каждый юрист (не говоря уже о гражданах, не имеющих юридического образования) в Российской Федерации сможет объяснить нам сущность и существо данного явления, возможности данной процедуры. Виной этому – крайне редкое применение института медиации на практике. Причина, как мы полагаем, кроется в наличии двух трудностей: мало того, что Федеральный закон от 27.07.2010 №193-ФЗ «Об альтернативной процедуре урегулирования споров с участием посредника (процедуре