CONFERENCE REVIEWS

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REVIEW OF THE X PERM CONGRESS OF LEGAL SCHOLARS "MODERN ECONOMY IN THE LEGAL DIMENSION"

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Abstract: The article reviews the interregional Russian forum of classical law university science "Perm Congress of legal scholars". It was organized for the 10th time in Perm, Russia. The idea of the Congress was to give legal assessment of modern economic processes and propose solutions for pressing legal problems of the Russian economy. The review shows the outline of the event and presents the main issues that were discussed at the plenary session and talks of the participants. The issues of modern economic trends, procedural legal issues and other problematic topics were actively discussed. The results of the round table work were expressed in a form of resolutions accepted by the participants. The review also presents these resolutions which reflect the intention of a consistent consolidation of the institute of electronic financial instruments, an effective use of state and municipal property, changes of institutes of judicial jurisdictions and implementing of innovations in the judicial system.

Key words: conference, review, Perm State National Research University, Perm Congress of legal scholars, Perm Congress, resolution.

On 25-26 October 2019 hosted by the Faculty of Law of Perm State National Research University, the interregional Russian forum of classical law university science "Perm Congress of legal scholars" took place for the 10th time. The partner universities of the Congress are: Kutafin Moscow State Law University (MSAL), the Ural State Law University (USLU), Kazan (Volga region) Federal University (KFU), Saratov State Law Academy (SSLA). The Perm Congress is held with active support and under the patronage of the Governor of the Perm Region.

The main goal of the Congress was to give legal assessment of modern economic processes and propose solutions for pressing legal problems of the Russian economy.

The Congress was traditionally held as a plenary session with several round tables – discussion platforms, working on resolving economic issues with the help of legal theory of law and various branches of law.

The plenary session was opened by Chairman of the State Duma Committee on state development and legislation, Honored Lawyer of the Russian Federation, Doctor of Legal Sciences, Professor P.V. Krasheninnikov, who presented his new book "Precepts of Soviet law: essays on the state and law of war and post-war time" (Moscow, Statute Publ., 2019).

Most of the talks of the plenary session of the Congress were devoted to the main issue of the scientific agenda – the reform of procedural legislation, the so-called "procedural revolution." The discussion was opened by Chairman of the Arbitration Court of the Ural District, Honored Lawyer of the Russian Federation, Doctor of Legal Sciences, Professor I.V. Reshetnikova. The procedural issues were also discussed by the Judge of the Supreme Court of the Russian Federation, Candidate of Legal Sciences, Associate Professor N.V. Pavlova, Acting Head of the Department of Civil Procedure of St. Petersburg State University, Candidate of Legal Sciences M.Z. Schwartz, Deputy Dean of the Law Faculty of Kazan (Volga Region) Federal University, Doctor of Legal Sciences D. Kh. Valeev; Chief of the Department of Civil Law at St. Petersburg University of Ministry of Interior of Russia, Doctor of Legal Sciences, Professor A.N. Kuzbagarov.

The issues of modern economic trends were observed in talks by Chairman of the Court of Intellectual Rights, Head of Department of Intellectual Rights of Kutafin Moscow State Law University, Honored Lawyer of the Russian Federation, Doctor of Legal Sciences, Professor L.A. Novoselova; Head of the Civil Department of the Ural State Law University, Head of the Ural branch of the Russian School of Private Law, Honored Lawyer of the Russian Federation, Doctor of Legal Sciences, Professor B.M. Gongalo; Chief Researcher of the Institute of State and Law of the Russian Academy of Sciences, Corresponding Member of the Russian Academy of Sciences, Honored Lawyer of the Russian Federation, Doctor of Legal Sciences A.V. Gabov; Professor at the Department of Civil Law of Lomonosov Moscow State University, Doctor of Legal Sciences A.E. Sherstobitov; Head of the Department of Civil Law and Process of Kuban State University, Doctor of Legal Sciences, Professor L.V. Schennikova.

The economic issues requiring legal solutions via various industry tools were covered in talks of other plenary speakers: Head of the Department of Labor and Financial law

of Demidov Yaroslavl State University, Doctor of Legal Sciences, Doctor of Historical Sciences Professor A.M. Lushnikov; Leading Researcher of the Section of Administrative law and Administrative Process of the Institute of State and Law of Russian Academy of Sciences, Doctor of Legal Sciences, Professor A.A. Grishkovets; President of the consulting firm "Yukey – Consulting", Honored Lawyer of the Russian Federation, Candidate of Legal Sciences V.G. Stepankov; Professor at the Department of Business Law, Civil and Arbitration Process of Perm State National Research University, Doctor of Legal Sciences E.V. Aristov.

The results of the round table work were expressed in a form of resolutions accepted by the participants. They contain the key findings that can be used in lawmaking, law enforcement and scientific work. Hereunder we bring to your attention the main extracts from them.

Resolution of the round table
"From the civil law reform to modernization of the civil process: some conclusions and prospects of the legislative development"

1. Civil law is expected to demonstrate a consistent consolidation of the institute of electronic financial instruments, based among others on draft federal laws on digital financial assets, on raising funds using investment platforms, on alternative ways to attract investments (crowdfunding). The further development of legal concepts of electronic financial assets and systems as well as institutional fundraising using digital technology including financial crowdfunding (professional investment activity) and non-financial crowdfunding (charity work) is an important task. We need a scientifically justified concept of specialized intermediaries for crowdfunding fundraising, we need to give them the role of professional participants of the financial market as in the sphere of securities market. One of the directions of the development of legislation is the separation of digital crowdfunding from the system of legal regulation of the market of financial instruments, introducing the concept of retail digital finance using electronic tokens, the legal nature of which is similar to the nature of uncertificated securities.

2. We need an effective use of state and municipal property. However, the current legislation does not contribute to this, since at present it is still at a formative stage. The Main Activities of the Government of the Russian Federation for the period until 2024, approved by the Chairman of the Government of the Russian Federation, 09/29/2018, no. 8028p-P13, set the task to increase the efficiency of use of state assets. In order to do so, the mechanisms of targeted redistribution of objects of state or municipal property between public owners should be used, including, among other things, the possibility of transferring of property to another level of ownership. In view of this, it is planned to develop and adopt the Federal Law "On State and Municipal Property" in the indicated areas of the activity of the Government of the Russian Federation.

In this regard, it is worth supporting the development of the concept and text of the draft of Federal Law "On State and Municipal Property", undertaken at the initiative

of the Ministry of Economic Development of Russia and legal scholars, as a complex interdisciplinary normative act of the highest level, containing both public law standards for regulating organizational and managerial relations, and norms of private law for regulating property relations between the Russian Federation, constituent entities of the Russian Federation and municipalities.

3. Conclusions are drawn up in accordance with which the state, including the tax authorities, should ensure and encourage the creation by employers of economic conditions that ensure a decent (sufficient) standard of living for the dismissed workers. The participation of employers in providing social support for the dismissed workers is the implementation of the constitutional principles of the social state of law. The employer may provide an additional social protection, in form of "other guarantees of social protection" in accordance with Article 7 of the Constitution of the Russian Federation, and is entitled to do so.

Therefore in order to avoid disputes between the employer and the tax authority over what amount of severance pay for the release of workers as a result of modernization and robotization of hazardous production is fair and sufficient for the employees to maintain a decent life after dismissal, it is necessary to allow the employer to reduce the taxable income by attributing to labor costs, in accordance with Article 255 of the Tax Code of the Russian Federation, for the payment of severance pay to dismissed workers in the amount of reasonably exceeding five average monthly salaries, i.e. in the amount that allows them to ensure a decent life (having sufficient income) for the period before employment or retirement. The above stated, in particular, will allow for the formation of new legal approaches to ensure a decent life without work in modern economic conditions: (1) the employer can be a part of the social protection mechanism and participate in creating economic conditions for workers to achieve a decent living standard, and therefore independently establish and pay additional benefits to employees being dismissed; (2) such payments upon the dismissal of employees will constitute their social support, i.e. "other guarantees of social protection" aimed at "creating conditions ensuring a decent life" in accordance with Article 7 of the Constitution of the Russian Federation.

4. Regarding the outcome of changes to the procedural legislation, a number of general conclusions have been formulated. On the one hand, the changes in the procedural legislation in question are not revolutionary in nature, since they do not concern the principles enshrined in the procedural codes. On the other hand, these numerous changes affect the three procedural codes and are aimed at unifying the procedural form and, in general, at optimizing the civil, commercial and administrative processes. Thus, the correlation between the institutes of judicial jurisdictions is changing, the mechanism for the removal of a judge in civil proceedings is being updated, the transition from lawsuit proceeding to administrative proceeding is being considered with the court of first instance, professional qualifications for representatives are being established, judicial fines are being increased, the list of cases of simplified proceedings is being expanded, and filter of cassation appeals in the court of first cassation instance is being canceled – all these changes together with innovations in the judicial system allow us to characterize them as quite fundamental.

5. There were identified some errors that must be eliminated both at the legislative level and through the formation of the legal positions of the Supreme Court of the Russian Federation. In particular, in an attempt to clarify the norm governing the conclusion of a reconciliation agreement, the legislator supplemented the relevant provisions of the law with the fact that a reconciliation agreement is possible if it is provided for by the relevant state authority or local government. However, such a clarification is misleading, since the right to reconciliation in a trial cannot be separated from the right to reconciliation before and outside the trial.

6. In the light of the introduction of professional representation, the participation in the suit of the colleagues called to give oral evidence (accountant, engineer, technologist, tax inspector, etc.) as representatives becomes impossible, which dictates the need to clarify their procedural status.

7. The issue of protecting the rights of signatories to a settlement agreement has not been fully resolved in the context of the rules of exclusivity, incontrovertibility and general binding of a court ruling on termination of proceedings and approval of a settlement agreement: it seems necessary to proceed from the prejudice of the coincidence of the will and the declaration of will by the signatory to a settlement agreement, the existence of all the necessary powers to complete the specified transaction and to consider the appeal system and the revision of the judicial act as the only possible means of correcting a vice of the declaration of will and (or) the competence of the signatory.

8. The expansion of the list of acts of criminal jurisdiction with prejudicial force in civil and commercial proceedings does not seem sufficiently substantiated due to the significant differences in the procedure for identifying, collecting and examining evidence in criminal proceedings in comparison with civil and commercial proceedings.

9. The idea of a more active role of the court in determining the subject of evidence in a case should be recognized as promising. Along with the explanation to the persons participating in the case of their procedural rights and obligations, it is proposed to fix the following in the court transcript or interim provisions: the list of legal facts included in the subject of evidence and the distribution of the burden of proof in relation to a particular case under consideration. The passive role of the court in this case does not contribute to an objective and fair consideration of the dispute, generates unpredictability of the outcome of the consideration of the case and, as a result, makes the appeal of the judicial act to higher instances inevitable.

Resolution of the round table "Important issues of inter-branch regulation of property relations"

1. It seems necessary to establish the obligation of state registration, which determines the moment when the right to use the living accommodation arises proceeding from a testament refusal in order to inform the third parties. To ensure the protection of the rights of the legatee, it is necessary to fix in legislation the duty of a notary public to notify a legatee of a testament refusal, as well as the rules for state registration of the

right of claim of a legatee for the living accommodation, simultaneously with the state registration of the heir's ownership of the living accommodation (giving the registered right of claim of a legatee the status of resale royalty right).

2. The application of the norm of Art. 308.3 of the Civil Code of the Russian Federation on the astreinte in case of non-execution of judicial acts on the demand for information and documentation causes certain difficulties, primarily related to determining the basis for the obligation to transfer the relevant information and documentation and the legal nature of this obligation (substantive or procedural). The question of the admissibility of recovery of an astreinte upon failure to execute a judicial act on the transfer of information and documentation within the framework of organizational legal relations requires further discussion.

3. Comparative studies in the field of contract law indicate that in Russia and other countries the protection of the weak party by the courts has long been carried out through two well-known doctrines: dishonesty and public order disturbance. In order to ensure the predictability and attractiveness of national contract law for international investment, lawmakers, law enforcers and scholars should undertake the task of creating an independent doctrine of protecting the weak party (inequality of negotiation opportunities) as a special legal instrument. Russian legislation should impose a ban on the review by the court of the subject and price of the contract due to the obvious burden of such conditions, the refusal to retrospectively amend and terminate the contract, to provide for the right of the weak party to claim damages (paragraph 2 of Article 428 of the Civil Code of the Russian Federation).

4. The main regulator of legal relations in the field of digital content distribution and the provision of digital services are user agreements between providers and consumers, concluded in the form of accession agreements. By their legal nature, such agreements are positioned as licensed, which, however, does not always correspond to the actual legal relations and infringes the interests of consumers. The Law of the Russian Federation "On the Protection of Consumer Rights" adopted in 1992 does not correspond to modern realities and cannot provide the proper level of protection of the interests of consumers of digital services. There is a need to make changes that take into account the nature of legal relations in the field of digital content distribution and the provision of digital services and regulatory experience of the European Union (Directive (EU) 2019/770 of the European Parliament and of the Council of May 20, 2019 on certain aspects regarding contracts for the supply of digital content and digital services), UK Consumer Rights Act 2015).

5. The increasing complexity of public relations requires the creation of new civil formations ensuring economic security for counterparties. Moreover, these new formations should harmoniously fit into the digital economy and take into account the interests of the digital business. Such obligations in the foreseeable future may be smart contracts.

6. In the course of legislative and law enforcement activities, it is necessary to conduct an economic analysis of law in order to form a comprehensive vision of the economic

consequences of the current legal regulation, as well as identify the economic impact of its change. Consideration of the institution of co-ownership of the exclusive copyright from the standpoint of the theory of incentives, optimization of productivity and the concept of normative economic analysis allows us to solve a number of issues related to the construction of a legal mechanism for regulating co-ownership relations and to substantiate the conclusion about the admissibility of the turnover of shares in the exclusive copyright.

7. The distribution of relations in the participation of under-aged in fashion shows determines the need for their legislative regulation in order to protect the rights and interests of under-aged models. The regulatory platform for regulating relations in the field of "child modeling" is not formed in either the civil or labor legislation of Russia. The Labor Code of the Russian Federation has an institute that establishes the specifics of the regulation of work of child actors. Norms providing for the formation and regulation of relations involving under-aged children should be inter-branch in nature.

8. Persistent failures in the rational behavior of people, actively studied in psychology and economics (behaviorism), are almost not studied in legal science. When determining the standard of reasonable behavior, one should take into account persistent failures in the rational behavior of people. Examples of legislator accounting for cognitive errors are regulatory acts on the protection of consumer rights, insolvency (bankruptcy), and accounting for normal economic risk when bringing the head of an organization to subsidiary liability.

9. The admissibility of applying Russian civil law to property and personal non-property relations between family members not regulated by family law is based on the observance of the legally established limit: "as far as this does not contradict the essence of family relations". In judicial practice, this very contradiction to the essence of family relations is often found, even when there is no contradiction, which is followed by the refusal to apply the norms of civil law to family relations. The inconsistency of judicial practice reveals an insufficient clarity of the category "the essence of family relations" and sets the task of improving the norms of Russian family legislation and adopting clarifications at the level of Plenum of the Supreme Court of the Russian Federation.

Resolution of the round table "Economy of the future, labor law, law of social security: strategies of interaction"

1. A change in the nature of labor under the influence of automation of production processes, an increase in the volume of distance labor under the influence of digitalization and computerization of human activity leads to an increase in labor productivity and, as a result, to the possibility of increasing the time for rest and leisure. "The flip side of the coin" is the escalating problem of increasing psychological and emotional fatigue. The proof f that is the inclusion by the World Health Organization of professional burnout syndrome into the international classification of diseases. One of the solutions to this

problem is a reduction of the working week and the introduction of an additional day off. In Russia, the initiative of the Chairman of the Government of the Russian Federation D.A. Medvedev on the introduction of a 4-day working week is widely discussed. At the same time, a survey among young people aged 21-35 years showed that the majority of respondents (78,55%) do not support this idea, and their free time will not be spent on leisure, but on searching for additional work (53% of respondents). Another key argument is that an increase in the length of the workday to 10 hours will lead to even more overload (people will stay even longer at work, running themselves "ragged"), and there will be no personal time for family, friends, hobbies, sport. The way out of this situation is the individualization of working time, in which it is not a person who adapts to the organization's work schedule, it is a work schedule which is created to take into account person's needs to achieve the best results.

2. A significant effect on the sphere of employment and pension security is exerted by the aging of population. While now in the world the share of the population over 65 is 9%, by 2050 it will increase to 16% of the population. For Russia, this trend carries significant social risks, for example, an increase in the cost of social obligations of the state, a deterioration of the health of population, and an increase in the cost of medical care. The effectiveness of measures taken at the legislative level (raising the retirement age, establishing in article 144.1 of the Criminal Code of the Russian Federation criminal liability for unjustified refusal to hire or unjustified dismissal of a person who has reached a pre-retirement age) raise serious doubts. In the field of labor law and social security law, more promising measures are seen as follows: the introduction of flexible forms of employment that could be used by elderly people (including distance work), retraining programs for people near retirement age, taking into account the experience of foreign countries in the development of insurance in cases of loss of work due to the need to care for disabled relatives. A foreign experience in promoting "craft economy" and the concept of "Active Aging" seem interesting.

3. The economy of the future is impossible without highly qualified employees who understand their goals, objectives, responsibilities, are motivated to achieve results, do not wait for constant instructions from the employer, are independent in choosing strategies to achieve goals. There is a shift from setting goals in the job description in the traditional sense to a labor contract of "goal setting", which does not imply setting specific goals and objectives for the employee. Professional standards that are being implemented in our country should contribute to this goal. The following problems were noted in this area by the roundtable participants: the combination of several labor functions in one professional standard, the weak relationship between them and educational standards.

4. Decent work and economic growth, named as one of the 17 Goals of Sustainable Development until 2030, imply a decent level of remuneration. Ensuring an increase in the real wage content is one of the main state guarantees for the remuneration of workers provided for by the Russian labor legislation. The imperativeness of the requirement on indexation, which ensures an increase in the real wage content, in turn, allows one of

the principles of legal regulation of labor relations and other relations directly related to them to be implemented – the principle of ensuring the right of every employee to timely and fully receive fair wages. The estimated concept of "fair wages" is directly related to its indexation in connection with the growth of consumer prices for goods and services. Along with the establishment of uniform objective criteria for determining the size of wages, such as the qualifications of the employee, the complexity of the work performed, the quantity and quality of labor expended, fair wages must also increase due to changes in the economic situation in society. And such a real increase can be achieved by the systematic indexation of wages.

5. The protection of labor rights is the task of the state. However, a lot also depends on the actions of business that violates or promotes labor rights. In this regard, it is important to develop corporate social responsibility of business (hereinafter – CSR), aimed at disseminating best practices in the field of labor and social security relations. In Russia, the adherence to CSR is demonstrated mainly by large businesses – transnational corporations, for which CSR is also an important component of the image. Like any tool, CSR has its strengths and limitations. Since CSR is a voluntary initiative, companies selectively prioritize, focusing only on certain groups of rights. CSR in the field of labor relations is mainly based on ILO international labor standards, which have a fairly high level of abstraction. Mechanisms for objective and independent monitoring of the observance of human rights within corporations needs to be improved. At the same time, with the help of CSR standards, transnational corporations can extend the best practices in the field of labor and social security to workers from those states that have weak labor laws, and also influence the behavior of their suppliers, putting forward protection of rights of working people as one of the requirements for cooperation.

6. The participants of the round table focused on the optimization of intersectoral relations of financial and labor law. Thus, for example, among the "Main directions of the budget, tax and customs tariff policy for 2020 and for the planning period of 2021 and 2022" (approved by the Ministry of Finance of the Russian Federation, 10/03/2019) the following aspects were indicated: 1) atypical employment and self-employed persons; 2) the employee's right to social services at the expense of the employer.

The participants of the round table discussed the issues of inter-branch legal regulation, which should be understood as the legal mechanism for the implementation of the norms of various branch affiliations, united by a common goal and a common (related) subject of legal regulation. One of the forms of inter-branch regulation is joint (parity) regulation along with subsidiary and conflict-based inter-branch regulation.

As an example of a competition between tax and labor law, the legal regulation of labor of self-employed citizens was considered. Caused initially by a fiscal goal, it can pose a threat to labor relations in connection with the transfer of workers to the status of self-employed and a reduction in this regard of their labor and social security rights. The round table participants noted the low effectiveness of the existing legal remedies in case of abuse of legislation by employers in relation to self-employed persons.

Resolution of the round table
"International law order – a regulated environment of the development of economic relations on the basis of principle of respect for human rights"

1. A high level of scientific discussion on the topic of the round table should be noted. There have repeatedly risen debates related to finding a balance between respect for human rights, declared both at the level of international law and the constitutions of states, and the interests of business, the tasks of the modern economy. Many talks indicated that the observance of human rights is the obligation of legal entities in the process of carrying out activities, it is the duty of each subject of law to refrain from violating those rules of law that are legally binding and recorded both in the rules of international acts which are in force in the Russian Federation, and national legal regulatory provisions.

2. With regards to the work of Office of the Commissioner for Human Rights in Perm Region, the talk by the Commissioner for Human Rights initiated a discussion on the mechanisms for implementing guarantees of human rights. Also, the observed increased influence of commercial enterprises provoked a discussion about the role and responsibility of these entities in relation to human rights. Thus in the talk it was pointed out that the issue of business and human rights has been on the agenda of the UN for several years. In 2005, the UN Commission on Human Rights adopted the resolution E / CN.4 / RES / 2005/69, which sets the task of appointing a Special Representative of the Secretary-General (SRSG) to determine standards of corporate responsibility and accountability of transnational corporations and other enterprises regarding human rights. In 2008, the Special Representative of the Secretary-General developed and submitted to the Human Rights Council the UN Framework Concept "Protection, Compliance and Remedies". Based on this concept, the Special Representative developed the Human Rights Guidelines for Entrepreneurship, which were unanimously approved by the Human Rights Council in June 2011. These Guidelines for the first time defined a universal standard aimed at preventing and eliminating the threat of the negative impact of corporate activities on human rights, and continue to be the internationally recognized basis for advancing business and human rights standards and practices. The Office of the United Nations High Commissioner for Human Rights (OHCHR) performs specific tasks on business and human rights, The implementation of these tasks, including at the regional level, was discussed at the round table.

3. In 2012, the Russian Federation ratified ILO Convention no. 173 "On the Protection of Workers' Claims in Case of the Insolvency of an Entrepreneur", which can be assessed as a progressive tool in protecting workers' rights in case of bankruptcy of their employer. However, Russia assumed obligations under this Convention solely in terms of the system of privileges, which did not entail any significant changes to regulation of the situation of such a vulnerable category of creditors. Some other international legal mechanisms that contribute to the comprehensive protection of the rights of workers during periods of crisis for the employer may be noted, such as hiring the workers back by their former employer in the event of their solvency being restored, providing employees with time

during the workday to find a new job, etc. However, these mechanisms have not yet been implemented in Russian law. The analysis of the main international legal mechanisms for protecting the rights of workers allows us to conclude that they are only partially implemented in Russia. Despite the fact that some aspects fixed in Russian law are even more beneficial for employees, the most effective mechanisms for protecting workers, such as guarantee systems, specialized funds for expedited payments, unfortunately, do not find implementation, which does not allow workers to protect their rights in crisis and requires the speedy modernization of many branches of domestic legislation, the norms of which should help level out the impact of the crisis in the economy on labor relations.

4. When discussing the multifaceted nature and equality of legally valid forms of contracts on the applicable law when concluding foreign trade contracts, the conclusion was drawn that the participants in foreign economic activity – parties to the foreign trade contract – need to take the maximum number of measures to resolve the issue of the national legal order applicable to the legal relationship. Thus, having a sufficiently large number of documents and provisions both at the level of international law and in national legal acts on how to choose the competent law, we can state the existence of both the principle of autonomy of the will of the parties and the ways of its implementation in different ways from one legal act to another. And even compliance with the requirements of one regulator does not guarantee that in the process of considering a dispute by a court or arbitration, a decision will be made on the basis of the law chosen by the parties.

5. The enforcement mechanism of decisions of foreign courts and arbitration institutions implies a prominent role of the Ministry of Justice in the Russian Federation. The activities of state bodies and the tasks in the process of giving legal force to foreign judicial acts are regulated both at the level of international treaties and in national procedural documents, while the technical implementation of powers requires refinement in certain issues.

The activity of the Chamber of Commerce and Industry of the Russian Federation (CCI RF) in regional branches in resolving disputes arising from entrepreneurial activity involving foreign elements is undergoing changes, transformations and adjustment of the system after the recent reform of the legislation on arbitration in the Russian Federation. The competence of the branches, administration from the ICAC central office at the CCI RF, the process of accrediting the branches and the features of their functioning were discussed. The experience of the roundtable participants in arbitration of disputes with the participation of a foreign element provided an active and productive discussion on the issue.

Resolution of the round table "Current problems of the criminal law protection of economic relations"

1. The modern digital economy requires the creation of an adequate mechanism for protection of economic relations in criminal law, due to which a number of new

restrictions will be established aimed at preventing the use of digital technologies for illegal purposes and protecting bona fide participants in emerging relations.

2. Digital crime today is the "future" form of all crime, a global concept which has not been evaluated in the framework of the law, and also has not been fully formalized in society. However, today it is necessary to pay close attention to new "digital" attacks, which from the point of view of the law are not crimes, due to the lack of regulation. And here a real problem arises, which criminal law is not yet able to solve. There is no vector in criminal policy in this direction in Russia today.

3. Digital crime is a highly latent phenomenon, the fight against which requires not so much legal knowledge on the part of law enforcement officials but knowledge in the field of IT technologies.

4. The modernization of civil law creates significant problems for the applicants of criminal law, which does not undergo changes in parallel with positive legislation. As a result, qualification problems arise. For example, how should one qualify infringements of "digital rights", which from 01.10.2019 became an object of civil rights, should they be recognized as property, along with non-cash money and paperless securities? It seems that in this case the actions of the person should be qualified according to the totality of the norms provided for by Chapter 21 of the Criminal Code and Chapter 28 of the Criminal Code of the Russian Federation.

5. Particularly acute is the question of responsibility for the actions of artificial intelligence. The legislation does not resolve the issue of the responsibility of artificial intelligence developers in case of unlawful actions of their "creations"; in this regard, society needs criminal law research in this area.

6. The desire of the legislator to respond to the rapid development of economic relations leads to unjustified, unanalyzed and casuistic amendments to criminal law. In particular, this is manifested in the artificial fragmentation of the norm, which leads to not always justified and unnecessary competition of several corpus delicti. To one of these examples can bring competition Art. 327 of the Criminal Code and Art. 187 of the Criminal Code; Art. 272, 273, 274 and 274.1 of the Criminal Code of the Russian Federation and others. It seems that it is necessary to look for other ways of developing criminal legislation in this area.

7. One of the important reasons for the ineffectiveness of modern criminal law is a discrepancy in the interpretation of the characteristics of a criminal law norm with terms borrowed from regulatory branches of law. However, with such an independent interpretation of the characteristics of a criminal law norm, there is no uniformity in the practice of applying one or another criminal law norm and, as a result, the requirement of legal certainty of criminal law is violated. Given the protective focus of criminal law, the need to unify approaches to understanding the terms that have already received their substantive content in sector-specific legislation should be recognized.

8. Law enforcement authorities when applying Art. 187 of the Criminal Code of the Russian Federation interpret the characteristic of "falsity" quite widely, since they

identify it with "illegality." At the same time, the preparation by the authorized person of payment documents (for example, payment orders) that contain information that does not correspond to reality (for example, the payment order indicates the number and date of the contract that was not actually concluded by the parties or according to which work was not performed, the services were provided), cannot testify to their falsity. Because a payment order is essentially a documented will of an authorized person to manage funds addressed to a bank. In case of the production by the authorized person of such a payment document that is inappropriate, his will is not replaced and it is not possible to talk about falsification.

9. It is also worth looking from a different angle at those acts that already have an established practice of their qualifications. Thus, traditionally falsification of medical documentation, and in particular, sheets of temporary incapacity for work, is assessed as official forgery (Article 292 of the Criminal Code of the Russian Federation). The Supreme Court of the Russian Federation insists on this, citing them as an example in the Resolution of the Plenum "On judicial practice in cases of bribery and other corruption crimes." However, if you look closely at the mechanism of the consequences resulting from the issuance of a fake "sick leave", first of all, a person acquires the right to appropriate compensation for lost earnings from the funds of the Social Insurance Fund of the Russian Federation. Thus, the unreasonable issuance of a certificate of incapacity for work and the concomitant falsification of medical records trigger a complex mechanism of legally significant actions related to the payment. In other words, the doctor, issuing a "sick leave" without actually existing evidence for recognizing the patient as temporarily incapacitated, intervenes in the established procedure for the distribution of funds from the SIF of the Russian Federation, which corresponds to the economic sphere of public relations.

10. Crimes with administrative prejudice contained in the Criminal Code of the Russian Federation should be excluded from criminal law. With the example of petty theft (Article 158.1 of the Criminal Code of the Russian Federation), it was demonstrated that repetition should not be considered as an indicator of the increasing social danger of an act that retains signs of an administrative offense.

Resolution of the round table "State administration in the sphere of socio-economic development of modern Russia"

1. One of the principles of state administration in the field of economy is the principle of social justice, aimed at making decisions within the framework of public choice in the production and distribution of social benefits, as well as a reasonable balance between the legislative regulation of economic processes and the variety of managerial decisions made through administrative discretion in the implementation of state control and supervision, including during unscheduled inspections of business entities the

activities of which are related to the risk-oriented approach on the part of the state. The main reason for the lack of social justice in Russia is seen in the injustice of laws that determine the electoral and legislative process. It is these laws that make up the core of constitutional economy. Obviously, not one of the economic reforms in Russia can be brought to an end without the simultaneous reform of the political system. Due to this, the reform of the constitutional economy is inconceivable without introducing into the norms on electoral systems and the legislative process the provisions on the decision-making procedure showing the Condorcet principles.

2. The reforming of the constitutional economy of Russia is possible by taking into account the experience of foreign countries, including neighboring countries that have already included a number of provisions in their legal systems. For example, the principles of rationalized parliamentarism, originally developed by the French legislator, are currently embodied in the constitutions of Armenia and Kazakhstan, while the principles of a constructive government vote, which were first formulated in the Fundamental Law of Germany, can be found in the Constitution of Georgia.

3. On the problems of administrative regulation of the socio-economic development of the country, the following proposals can be identified, namely, it seems necessary:

3.1. at the legislative level, to differentiate between the jurisdiction of national tax authorities in terms of establishing and levying taxes on organizations providing services along with the sale of goods (for example, hotel reservation services along with the sale of a tourist product) through the Internet, provide for a separate tax regime using a simplified system for goods and services through e-commerce;

3.2. to empower the Russian Union of Insurers with the power to monitor the respect for consumer rights by insurance organizations that provide insurers services under compulsory insurance programs (for example, motor third party liability insurance);

3.3. at the legislative level, in order to realize the rights of citizens to medical care, it is necessary to reform the procedure for certification of medicines and the procedure for the sale of vital medicines to citizens in terms of simplifying them and ensuring accessibility and safety for consumers;

3.4. it is necessary to create legal basis for administrative offenses in the economic sphere in the Administrative Code of the Russian Federation, providing as a qualifying attribute a systematic administrative offense by a person whose activities are assigned to the corresponding risk category with increased penalties, as well as to unify in a single law the procedure for applying a risk-based approach in carrying out planned inspections of business entities, excluding the variety of regulatory legal acts adopted by the state authorities.

3.5. Reform of the state civil service in Russia is important for socio-economic development in Russia and should be carried out in the direction of guaranteeing the implementation of the replacement of posts based on the results of competitive selection, increasing the professionalism of civil servants, reducing their number while increasing the level of wages.

Resolution of the round table "Specificities of criminal prosecution and resolving criminal cases in the economic sphere"

1. The main feature of the current period of the country's development is pursuing a state policy aimed at creating conditions for the successful functioning of organizational and legal mechanisms to eliminate the possibility of using criminal prosecution as a means of exerting pressure on business structures and resolving disputes of economic entities, facts of unjustified excitation of criminal proceedings and criminal prosecution of entrepreneurs, violation of their rights and interests in pre-trial proceedings.

2. One of the main problems identified is the general procedure for criminal procedural activity in pre-trial proceedings against entrepreneurs in this category of criminal cases, that has caused concern on the part of the business community, whose representatives directly point to the excessive repressiveness of criminal prosecution, which poses risks for entrepreneurs not only by the very fact of such persecution, but also by the destruction of the foundations of their economic activity, which for society also entails unfavorable consequences in form of liquidation of enterprises, loss of jobs and reduction of tax revenues to the state budget.

3. On the other hand, a specific feature of economic crimes is the existence of economic crimes, both within the framework of legal entrepreneurial activity and illegal economic activity. This is increasingly used by unscrupulous entrepreneurs, hiding behind state policy to prevent criminal prosecution of entrepreneurs.

4. The realities of the economic life of the state put on the agenda the need to optimize the criminal procedural regulation of criminal proceedings in relation to economic and other crimes committed by entrepreneurs in connection with their entrepreneurial activities in order to prevent the use of the criminal justice resource as a tool for resolving economic conflicts between legal entities.

5. The evolving state of normative regulation of criminal proceedings against entrepreneurs on economic crimes is clearly aimed at establishing an increased level of guarantees for the accused (suspects) from among entrepreneurs, which generally indicates a trend for the formation of a separate type of proceedings. This work requires a theoretical understanding, as well as producing relevant provisions that, from the standpoint of the theory of differentiation of the criminal procedure form, could become a scientific explanation of the need to generate a new type of pre-trial proceedings.

6. In this regard, there is a need to identify the prerequisites and goals of such proceedings, to analyze the amendments and addenda to criminal procedure legislation that have already been made, as well as to pass new laws to achieve the balance of public and private interests in criminal proceedings on economic crimes committed in the field of entrepreneurial activity.

7. The issue of achieving such a balance is actualized by the establishment of a criminal law ban on the actions of officials of the preliminary investigation bodies, which are objectively associated with the decision to start criminal proceedings against

entrepreneurs, but can be construed as committed in order to impede entrepreneurial activity or from selfish or other personal interest, if their actions entailed the cessation of entrepreneurial activity, or caused major damage.

8. As a result, it turned out that officials conducting pre-trial proceedings fall into the zone of criminal legal risks almost as well as entrepreneurs in connection with the criminal prosecution on charges of "entrepreneurial" crime.

9. It follows that there is a need to study the provisions enshrined in the criminal procedure law, which, despite their fragmentation, actually correct the implementation of the existing norms of the criminal and criminal procedure laws in relation to this category of criminal cases, as well as assessing their validity from the point of view of the methods of criminal procedure regulation and compliance with the requirements of the principle of equality of all before the law and the court.

10. We consider an effective mechanism of criminal procedure regulation, introduced by the legislator in the interests of entrepreneurs, the procedure for initiating private-public prosecution cases, as well as criminal cases initiated on the initiative of victims – legal entities (non-public economic organizations), as well as individuals (individual entrepreneurs and ordinary citizens).

11. An effective mechanism is the introduction of new procedural entities – the tax authority, the territorial authority of the insurer, which characterizes the specialization of production by the characteristics of the subject composition (distinctive composition – a sign of differentiated proceedings), as well as the establishment of a new and original procedural act – the conclusion of these bodies in accordance with clause 1 part 8 Art. 144 of the Code of Criminal Procedure of the Russian Federation, as a product of the implementation of administrative and legal powers and the result of their fulfillment of the criminal procedure obligation.

12. A guarantee for entrepreneurs is the introduction of a new 30-day period, within which the named conclusion is subject to consideration by the investigator, despite the fact that this period is not the result of the extension of the 10-day period in accordance with part 3 of Art. 144 of the Code of Criminal Procedure.

13. In the context of information society, when the entire document flow on the movement of inventory items is in the electronic form, and while adopting foreign experience in criminal proceedings, we consider it necessary to propose optimization of the case processing through the development of electronic document flow in the process of obtaining, recording, saving and using evidence information.

14. In order to optimize the procedure of the pre-investigation check, it is necessary to increase the basic deadline for the pre-investigation check to 30 days, which is extended, if necessary, in stages to 60 and 90 days; to establish the mandatory assigning and conduct of forensic examinations; to secure the receipt of the consent of the prosecutor to institute criminal proceedings. The private-public procedure for criminal prosecution should be effective only under the condition that they cause damage to victims who are the same business entities (individual entrepreneurs and (or) commercial organizations). The interests of ordinary citizens should be protected by public law.

15. In order to strengthen the guarantees of special entities, it is necessary to secure the right of the suspect (accused) under house arrest to use the means of communication and the Internet no more than two hours a day.

When choosing a preventive measure, we propose to establish an adequate amount of the collateral in monetary terms – no less than half the amount of the damage caused or the extraction of illegal income or debt if it was paid directly by the accused (suspect), as well as not lower than the full amount of the damage or extracted illegal income or debt in case of making a pledge by another individual or legal entity. It is also advisable to establish the procedure for ensuring personal guarantee by two persons, respectively, from among the representatives of the institutional formations of the entrepreneurial community (the Commissioner under the President of the Russian Federation for the protection of rights of entrepreneurs or representatives of his office, the regional representative for the protection of rights of entrepreneurs or representatives of his office), as well as from among citizens of the Russian Federation, characterized in their region by a good business reputation, not previously held criminally responsible for economic crimes or crimes of a corruption nature, with the establishment of liability for default in the form of a monetary penalty within one hundred thousand rubles for a provider of surety who is not related to the institution of representatives for protecting the rights of entrepreneurs.

Resolution of the round table "Economic analysis of law of traditional and modern societies"

1. Economic science and legal theory study similar phenomena: the first one examines how to produce, distribute and consume benefits efficiently, the legal theory – how to do it fairly and legitimately. The modern theory of justice recognizes the futility and even danger of adopting an ideal distribution scheme of material and spiritual wealth. It sees the way out in the development of procedural rules, honest observance of which would lead to a result recognized by all potential participants in legal relations, regardless of how satisfied they would be with this result.

The actual economic analysis of law seems to be a methodology that allows us to concretize the concept of justice as honesty. This theory, having inherited classical legal naturalism and recognizing the normativity and imperative coercion of law, based on the analysis of real social processes, indicates the optimal way to achieve a reflective dynamic balance between personal and public interests. If we accept a certain heuristic value of postmodern criticism of law, then economic analysis now provides one of the most acceptable languages for describing the essence of law, suitable for developing an integrative theory of law.

2. The economic analysis of law makes it possible to create and apply rules in the world of limited resources that would allow the best use of these resources. In this regard, it is important how we determine optimality, since the economic effectiveness of deterring violations may well imply the likelihood of punishing the innocent and not punishing the guilty. The recognition of this fact (in practice, the imperfection of any

existing legal system) is an essential basis for the search and comparison of available alternatives.

3. The difficulty in finding the optimal social solution lies in the lack of absoluteness of any social value. Each value has a positive and negative side. As a result of this, the well-known performance criteria (Pareto, Kaldor – Hicks, etc.) and methods of defining them in socio-economic relations (R. Coase's theorem, R. Posner's theorem, methods of price theory, etc.) are not absolutely perfect.

Nevertheless, economic values and related social, environmental and other values are not an immanent subject of legal science, and therefore an optimal social solution based on the unity and opposition of all socio-economic values should be created, first of all, by non-lawyers who should translate this decision into legal prohibitions and obligations.

The complexity of the optimal social solution, including economic solution, is compounded by the problems of the formation of state power – the leading force in determining socio-economic values and their correlation models, embodied in legal acts created by public authorities.

4. The criterion of reasonableness of the legal regulation of economic relations is the volume of material goods, expressed in the economic concept of gross domestic product. But economic relations are only a part of social relations, and the ratio of economic and other social indicators that ensure the highest possible economic indicators with the minimum possible absence of negative values of all other social indicators is a social criteria of reasonableness of legal regulation of economic relations.

5. The unreasonable distribution of rights, obligations and prohibitions in relations related to economy is manifested in an absolute and relative decrease in GDP indicators, in the outflow of capital from the country, a reduction in investment, a decrease in the number of entities of economic activity and a decrease in the number of jobs.

The leading legal criterion for economic relations is the legal certainty necessary for other relations. We agree with the position of Nobel laureate Ronald Coase: "It would be desirable for the courts to understand the economic consequences of their decisions and take these consequences into account in their decisions to the farthest extent possible without creating excessive legal uncertainty." Based on this, the legal criteria for the reasonableness of the legal regulation of economic relations are: a) at the level of normative legal regulation, stability of legislation, the volume of by-law rulemaking, the formal definition of obligations and prohibitions in public relations of economic entities, the existence of norms on the legal responsibility of state bodies and officials, and mechanism for their implementation; b) at the level of individual legal regulation (enforcement), legality, motivation and validity of judicial acts, the unity of law and enforcement practice, prevention of arbitrary judicial law-making, masked by the legal interpretation of law.

6. One of the principles of Russian constitutional economy, which regulates, among other things, decision-making processes within the framework of public choice in the production and distribution of social benefits, should be the principle of social justice with the mandatory observance of the principles of equality and freedom. The main

reason for the lack of social justice in Russia seems to be the injustice of laws that determine the electoral and legislative process. It is these laws that make up the core of constitutional economy. Obviously, not one of the economic reforms in Russia can be brought to an end without the simultaneous reform of the political system. In view of this, reform of the constitutional economy is inconceivable without introducing into the legislation governing the legislative and electoral process provisions on the decision-making procedure taking into account the Condorcet principles.

7. The state, faced with the contradictions of economic and other social values, proposes to resolve them by the subjects of disputed relations themselves through the introduction of corporate social responsibility. Instead of formally defined legal prohibitions and obligations, it encourages subjects of economic activity to adopt self-obligation aimed at compensating for the negative costs of their activities for society.

This creates legal uncertainty for subjects in prescriptions implicitly addressed to them by the state, ambiguity in the distribution of rights, obligations, legal liability and, as a result, creates conditions for arbitrariness of law enforcement.

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