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TÍTULO: Base legal del sistema de provisión de la corte en Rusia.

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RESUMEN: El artículo se refiere a la base jurídica del sistema judicial de la Federación Rusa. Los autores forman el desarrollo de la legislación de sistemas, así como la legislación de los tribunales que proporcionan el sistema. Se analizó el alcance del impacto y la regulación, sus peculiaridades y varios elementos de control de la legislación.

PALABRAS CLAVES: fundamento jurídico, sistema de prestación de servicios judiciales, legislación, mecanismo de control de la legislación, principios de organización y funcionamiento de un sistema de prestación de servicios judiciales.

TITLE: Legal basis of the system of provision of the court in Russia.

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ABSTRACT: The article touches upon the legal basis of the court providing system in the Russian Federation. The authors form out the development of providing systems legislation, as well as the legislation of court providing system. There was analyzed the scope of impact and regulation, its peculiarities and various elements of legislation control.

KEY WORDS: legal basis, court providing system, legislation, mechanism of legislation control, principles of organization and running for a court providing system.

INTRODUCTION.

Upon the legislation, the court system acquires a new function. We mean its transformation into the judicial branch of power, that requires the following criteria on its autonomous existence: human resources, materials, legal organization, finances, IT, etc. Either, it is told that these providing functions should be allowed only under the bodies of jurisdiction themselves and cannot depend on decisions of other branches of power. Any social system has providing (inner) functions too; besides, leading (external) functions that together make its business. Hereby, a state body draws its major guideline, demands and abilities of legislation control, management policy, that form the duties of a state body (Dugenets, A.S., 2012, p.75).

Now, we focus on the term «legislation of providing systems». The given term is studied not only in the judicial sphere, but in other law aspects too [Koryakin I.I. (2003), p. 32]. This term is a completely new one and expresses the authors' position on the work subject.

We suppose, we should study the existing regulations on court providing system that are given below.

DEVELOPMENT.

Research methodology.

Theoretical and methodological provisions were presented by the works of foreign and Russian scientists on the organization and activities of the judiciary, the conclusions and proposals obtained

in the course of fundamental and applied research in this area in modern realities, as well as related problems of the effectiveness of Federal and regional legislation.

The study used such scientific methods of knowledge as analysis and synthesis, comparison, observation, forecasting, questioning, deduction and induction.

Study results.

First, the Article 124, Constitution of Russian Federation tells courts are being financed only by the federal budget, thus providing their total and independent justice performing in accordance with federal laws [Komarov S. A. [and others] (2018), p. 287], but the article doesn't have any definition of a court providing system. We consider it should be completed in an amendment to the Constitution.

Secondly, the Federal Laws «Court system of Russian Federation» [4] and «Court Department by the Supreme Court of Russian Federation» [5] define legal and financial basis for the total and independent justice performing. Likewise, they draw out the authority and responsibility of the court officials, Court Department and its units in Russian regions within the court providing system. What is being important here is that these acts set the standards for the whole sphere.

Besides, we need to stress out that some standards reproduce each other. We think state bodies of court providing system should overview the functions they are given.

Thirdly, the President Act № 549 «Extra social protection guaranteed to the court officials», № 401 «Extra measures on providing court activity in Russian Federation», № 1758 «Number of federal judges of general jurisdiction», Government Decrees № 805 «Federal program Development of Court system in Russia 2002-2006» and № 1406 «Federal program Development of Court System in Russia 2013-2020» set the standards for agreements on providing systems for courts. These acts establish the way the Court Department and its bodies should be organized for their better processing.

Then, there also exists midterm analytical programs, such as «Full refurbishment of buildings referred to the federal courts of general jurisdiction 2008-2010», «Full refurbishment of buildings referred to the federal courts of general jurisdiction 2011-2013», «Providing federal courts of general jurisdiction with library funds 2008-2010», «Providing federal courts of general jurisdiction with library funds 2011-2013», «Supplying federal courts of general jurisdiction with material resources 2008-2010» and «Supplying federal courts of general jurisdiction with material resources 2011-2013». They set standards for control of the Court Department bodies in Russian regions according to the federal laws within court providing system issues.

The legislation of court systems is being renewed daily. Today, any court becomes open with the principle of publicity set as a leading one. The structure of court system has changed significantly, courts are provided with material resources better than before [6].

As you know, the issue of the legislation control isn't that new. In the 60s, many people paid attention to it, as the role of law in society had to be risen. There should also have been studied the influence the law has on public relations, conscience and behavior of people, effect and reaction, peculiar elements of mechanism of legislation control.

Professor Yuriy Tikhomirov underlines that legislation control, as a type of state control, is referred to judicial mechanisms of organizing and running the subjects and objects of state control, as well as forming their permanent functioning [Tikhomirov Y.A. (2001), p. 244].

Some scientists distinguish spheres that should be covered by the state control and strictly defined by its quantity and quality indicators [8, p. 57-58].

Thus, we think, that there are no precise differences between the definitions, but still we have noticed some features that don't affect the major content of judicial cases much.

Hereby, we have that the legislation on court providing system is a combination of legal acts, systemized among three criteria: system of legal acts (laws, bylaws, etc.); level of control (federal, regional), and sphere of legal control.

The United Nations General Assembly in the Resolution «The principles of independent court proceeding» says «The independence of the judiciary is guaranteed by the state and is enshrined in the Constitution or laws of the country. All state and other institutions have an obligation to respect and observe the independence of the judiciary» [9]. In Russia, state and commercial organizations must respect and follow the principles of independent court proceeding.

We also may add to the sources of legislation the UNO Economic and Social Council Resolution 1989/60 (May 24, 1989) [10], which tells about the necessity of providing court bodies with resources according to the p.2, art. 30 Federal Law «Court system of Russian Federation» (acting since January 1, 1997). It stands for the sufficient amount of judges in the ratio of running court cases among with the maintenance, equipment, decent wage and salary.

Therefore, it is the government that decides the court provision by the legislation. So, we may say, the court providing systems in countries need to be confirmed on international level. We should notice that such conclusion is based on specificity of any country with a running court providing system.

The Constitution of the Russian Federation court providing system is guided by the Art. 118-128. Legal standards of the stated above articles are mainly dedicated to common principles of the judge status and financing, unlike the basis of providing system. Particularly, they don't say about the job of peace justice operators and provision of courts with material resources, but these standards were somehow concluded in the articles of Federal Law «Court system of Russian Federation» and Federal Law «Court Department by the Supreme Court of Russian Federation» [11, p. 273-297].

Federal laws in the legislation of court providing system may be divided into general and special. Federal Law «Court system of Russian Federation» is the major act of a common use, covering any issue about court providing system. That was the first time ever power and functions of Court Department were published [12].

Others are identified as special acts. Federal Law «Court Department by the Supreme Court of Russian Federation» states several definitions: providing system and its features, subject of providing system, list of activities, legal control of providing system on the federal level, aim, tasks, functions, power, rights and responsibilities of an executive court body, methods of regulation, control of subjects following the providing system legislation [13].

Now, we focus on providing system of court and judge community. Its major role is to enhance court proceeding with the help of IT, renewal of legislation, legislative help to the peace justice, and creating an effective system of court security and safety.

There have already been formed laws on court proceeding enhancement, paperwork organization, court statistics, and archive sorting. Today, any court has an administrator, court assistants and court chairman. Courts are provided with daily renewed legal data systems «Konsultant Plus», «Garant» and «Kodeks» [14].

The court providing system legislation has standards, stated in federal laws that form the basis for other fields of legislation.

Analyzing the standards in Art.19 of Federal Law «Status of a judge in Russian Federation», Art.1 of Federal Law «Court financing in Russian Federation» and Art.10 of Federal Law «Peace justice operators in Russian Federation», we see that there exists a funding of judges (salary, full-paid holidays, retirement, health insurance, free uniform etc.) and measures for social safety of judges and their family members. It is necessary for defense of life, health and property of a family (Art. 20).

The subject of a providing system as any other individual may realize the rights given to him by the law [15].

In accordance with the Art.1 of Federal Law «Court financing in Russian Federation» the procedure of court provision is financed from the federal funds, and annually, there is planned a certain sum of funds for court provision [16].

Studying the Federal law № 188 «Peace justice operators in Russian Federation» (December 17, 1998), we see that it sets the standard of finances for salaries of peace justice operators and welfare benefits for them paid via bodies of the Court Department (point 1, Art. 10). Point 3, Art.10 states that material provision is led by judicial bodies or executive bodies of a region in accordance with the regional laws, but we should mention that today in most regions of Russian Federation there are no regional judicial bodies, responsible for provision of peace justice operators [17].

The responsibilities of executive court bodies in Russian regions concerning providing system of peace justice operators do not match the principle of dividing the branches of power. In this case, peace justice operators depend on executive bodies.

Acting standards of Russian legal acts do not set forms of regulation for governing state bodies. Legal provision of courts in Russian Federation is a sum of measures, providing court procedures – HR, finances, materials and the acts they belong to [Koryakin I.I. (2003), p. 13]. There is a strong need of an additional study of theory on court providing system.

Among federal laws touching issues about legal regulation of court providing system, there is a group of laws acting only in Russian Federation. They are established in the following federal laws: № 1 «Courts of general jurisdiction in Russian Federation» by January 28, 2011 [18]; № 1 «Military courts of Russian Federation» by June 23, 1999 [19]; № 3 «Supreme court of Russian Federation» by February 5, 2014 [20]; № 55 «Other issues on organization and proceeding of military courts and bodies of military jurisdiction in Russian Federation» by December 3, 1994 [21]; № 45 «Government

guarding of judges, executives of law enforcement bodies» by April 20, 1995 [22]; № 6 «Extra guarantees of social safety for judges and court executives in Russian Federation» by January 10, 1996 [23]; № 218 «Total amount of peace justice operators and quantity of courts in Russian Federation regions» by December 29, 1999 [24], etc.

Over the years of court proceeding, there should be divided own legislation on provision, that would establish the principles of government control over HR, materials, legal organization, finances and IT.

CONCLUSIONS.

The purpose of the judiciary is to protect the rights and freedoms of citizens, the constitutional system of the Russian Federation, to ensure compliance of acts of legislative and Executive power with the Constitution of the Russian Federation, the rule of law and justice in the execution and application of laws and other regulations. Ensuring the implementation of the rights and freedoms of man and citizen stipulated by the Constitution of the Russian Federation is the main content of the activities of the judiciary (article 18 of the Constitution) [11, p. 274].

Unfortunately, Russian legislation doesn't deal with principles of organizing and running court providing system. The most distinguished feature of the executive court bodies is the power structure of courts and Court Department units.

As it was widely shown, executive court bodies have proved the necessity of enhancing the division of their functions and authorities, as they already have some power within the limits of those acts.

Hereby, we have that the major sources of court providing system realization are Constitution of Russian Federation, Federal Laws, Acts of the Russian Federation President, decrees of the Russian Federation Government, acts of federal executive and court bodies on execution and regulation of provision, legal acts of Russian regional governments concerning provision of peace justice operators.

Conflict of interest.

The authors confirm the absence of a conflict of interest.

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