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TÍTULO: La condición moderna del procedimiento legal en la Federación Rusa.

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RESUMEN: En la actualidad, el proceso legal se está reformando en el espacio legal de la Federación Rusa, manifestado por nuevos códigos procesales y cambios significativos en los actos legislativos procesales existentes. La relevancia de este estudio se expresa por la necesidad de estudiar el estado actual del proceso legal en la Federación de Rusia para reformar más la legislación en esta área y crear una realidad procesal y legal más efectiva. El propósito de este artículo es estudiar el estado actual del proceso legal en la Federación Rusa, y para lograr este objetivo, es necesario resolver las siguientes tareas: estudiar los procesos civiles y de arbitraje, estudiar el proceso administrativo, Estudiar la gestión empresarial en el estado y agencias del orden público.

PALABRAS CLAVES: Ley, proceso legal, procedimiento civil, proceso de arbitraje, proceso administrativo.

TITLE: The Modern Condition Of Legal Procedure In The Russian Federation.

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ABSTRACT. At present, the legal process is being reformed in the legal space of the Russian Federation, manifested by new procedural codes and significant changes to the existing procedural legislative acts. The relevance of this study is expressed by the need to study the current state of the legal process in the Russian Federation to further reform the legislation in this area and create a more effective procedural and legal reality. The purpose of this article is to study the current state of the legal process in the Russian Federation, and to achieve this goal, it is necessary to solve the following tasks: to study the civil and arbitration processes, to study the administrative process, to study the business management in the state and law enforcement agencies.

KEY WORDS: Law, legal process, civil procedure, arbitration process, administrative process.

INTRODUCTION.

In modern Russia, the legal process is the field that is the most debatable in view of its significance for legal activity and reformation.

The timeliness of this article is “pressing” in the decade of the development of procedural legislation of the Russian Federation. In addition, currently there are sufficient number of scientific and practical events devoted to the procedural sphere of legal field of the country and solving problems in this area.

In Russia, the problems of the legal process were touched upon by such scholars as Rossinsky B.V., Soldatova O.E., Shergin A.P., Simonenko A.V., Kosherbaeva G.N., Belyaev V.P., Strebkova A.A., and Osintsev D.V.

Studies of the legal process in modern Russia are presented in various branches of legal science, where, depending on a particular field, the scientists solve the problems resulting from practical activities. The purpose of this scientific article is to study the current state of the legal process by identifying the most significant aspects and their presentation. To achieve this goal, it is necessary to solve the following tasks:

- study of the civil process.
- study of the administrative process.
- study of the relationship between courts of general jurisdiction and arbitration courts.
- study of the legal relations with the law enforcement agencies.

The scientific novelty of the research lies in the fact that for the first time this paper presents a review of the status of legal process at the present stage of development of the legal space in the Russian Federation, which is useful both for the theorists of scientific thought and for the practicing lawyers.

DEVELOPMENT.

Methods.

In this scientific article, we used such methods as the general scientific - dialectical method, which determined the choice of the research topic and the necessary argumentation basis for conducting a study, general logical - analysis, synthesis, induction, deduction, private legal - formal legal, comparative legal, and public legal modeling.

Results and Discussion.

The first and second aspects of the discussion of the list of tasks that are set to achieve the ultimate goal of this work is the study of the current status of civil and administrative proceedings. According to the official statistics presented by the Supreme Court of Russia, the courts of general

jurisdiction examined 14, 8 million cases according to the rules of the Civil Procedure Code of the Russian Federation and the Administrative Procedure Code of the Russian Federation in 2017. (Summary Statistics on the Activities of Federal Courts of General Jurisdiction and Justices of the Peace for 2017).

If we turn to the study of the issue of civil proceedings in the Russian Federation (Zherelina O.N., Yakupov A.G., 2018), according to the authors of this article, it is necessary to highlight the most problematic aspect, which follows from judicial practice. Thus, within the framework of the writ of proceedings in accordance with para. 3 of Art. 122 of the Civil Procedure Code of the Russian Federation, a court order may be issued on the basis of the transaction made in simple written form.

When applying these norms and provisions of the head of the Civil Procedure Code of the Russian Federation dedicated to the court proceedings, it is not uncommon for a court order to be issued on the basis of a loan agreement between the debtor and the microcredit organization and a passport, which is counterfeit, in the case of a microcredit in an electronic form, which requires only a scanned passport of the borrower. Of course, this issue can be resolved by writing objections to a court order and filing a statement of fraud with the law enforcement agencies; however, there is a possibility of non-performance of these actions between filing a court order and its execution; that is, actual money debiting from the debtor, whereby the return will require a sufficient amount of time. These findings are supported by numerous materials of judicial practice (for more detailed information on these cases, you can contact the email address listed above) (Zherelina O.N., Yakupov A.G., 2018).

In this case, in our opinion, it is necessary to legislatively establish the rule on checking the authenticity of the documents provided by the microcredit organization, that is, entrusting it with the functions of researching materials, in view of the fact that this will allow avoiding judicial red tape and contact the appropriate respondent (and file a fraud complaint to the police).

As noted by the well-known Russian civilists (Braginsky M.I., Vitryansky V.V. 2001), the issue of introducing public regulation of private law relations (Okriashvili, Timur Giorgievich; Yakupov) has the primary goal of protecting the interests of the weak side of the contract, the interests of third parties (potential lenders), economy, public order and stability (Gorshunov D.N., Okriashvili T.G., 2016).

The second block, which is to be covered within the framework of this work, will be devoted to the administrative proceedings of the Russian Federation. Since the year 2015, the Administrative Procedure Code of the Russian Federation (Code of Administrative Judicial Proceedings of the Russian Federation, 2015) has been in force in the territory of the Russian state. It regulates the challenging actions (inactions) of different bodies, organizations, persons vested with the state or other public authorities. It is worth noting the significance of this institution, which represents the procedural and legal possibility of resolving a dispute with the state authorities in court, subject to the adversarial nature and active role of the court.

The practice of application of the provisions mentioned above often boils down to the fact that the court, based on the requirements presented in the administrative petition, obliges to perform the action that should be performed, for example, by the employees of the Federal Bailiff Service by virtue of the law; that is, in the opinion of the authors of this scientific article, the court performs the function of not “an expert in the field of law”, but a function of issuing prescriptions to the state authorities in the context of the fulfillment of duties fixed by various laws. The examples of this situation are the cases from the judicial practice of the authors of this article (See examples from judicial practice: Decision of the Novo-Savinovsky District Court of Kazan dated February 5, 2018 in case No. 2a-513/2018 (Accessed date: 23.07.2018) https://novo-savinsky--tat.sudrf.ru/modules.php?name=sud_delo&srv_num=1&name_op=doc&number=356513789&delo_id=1540005&new=0&text_number=1; Decision of the Volga District Court of Kazan dated June

21, 2018 in case No. 2a-3868/18g, (Access date: 23.07.2018) https://privolzhsky--tat.sudrf.ru/modules.php?name=sud_delo&srv_num=1&name_op=doc&number=370362019&delo_id=1540005&new=0&text_number=1

The solution to the problem indicated above, in our opinion, is in the need to establish a more severe responsibility (Okriashvili T.G., 2016) for non-compliance with the rules of legislation on enforcement proceedings. Of course, there is the possibility of collecting court costs for the services of a representative in an administrative case, which may be entrusted directly to the bailiff, but it is not significant, as it is not collected on a large scale.

The third block of this paper will be devoted to the studying the relationship between courts of general jurisdiction and arbitration courts. The Civil Procedure Code of the Russian Federation and the Administrative Procedure Code of the Russian Federation have articles on case jurisdiction to the civil courts and the arbitration court (Art. 22 of the Civil Procedure Code of the Russian Federation, Art. 27 of the Administrative Procedure Code of the Russian Federation), which determine the categories of cases to be considered, respectively, in the courts of general jurisdiction and the arbitration courts.

There is a problem associated with the dispute between the branches of the judicial system of the Russian Federation on how the court should consider the case in judicial practice; for example, when filing a complaint in case of an administrative offense and its subsequent satisfaction, the person brought to administrative responsibility has the right to demand reimbursement of funds to pay for the representative's services in the procedure of claim proceedings, as evidenced by the totality of such norms as P. 2, 3 of Art. 24.7 of the Code of Administrative Offenses of the Russian Federation, P. 1 of Art. 19, 53 of the Constitution of the Russian Federation, Art. 12, 16, 1069 of the Civil Code of the Russian Federation, clause 26 of the Resolution of the Plenum of the Armed Forces of the Russian Federation No. 5. dated March 24, 2005.

When filing a lawsuit for the recovery of court costs with a court of general jurisdiction, a determination was made to return the claim. At the same time, the court explained that the plaintiff had the right to appeal to the Arbitration Court of the Russian Federation (Court Decision of the Vakhitovsky Judicial District No. 5 of Kazan).

When submitting a similar lawsuit to the Arbitration Court of the Republic of Tatarstan, the lawsuit was accepted into a simplified procedure requiring the claimant to justify the need to consider the claim in the Arbitration Court of the Republic of Tatarstan and the impossibility of judicial protection of his/her interests in the Soviet District Court of Kazan (See examples from judicial practice: The Decision on Acceptance of the Lawsuit (Statement) and Consideration of the Case in the Summary Procedure dated June 26, 2018 in case No.A65-16234/2018 http://kad.arbitr.ru/PdfDocument/b847f0ec-4faa-4f57-8872-f94068966d56/56d5e810-91ad-4f8c-8fdd-31b14e381783/A65-16234-2018_20180626_Opredelenie.pdf

The current situation violates the constitutional right to judicial protection, as described in clause 1.6 of the Review of Practice of Applying the Rules of Chapter 4 of the Administrative Procedure Code of the Russian Federation on Dispute Jurisdiction to the Arbitral Tribunal, approved by the Protocol Decision of the Presidium of the Moscow District Federal Commercial Court No. 10. dated May 21, 2010; Review of Judicial Practice of the Presidium of the Moscow District Federal Commercial Court, Review of Practice of Applying the Rules of Chapter 4 of the Administrative Procedure Code of the Russian Federation on Dispute Jurisdiction to the Arbitral Tribunal, and Legal Reference System "ConsultantPlus" (Access date: 25.07.2018).

We see the solution to this problem in the need to legislate an unconditional acceptance of the lawsuit (statement), if there is a judicial act in this case with reference to the court in which you should file this lawsuit (statement).

In the fourth block of this paper, the question will be investigated regarding the legal relations of the subjects with the law enforcement agencies. So, when making a decision to refuse to initiate a criminal case, a person has the opportunity to file a complaint with the prosecutor's office, the head of the investigative body or the court, which is explicitly stated in Art. 124, 125 of the Criminal Code of the Russian Federation (Criminal Procedure Code of the Russian Federation" 2001).

When writing a complaint about a decision to refuse to initiate a criminal case to a court and to consider a complaint, it should be involved a prosecutor's officer, who submits a decision to cancel the decision of the investigative body to refuse to initiate a criminal case, directing the case to the investigating body, before the meeting.

By the action, the prosecutor's office deprives it of the subject matter of consideration in court and the circumstances on the basis of which the decision was made to refuse to initiate a criminal case, which is why there is no possibility to consider a dispute between the applicant and the investigating authority on the merits by the court. A similar situation has been encountered in the practice of the authors of this scientific article more than once, when 7 similar court sessions were held in one case.

The solution to this problem may be the impossibility of canceling the decision to refuse to initiate a criminal case by the prosecutor's office more than 2 times and the case shall be considered directly by the court, with further appeal, cassation and, accordingly, the entry into force of the judicial act and the issue "closure".

Summarizing, on the basis of the study made, it is necessary to highlight the conclusions reached by the authors of this study:

- It is necessary to legislatively establish the rule on checking the authenticity of the documents provided by the microcredit organization, that is, entrusting it with the functions of researching materials, in view of the fact that this will allow avoiding judicial red tape and contact the appropriate respondent (and file a fraud complaint to the police).
- It is necessary to establish more severe liability for bailiffs for non-compliance with the rules of legislation on enforcement proceedings.
- It is necessary to legislate an unconditional acceptance of the lawsuit (statement), if there is a judicial act in this case with reference to the court in which you should file this lawsuit (statement).
- It is necessary to enshrine the impossibility of canceling the decision to refuse to initiate a criminal case by the prosecutor's office more than 2 times and the case shall be considered directly by the court, with further appeal, cassation and, accordingly, the entry into force of the judicial act and the issue "closure".

CONCLUSIONS.

We studied the current state of the legal process through the prism of practical activity in this paper. The work is of an institutional nature, in view of which it will be useful both to the specialists in the field of legal theory and the specialists in the field of practical activity. The reality of the Russian Federation necessitates conducting research in this direction, since the legal process of modern Russia needs legislative improvement.

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