Courts of General Jurisdiction in Russian Federation as an Instrument of Human Rights and Freedoms Protection

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Abstract: In the present article authors analyze in detail organizational and legal bases of the courts of general jurisdiction in Russian Federation operation and functioning from different points of view. Authors explains major changes that occurred in Russian Federation in the past years and presents new technologies implementation in to the court operation process and outlines some related organizational and legal questions. Authors analyze questions of the state automated system of Russian Federation "Justice" implementation and functioning, present reasons for it’s creation and full functioning. Opinions of specialists, barristers and solicitors are presented, authors correspond above opinions to the personal scientifically based researches and present results of analyses to readers. As a conclusion authors present personal advices on the changes in current legislation of Russian Federation that would positively affect the system of courts of Russian Federation in whole and Courts of General Jurisdiction in Russian Federation specifically and would assist as an Instrument of Human Rights and Freedoms Protection in Russian Federation.

Key words: Courts · Justice · General jurisdiction · Protection · Law · Practice · Legal status · Organizational and legal aspect · Russia · Russian Federation

INTRODUCTION

In any modern country of the world question of the court’s competence and jurisdiction is always one of the main topics of interest [1]. To better understand the place of the General Jurisdiction Courts in Russian Federation and their role as an Instrument of Human Rights and Freedoms Protection we need to investigate the system of normative legal acts, which regulate organizational and legal questions of general jurisdiction courts functioning in modern Russian Federation.

MATERIALS AND METHODS

In the present article authors formulate the research problem, accumulate a good empirical base, this gives an opportunity to focus on the research process and draw conclusions that would reflect the real situation in the best possible way using: introduction – hypothesis, deduction – predictions, observation – nest of predictions, etc.

RESULTS AND DISCUSSION

Legal bases for the courts of general jurisdiction creation can be found at chapter 7 of the Constitution of the Russian Federation. This act establishes fundamental principles of judicial authority, but however it does not reflect questions of organizational legal support of the general jurisdiction courts functioning [2]. According to the article 118 of the Constitution of Russian Federation justice in Russia is carried out only by court.
Judicial authority in Russian Federation is carried out by the means of the constitutional, civil, administrative and criminal proceedings [3].

Justice is usually defined as the type of state activity for settlement of the social or economic conflict, connected with valid or imaginary violation of rights, freedoms and agreements of different kinds. As it was said before, only courts have judicial authority and have the right to determine if someone is guilty or not (have judicial powers) [4]. In Russian Federation the Courts of General Jurisdiction have very brought powers (criminal prosecution, divorce questions, economic questions in cases when at least one side is a citizen, etc.) and is headed by the Supreme Court of Russia [5], which is the highest court in this branch and supervises inferior courts of general jurisdiction and occasionally sits as a court of first instance in cases where important interests of state are at issue [6].

It would be unreasonable to talk about the courts of general jurisdiction without considering organizational questions. It is important to remember that law is only good if there are enough instruments to execute it. In Russian Federation organizational questions of the general jurisdiction court’s activity are places on the Judicial Department of the Supreme Court of Russian Federation and its territorial offices in each subject of Russian Federation.

Legal bases for the Judicial Department of the Supreme Court of Russian Federation activity is the special Federal law "About the Judicial Department of the Supreme Court of Russian Federation". According to the article 13 of this law, territorial offices in subjects of Russian Federation organize work of regional courts, bodies of judicial community of the subject of Russian Federation and finance justice of the peace work (but not work of magistrates' courts stuff) and perform some other related functions [7].

Territorial offices of the Judicial Department of the Supreme Court of Russian Federation in subjects of Russian Federation:

- Conducts selection of candidates for positions of judges (in full compliance with the requirements of the Law of Russian Federation "About the status of judges in Russian Federation";
- Organizes and controls work of the qualification examination commission for the position of the judge;
- Studies organizational aspects of regional courts activity and takes required measures for it’s improvement;
- Is liable for judicial statistics, organize office-work at courts and work of court’s archives;
- Finances regional courts and bodies of judicial community in subjects of Russian Federation;
- Control budgetary means expenditure, conducts financial and economic activity audits, etc.

In addition to the provisions of the Main Law, President of the Russian Federation on December 31, 1996 signed the Federal Constitutional Law "About the judicial system of Russian Federation" which placed the basis for the system of judicial community bodies. In the framework of said law the body taking care of organizational and legal activity of general jurisdiction courts in Russian Federation was created – Judicial Department of the Supreme Court of Russian Federation.

Organizational and legal activities functions at the general jurisdiction courts are carried out in strict compliance with the set requirements – Instruction for judicial office-work in the regional court, approved by the order of the Judicial Department of the Supreme Court of Russian Federation on April 29, 2003.

It is necessary to agree with experts, lawyers and scientists that believe that today use of modern information computer technologies at courts in Russian Federation is vital for the human rights and freedoms protection, information of citizens and companies on court's decisions and activity, providing of information that is important for access to judge.

In Russian Federation access to judge by the court stuff is generally regulated by the legal acts of the Judicial Department of the Supreme Court of Russian Federation. However access of other persons (not court stuff) to judges is not fully regulated by any act. One other important moment is the access to court rulings, which are the main "product" of the court and judicial authority.

De-jure almost all court decisions are open for professionals and general public, accept for some criminal and civil cases where special circumstances exist (usually cases where state and trade secrets are reviled). However, unfortunately only a very small amount of court decisions today are available to public and/or professionals. Currently in Russian Federation there is no appropriately working set mechanism for access to decisions of courts by anybody accept the parties of the trial. Also nothing really regulates appropriate publication of decisions in Internet of any information system [8].
Recently some changes in the informatization process of court’s activity occurred – the state automated system of Russian Federation "Justice" was created and introduced. It’s main purposes are:

- Maintenance of legality and validity of decisions made by courts and quality of written judicial documents;
- Reduction of time needed for case and/or complaint hearing by using new information technologies, including video conference systems;
- Reduce the time needed for the judicial office-work and judicial statistics preparation by reduction of time needed for information transfer;
- Increase of information reliability and completeness;
- Creation of the broadband on-line access for judges and staff to electronic library legal databases and legal practice, etc.

It is important to say that introduction and use of the state automated system of Russian Federation "Justice" for the purpose of openness and transparency of justice are outlined in the Concept of the federal target program "Development of the Judicial System of Russia thru aught years 2007-2011" [9].

Implementation and use of this system has a crucial meaning. Citizens of Russian Federation, who have not received protection of their broken rights in the state authorities address their issues to the international organizations and give Russian state authorities the next opportunity to understand that it is impossible and it isn't necessary to destroy the developed procedural form of judicial powers expression and that court is not only obliged to hear civil and criminal cases, but should have all needed financial and organizational resources. All of these means that court must consider the case finished only after the decision had been really executed and the decision is fully legitimate and fair.

Under the Constitution of Russian Federation and the Criminal procedural code of Russian Federation a free legal aid is guaranteed to any citizen in cases of criminal prosecuted. This obligation is placed on profession legal community, whose activity is currently regulated by the Federal law No. 63-FZ "About the advocacy activity and advocacy in Russian Federation" adopted on May 31, 2002. Under this law anyone has the right to work as a professional lawyer as long as has advocate status. To get the advocate status one has to pass the qualification exam and give an oath. Current law establishes the following qualification requirements for the qualification examination admission: educational qualification, existence of legal experience, lack of a criminal record and full capacity [10].

**CONCLUSION**

Based on the research made it is possible to make following conclusions:

- The system of legislative regulation and organizational supply of the general jurisdiction courts in Russian Federation is a set of legal acts regulating questions of judicial system and legal proceedings (independence of judges, safety of courts), organization of the Judicial Department of the Supreme Court of the Russian Federation and its territorial offices activity and also legal interaction of the general jurisdiction courts in Russian Federation with territorial offices of Judicial Department of the Supreme Court of the Russian Federation.
- Legislative regulation of organizational and legal questions of the general jurisdiction courts activity in Russian Federation should be understood as a three-level system of acts:


  Second level – regional (Law of Moscow City No. 71/2002 "Representatives of public in the Qualification board of judges of the Moscow City" adopted on July 23, 2002, Law of Moscow City No. 10 "Constitutional (charter) court of the Moscow" adopted on February 13, 2002, etc.);

  Third level – local (Internal standards and methodical documents of the general jurisdiction courts and orders of the Judicial Department of the Supreme Court of Russian Federation. For example order of the Judicial Department of the Supreme Court of Russian Federation "About approval of the Instruction on judicial office-work in regional court", order of the Judicial Department of the Supreme Court of Russian Federation "About approval of the procedures on organization of work on financing of federal courts of general jurisdiction, magistrates courts, bodies of judicial community and system of Judicial Department of the Supreme Court of Russian Federation").
Process of organizational and legal activities of the general jurisdiction courts is in full competence of the Judicial Department of the Supreme Court of Russian Federation and represents by itself a system of institutional nature in which legal relationship between bodies of judicial community are accurately regulated by the relevant standard legal acts and directed on increase of the justice efficiency.

Organizational and legal activity on organization of the courts of general jurisdiction work is carried out in compliance with set requirements. However it is important to say that unfortunately these requirements are not always strictly followed. Sometimes this is due to lack of appropriate control, but mostly this is due to lack of needed resources. Most courts in Russian Federation are overloaded and cannot reasonably follow all instructions in full.

REFERENCES