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## ВЕСТНИК

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E d i t o r i n c h i e f

doctor of chemistry, professor, academician of NAS RK

**M.Zh. Zhurinov**

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**K. S. Zhylkichieva<sup>1</sup>, A. A. Kalybaeva<sup>2</sup>, G. Zh. Koshokova<sup>3</sup>**

<sup>1</sup> Kyrgyz National University named after Jusup Balasagyn, Bishkek, Kyrgyz Republic;

<sup>2</sup> Kyrgyz-Russian Slavic University, Bishkek, Kyrgyz Republic;

<sup>3</sup> National Academy of Sciences of the Republic of Kyrgyzstan, Bishkek, Kyrgyz Republic.

E-mail: [jylkychievakunduz@gmail.com](mailto:jylkychievakunduz@gmail.com)

## **MODERN LEGISLATION REGULATING STATUS OF LEGAL ENTITY**

**Abstract.** The article analyzes using the normative and systematic methods, as well as analysis and synthesis, the content of the statements of Constitution of the Kyrgyz Republic, Civil Code of the Kyrgyz Republic, Criminal Code of the Kyrgyz Republic, the Law of the Kyrgyz Republic «About Normative Legal Acts of the Kyrgyz Republic», the Law of the Kyrgyz Republic «On the Regulations of the Jogorku Kenesh of the Kyrgyz Republic» and the works of the legal scholars.

It examined the provisions of laws adopted for general regulation and concludes they are serious problems, because of them there is a "blurring" of the contour of the legislation on legal entities in the article.

The publication supports the opinion of the authors of the Concept for Development, according to which the regulation of the status of legal entities in the civil legal field can be characterized by a set of the laws and regulations in force in the Kyrgyz Republic, which do not always correspond to each other, as well as to the Civil Code. The low legal and technical level and ineffectiveness in practice are also shown by some adopted laws.

It noted the Civil Code of the Kyrgyz Republic, adopted on May 8, 1996, created the new foundation for the regulation of legal entities, which was supplemented by many new laws over the next decades in the article.

The authors come to the conclusion the fairly honest assessment can be applied to the established regulation – that with the main vector of development of the Concept of Civil Legislation in Kyrgyzstan, in general, there is an economic, social and well-grounded the logic and generally justifiable modern civil law in relation to legal entities. But at the same time, for many problems, correct solutions have not yet been found and no efficiency ratings have been given.

**Keywords:** civil law, legal entity, founders, society, state, capital, charter.

**Introduction.** Today, in the Kyrgyz Republic, the registration of legal entities, their activities, responsibility, as well as rights and obligations, and the termination of their activities are governed by the following regulatory legal acts - the Civil Code of the Kyrgyz Republic, the Laws of the Kyrgyz Republic "On State Registration of Legal Entities, Branches (Representative Offices)", "On Brands"; "On Licensing And Permitting System in the Kyrgyz Republic", "On Non-Profit Organizations"; "On Bankruptcy"; "On Joint Stock Companies" and "On Business Partnerships and Companies". Without coherent strategy or concepts, the situation in this sphere is complicated by the fact laws that have already been adopted are constantly changing. The unevenness of closing legislative lacunas is increasing: the legal regulation of two organizational legal forms - Joint-Stock Companies and Limited Liability Companies - is developing, far ahead of others (more precisely, the second is significantly ahead of the first). As a result, it turns out institutions that are important for other forms (for example, reorganization) of all provisions in general are developed in detail and lobbied only for joint-stock companies (Abdrakhmanova, Egorova, 2015, p. 4). For other forms of legal entities, everything is in an absolutely immobile state (Civil Law, 2002, vol. 1, p. 231). There are regular discussions directly affect development of legislation on legal entities in general.

For example, in public law, on criminal responsibility of legal entities, their status, control by state, and other forms of economic dependence of legal entity. A couple of years ago, they even talked about at

least two options for changing the legislation on legal entities. And even then the question arose about clear boundary and concept (legal definition and its interpretation) of legal entity due to the regulation of the moment of responsibility of legal entity. The result of the needs of modern society and international standards was to appear major reform of civil legislation. Just large share of which were to be reforms on legal entities. The problems of introducing and applying criminal liability to legal entities are also relevant in other countries of the Commonwealth of Independent States, for example, in Kazakhstan (Rustemova, Bytymbayev, 2015, p. 85), as well as in Indonesia (Ali, 2019, p. 158-167), Iran (Beygizadeh, Moazenzadegan, Kooshki, 2020, p. 43) and Serbia (Dragan, 2016, p. 71).

**Methods.** The article analyzes using the normative and systematic methods, as well as analysis and synthesis, the content of the statements of Constitution of the Kyrgyz Republic, Civil Code of the Kyrgyz Republic, Criminal Code of the Kyrgyz Republic, the Law of the Kyrgyz Republic «About Normative Legal Acts of the Kyrgyz Republic», the Law of the Kyrgyz Republic «On the Regulations of the Jogorku Kenesh of the Kyrgyz Republic» and the works of the legal scholars.

**Discussion.** In 2009-2010, the beginning of the reform of civil legislation was laid. Then the President of the Kyrgyz Republic expressed ideas on improving the Civil and Civil Procedure Codes. In connection with the then new reform of national legislation (in particular, questions about codification), as well as creating directions for development of civil legislation of the Kyrgyz Republic, as well as novels on amendments to the Civil Code of the Kyrgyz Republic. The direction of development was taken on the vector of changes in the legislation on legal entities. Also, this act was recommended for publication on the official website of rule-making and in the media for the purpose of further public discussions. Further, the general Concept for reforming the civil legislation of the Kyrgyz Republic is approved. With this general Concept, within the framework of codification, the first draft for the Civil Code was proposed and published. He, unlike the Concept itself, dealt with the reformation directly, but did not go through single attentive meeting with discussions, and not enough time had passed for him to "insist", then he suffered serious criticism. Also, the reason for the skepticism towards this document was the realization the Concept is not some projected norm, but only an idea. The project only adds to the interpretation.

All of the above applies exclusively to civil law. However, the draft of the new Criminal Code of the Kyrgyz Republic contains Chapter 20, which subsists norms on measures of criminal and legal pressure in relation to legal entities, in cases where they violate the criminal legislation of our country.

Throughout the territory of the Commonwealth of Independent States, there are still discussions and disputes about the need to consolidate in legislation at the national level such a thing as an "institution for bringing legal entities to criminal responsibility" (Repyev, Reutsky, 2019, p. 282). Scientists supporting this direction of legislative novelties point to the ratification by the Kyrgyz Republic of international legal treaties, in which, according to them, the institution of criminal liability of legal entities is nothing more than planning and taking on obligations by the republic to fulfill international agreements.

Those experts who express negative attitude argue there are simpler possibilities for increasing volume and measure of liability of legal entities.

In general, disputes over this category in law (responsibility of legal entity) arose due to the fact that such an "entity" does not have a mental attitude to acts, because on this basis, it is impossible to use such an understanding of legal entity as guilt in standard sense of a criminal rights. Since there is no moment of will and intellect itself. In fact, in this case, only activities and illegal acts of its legal representatives can be recognized as guilty.

There is the basis for criminal liability is commission of socially dangerous act containing signs of *corpus delicti* provided for by the criminal law in Art. 4 of the Criminal Code of the Kyrgyz Republic. The *corpus delicti* is the result of subjective and objective signs that can be used to describe act as dangerous or as crime. Offense is a composition of four elements, one of which is a subject with specific characteristics only for him, and it is they are considered as reason for responsibility in criminal law. A mandatory feature is the sanity and awareness of actions, as well as the wording "sane natural person".

From the above it follows intellect and will in relation to committed act can only be in a person, and not in a legal entity, which is by nature a fiction, an abstract concept behind which there is a person.

Another point deserves attention is punishment applied to legal entities. The measure of state coercion is precisely punishment - as a means of re-educating criminal, correcting him or simply restricting his rights and freedom of movement (Selyutin, 2019, p. 118). Despite physical limitations, the first thing the

legislator implies is mental punishment of person. Therefore, the question arises - how and is it possible at all to intimidate or re-educate a legal entity? In our opinion, the answer is simple.

Different controversial point is the fact this bill contradicted the main principle on which the criminal legislation is built - the principle of personal responsibility.

It turns out legal entity must be prosecuted for offenses and actions of specific individuals - managers. And at the same time it turns out this also applies to entire legal entity - all its other members - employees. In the event decision is made by means of vote, responsibility also passes to those who are in the minority who disagree with decision. And since collective of workers is legal entity, results and consequences of criminal punishment will be felt first of all by people who will be forced to leave their jobs because of imposition of sanctions on the enterprise or firm.

This raises questions - what is the definition of a legal entity's status? Does the concept of "complicity" apply to him or to several enterprises? From what moment or "age" does responsibility come? Also, the question of the concept of "attempt", competition between the norms of criminal and civil law and conflicts with administrative responsibility, the code of which has recently lost its force.

Based on the foregoing, in order to give the institution of responsibility of legal entity in criminal law weight, it is necessary to restructure the entire system of criminal law and process. There are also doubts about the expediency of this institution in general, because the potential for administrative (for example, the new code of misconduct) and civil liability has not yet run out. It would be wiser to aggravate liability of legal entity with help of civil, financial or administrative law, since within the framework of the latter, legal entity is perfectly recognized as a subject (Torkhov, 2019, p. 521). That will help to avoid restructuring, collisions, a radical revision of the foundation of criminal law, will not allow large financial costs will fall on the country's budget.

On August 30, 2020, the Law "On Amendments to the Code of the Kyrgyz Republic on Violations" came into force and also affected legal entities. It was developed at the initiative of the Government by the Ministry of Justice in June this year. This law amended the Code of Violations - in particular, in the area of the established liability of legal entities for violations in the sphere of the requirements of the legislation on their registration, registration of branches and representative offices in Chapter 40 of the Code: «Thus, the implementation of activities by legal entities, their branches (representative offices) without state re-registration and notification of changes in data that do not entail state re-registration, in the manner and terms established by the legislation of the Kyrgyz Republic in the field of state registration of legal entities, branches (representative offices), as well as the provision of inaccurate information required for inclusion in the Unified State Register of Legal Entities, branches (representative offices), entail the imposition of fine of the first category, the amount of which is 50 calculated indicators, that is, five thousand soms (USD 59)».

These amendments are also aimed at strengthening responsibility of legal entities, and therefore the Ministry of Justice is working to introduce unified register of violations (subordinate to the Ministry of Internal Affairs) and improve qualifications of staff of the central ministry of smaller regional divisions.

Also, in November 2020, the current state of the legislation of the Kyrgyz Republic Code of Violations again began to draw increased attention to itself. In particular, according to the lawyers of one of the legal clinics, laws adopted after October 28 may be challenged in future, since they have no legal force. The reason - the adoption of dozens of laws and the election of officials in violation of the Constitution - failure to provide information to the public. There were no projects posted for public societal discussion and it turns out that the population of the Code of the Kyrgyz Republic on violations does not have the opportunity to familiarize themselves with the regulatory legal acts or somehow express their opinion about them.

For example, on October 28, 2020, the parliament adopted number of regulatory legal acts without constitutional quorum, which is necessary for making any decisions. With all this, this text was not published anywhere and it was not known by whom it was initiated, what is its purpose and whether it violates constitutional or other norms.

In our country, the Constitution must guarantee all citizens the right to participate in the discussion and adoption of laws and decisions of republican and local significance (clause 1 of part 1 of article 52). Everyone should be guaranteed access to information held by state bodies (part 4 of article 33). These guarantees represent generally recognized principles and norms of international law, enshrined in the main international human rights treaties.



To realize the Law "On Normative Legal Acts of the Kyrgyz Republic" and to ensure the implementation of world international standards, draft normative legal acts that directly affect citizens or legal entities and their interests need public discussion - for example, publication on official sites on rule-making. Also, even in the cases provided for by law, the legislator's novels can be published in the media.

The deadlines for public discussions of short stories are set at one month, exceptions are those regulatory legal acts are aimed at regulating the rights and the obligations of citizens and legal entities in the presence of any force majeure (part 1 of article 23).

Also, the Law "On the Rules of the Jogorku Kenesh of the Kyrgyz Republic" gives the right to legal entities and citizens to discuss regulatory legal acts adopted by the Parliament or pending laws or other documents. You can, for example, attend open sessions of the Jogorku Kenesh and its bodies, you can also submit proposals or recommendations. In particular, this is important for legal entities for number of reasons: their rights and obligations, responsibility for offenses, legal status, tax and other fees, regulation of their activities or other security (for example, environmental or medical as in quarantine). The expression by people and legal entities of their position in relation to the laws proposed by the authorities is natural, and is protected by the Constitution of the Kyrgyz Republic on violations and international law.

Such an attitude and facts call into question validity of these laws and subsequent decisions of the authorities based on them. In addition to this, such actions run counter to international legal requirements and undermine the reputation of our country in the international arena.

Back in 2020, legal entities were affected by the transfer of fines in the absence of compulsory civil liability insurance policy for vehicle owners. This year, due to the coronavirus pandemic and deterioration of incomes for people and businesses across the country, the Government decided to postpone the terms of liability for non-compliance with the requirements for this type of insurance, the State Service for Regulation and Supervision of Financial Markets under the Government of the Kyrgyz Republic was the first to report on this.

In fact, according to the law on compulsory civil liability insurance of vehicle owners in accordance with the new amendments, drivers and owners of vehicles and automobiles registered in the territory of the Kyrgyz Republic until 2023 receive the grace period. For foreigners, the date is until July 2021, and for vehicles owned by legal entities (state bodies, local governments also entered the same place) - from January 2022. This law was adopted in 2015 and signed by the President, the Ministry of Internal Affairs is it also made additions to the provisions and foundations for admission to vehicles and road safety officials to update the current legislation.

It has long been proposed to add corporate relations in the direction of the development of civil legislation of the Kyrgyz Republic to the subject of civil legislation. For example, as in the Russian Federation, where, on the basis of this provision, the Federal Law of December 30, 2012 No. 302-FZ "On Amendments to Chapters 1, 2, 3 and 4 of Part One of the Civil Code of the Russian Federation". The Civil Code was changed, and a new definition of corporate relations appeared - these are pertinences associated with corporate organizations and their relationship with their management. This summed up long debate about the cause of this relationship. What are these relationships in terms of content? This is not all clear, for example, who are the subjects of such pertinences?

The Civil Code (almost fully corresponding to the conceptual proposals) retained the fundamental division of all organizations into two groups. The first is commercial, the second is non-commercial. In general, the division of public corporation is still far from perfect, and it is very difficult to understand how it is applied to already existing companies. Article 66.3 of the Code says: "public corporation is a joint-stock company whose shares and securities convertible into its shares are publicly placed (by public subscription) or publicly traded under the conditions established by the laws on securities". If we are talking about public law companies, we must also say that the updated Code does not fully cover all questions about legal entities in public law. To be more precise, presumably: document solved it at current stage in such way that certain kinds of legal entities are not recognized by the Code. Despite this, as already described above, the idea itself has not gone anywhere and remains the main topic of the day for all researchers of law.

**Results.** In conclusion, it is worth summing up: if one of the tasks of the reform was to streamline the legislation on legal entities in the form of reducing their kinds, their classes and types, then this vector was not fully implemented. On the other hand, the regulation of types and forms, which was carried out with

the help of special federal laws, is now “simply sent” to the level of the Civil Code of the Russian Federation (as in the Kyrgyz Republic). And all this despite the fact foundation for displacement of certain and precise forms of legal entities is not entirely clear. Moreover, their legal status is not clearly described. As a result, this situation did not become norm, but it began to be sharply criticized by legal entities in business and business community as a whole. It is quite obvious with all the feigned fidelity of reforms and innovations proposed then, this would eventually lead to strong bureaucratization of process of creating legal entities, as well as increase in frequency and volume of corruption.

**К. С. Жылчиchieва<sup>1</sup>, А. А. Қалыбаева<sup>2</sup>, Г. Ж. Кошокова<sup>3</sup>**

<sup>1</sup>Ж. Баласағын атындағы Қырғыз Ұлттық Университеті, Бішкек, Қырғыз Республикасы;

<sup>2</sup>Қырғыз-Орыс Славян Университеті, Бішкек, Қырғыз Республикасы;

<sup>3</sup>Қырғыз Республикасының Ұлттық Ғылым академиясы, Бішкек, Қырғыз Республикасы

### **ҚҰҚЫҚТЫҚ ТҮЛҒАНЫҢ МӘРТЕБЕСІН РЕТТЕЙТІН ЗАМАНАУИ ЗАҢНАМА**

**Аннотация.** Мақалада нормативтік және жүйелік әдістер, сондай-ақ Қырғыз Республикасының Конституциясы, Қырғыз Республикасының Азаматтық кодексі, Қырғыз Республикасының Қылмыстық кодексі, «Қырғызстан Республикасының нормативтік құқықтық актілері туралы» Қырғыз Республикасының Заңы, «Қырғыз Республикасы Жогорку Кенешінің Регламенти туралы» Қырғыз Республикасының заңдарының ережелерінің мазмұны талданды. Мақалада жалпы реттеу үшін қабылданған заңдардың ережелері қарастырылады және олар маңызды мәселе болып табылады, өйткені олар заңды тұлғалар туралы заңнаманың контурын “бұлдыратады”.

Басылымның авторлары Даму тұжырымдамасының авторларын қолдайды, оған сәйкес азаматтық-құқықтық саладағы заңды тұлғалардың мәртебесін реттеу елдегі қолданыстағы құқықтық актілер жиынтығымен сипатталуы мүмкін, олар сондай-ақ әрдайым Азаматтық кодекске және бір-біріне сәйкес келе бермейді. Құқықтық және техникалық деңгейдің төмендігі мен іс жүзіндегі тиімсіздігін кейбір қабылданған заңдар да көрсетеді.

Мақалада 1996 жылы 8 мамырда қабылданған Қырғызстан Республикасының Азаматтық кодексі заңды тұлғаларды реттеудің жаңа негізін жасады, ол келесі онжылдықтарда көптеген жаңа заңдармен толықтырылды.

Авторлар қалыптасқан реттеу үшін өте адал бағалауды қолдануға болады деген қорытындыға келеді, бұл Қырғызстандағы азаматтық заңнама тұжырымдамасын дамытудың негізгі векторымен, тұтастай алғанда, экономикалық, әлеуметтік және логикаға негізделген және заңды тұлғаларға қатысты қазіргі заманғы азаматтық құқықты негіздейді. Бірақ көптеген мәселелер үшін әлі дұрыс шешімдер табылған жоқ және тиімділік бағалары берілмеген.

**Түйін сөздер:** азаматтық құқық, заңды тұлға, құрылтайшылар, қоғам, мемлекет, капитал, жарғы.

**К. С. Жылкичиева<sup>1</sup>, А. А. Қалыбаева<sup>2</sup>, Г. Ж. Кошокова<sup>3</sup>**

<sup>1</sup>Кыргызский Национальный университет им. Ж. Баласагына, Бишкек, Кыргызская Республика;

<sup>2</sup>Кыргызско-Российский Славянский университет, Бишкек, Кыргызская Республика;

<sup>3</sup>Национальная Академия Наук Кыргызской Республики, Бишкек, Кыргызская Республика

### **СОВРЕМЕННОЕ ЗАКОНОДАТЕЛЬСТВО, РЕГУЛИРУЮЩИЕ СТАТУС ЮРИДИЧЕСКОГО ЛИЦА**

**Аннотация.** В статье проанализированы с применением нормативного и системного методов, а также анализа и синтеза, содержание положений Конституции Кыргызской Республики, Гражданского кодекса Кыргызской Республики, Уголовного кодекса Кыргызской Республики, Законов Кыргызской Республики «О нормативных правовых актах Кыргызской Республики» и «О Регламенте Жогорку Кенеша Кыргызской Республики».

В статье рассматриваются положения законов, принимаемых для общего регулирования и делается вывод, что они являются серьезной проблемой, из-за них происходит «размывание» контура законодательства о юридических лицах.

Авторы статьи поддерживают авторов Концепции по развитию, в соответствии с которой регулирование статуса юридических лиц в гражданско-правовом поле можно охарактеризовать совокупностью действующих в стране нормативных правовых актов, не всегда соответствующих друг другу, а так же Гражданскому кодексу. Низкий юридический и технический уровень и неэффективность на практике показывают и отдельные принимаемые законы.

В статье отмечается, что принятый 8 мая 1996 года Гражданский кодекс Кыргызской Республики создал новый фундамент для регулирования юридических лиц, который за последующие десятилетия был дополнен многими новыми законами.

Авторы приходят к выводу, что к сформировавшемуся регулированию можно применить довольно честную оценку, что при основном векторе развития Концепции гражданского законодательства в Кыргызстане, в целом, складывается экономическое, социальное и обоснованное логикой и в целом оправдывающее себя современное гражданское право в отношении юридических лиц. Но при этом для многих проблем ещё не было найдено верных решений и не дано оценок эффективности.

**Ключевые слова:** гражданское право, юридическое лицо, учредители, общество, государство, капитал, устав.

#### Information about authors:

Zhylykchieva K. S., Cand. Jurid. Sci., Associate Professor of the Department of Civil, Labor and Environmental Law of Kyrgyz National University named after Jusup Balasagyn, Bishkek, the Kyrgyz Republic; jylykchievakunduz@gmail.com; <https://orcid.org/0000-0002-3492-3909>

Kalybaeva A. A., Cand. Jurid. Sci., Associate Professor of the Department of Civil Law and Procedure of Kyrgyz-Russian Slavic University, Bishkek, the Kyrgyz Republic; [aliya773@mail.ru](mailto:aliya773@mail.ru); <https://orcid.org/0000-0002-3697-2560>

Koshokova G. Zh., post-graduate student of the Institute of Philosophy, Law and Socio-Political Research named after A. A. Altmysbaeva of National Academy of Sciences of the Republic of Kyrgyzstan, Bishkek, the Kyrgyz Republic; [m.nura78@mail.ru](mailto:m.nura78@mail.ru); <https://orcid.org/0000-0003-2291-1852>

#### REFERENCES

- [1] Abdрахманова D.M., Egorova M.S. (2015) "Individual and legal entity". Concept, characteristics, registration features [«Fizicheskoye i yuridicheskoye litso». Ponyatiye, kharakteristika, osobennosti registratsii] // Young scientist [Molodoy uchenyy]. 11-4 (91): 4-7 (in Russ.).
- [2] Ali M. (2019) From Separate Legal Entity to Economic Unity: The Criminal Liability of Parent Company // Jurnal Media Hukum. 26(2): 158-167. DOI: 10.18196/jmh.20190131
- [3] Ayupova Z.K., Kussainov D.U. (2018) Problems of Constitutional and Legal Development of the Republic of Kazakhstan in the Conditions of Sovereignty // News of the National academy of sciences of the Republic of Kazakhstan. Series of Social and Human Sciences. 5 (321): 48-52. <https://doi.org/10.32014/2018.2224-5294.8>
- [4] Ayupova Z.K., Kussainov D.U., Nagan W. (2019) Novelities in the Legal System as Motive Force of Legal Integration // News of the National academy of sciences of the Republic of Kazakhstan. Series of Social and Human Sciences, 1 (323): 102-106. 2224-5294 <https://doi.org/10.32014/2019.2224-5294.15>
- [5] Beygizadeh B., Moazenzadegan H., Kooshki G. (2020). Exercising Differential Criminal Procedure to Legal Persons in the Preparatory Phase of Research: Fundamentals and Effects // Journal of Criminal Law Research. 8(29):. 43-68. DOI: 10.22054/jclr.2018.24896.1484 (in Farsi).
- [6] Civil Law (2002) Textbook for university students studying law specialties. Vol. 1. In 2 vol. Ed. E. A. Sukhanov. M.: Publishing house "BEK". ISBN 5-85639-250-7 (in Russ.).
- [7] Dinh T.M., Dinh N.T., Quynh B.T.P., Nguyen A.D. (2020) Corporate Criminal Liability on Environmental Crimes in Vietnam // E3S Web Conf., 203 (03014). DOI: <https://doi.org/10.1051/e3sconf/202020303014> (in Russ.).
- [8] Dragan J. (2016) Criminal Sanctions for Legal Entities: an Instrument of Crime Control // Collection of Papers, Faculty of Law, Nish. 55(74): 71-89. DOI: 10.5937/zrpfni1674071J (in Serb.).
- [9] Hamilton R., Freer R. (2010) The Law of Corporations in a Nutshell. 6th ed. West Academic Publishing, St. Paul. ISBN 0-314-90457-3.
- [10] Henn H., Alexander J. (1983) Handbook of the Law of Corporations and Other Business Enterprises, West Pub. Co., St. Paul. ISBN 0-314-74292-1.
- [11] Hicks A., Goo S. (1999) Case and Materials on Company Law. 3th ed. Blackstone press ltd., London. ISBN 1-854-31878-0.
- [12] Millon D. (1990) Theories of Corporation // Duke Law Journal, 2: 201-262.
- [13] Pennington R.R. (1995) Company Law. 7th ed. Butterworths, London, Dublin, Edinburgh. ISBN 0-406-04574-7.
- [14] Repeyev A.G., Reutsky, S.Yu. (2019) Legal Entities in Civil Law: Some Aspects of Typology [Yuridicheskiye litsa v grazhdanskom prave: nekotoryye aspekty tipologii] // Actual Problems of Combating Crimes and Other Offenses [Aktual'nyye problemy bor'by s prestupleniyami i inymi pravonarusheniyami]. 14-1: 282-284 (in Russ.).
- [15] Rustemova G.R., Bytymbayev A.M. (2015) Ecological Offence: Legislative Review of the Post-Soviet Countries, Europe, the USA, Japan // Mediterranean Journal of Social Sciences. 6 (5): 85-92. DOI: 10.5901/mjss.2015.v6n5s2p85
- [16] Selyutin A.V. (2019) Actual Problems of Development of Civil Legislation on Legal Entities [Aktual'nyye Problemy razvitiya grazhdanskogo zakonodatel'stva o yuridicheskikh litsakh] // Territory of Science [Territoriya nauki]. 6: 118-126 (in Russ.).
- [17] Torkhov Ya.A. (2019) Problems of Determining Category "Legal Entity" When Characterizing It as a Subject of Administrative Law (part 2)? [Problemy Opredeleniya Kategorii «Yuridicheskoye Litso» Pri Yego Kharakteristike kak Sub'yekta administrativnogo prava (chast' 2)?] // Young scientist [Molodoy uchenyy]. 6: 521-523 (in Russ.).
- [18] Wooldridge F. (1991) Company Law in the UK and the EC: Its Harmonization and Unification. Athlone Press, London, ISBN 0-485-70003-4 (in Russ.).
- [19] Zakurakina O.V. (2019) Formation and Development of Theories of Legal Entity in Russia // Paper presented in Sourcebook materials of the II International Scientific Conference "Legal Sciences: Problems and Prospects" in Perm, Russian Federation (in Russ.).