

## FORMS OF PROTECTION OF THE RIGHTS OF ENTREPRENEURS AND TYPES OF BUSINESS DISPUTES

**Аннотация.** The article addresses the issues of various ways to ensure the rights and legitimate interests of entrepreneurs.

**Ключевые слова:** Business law, interests and rights of entrepreneurs, systems of protection of citizens' rights, business activity, types of business disputes.

The supreme legislative act of the Russian Federation, the Constitution, provides citizens with the right to freedom of entrepreneurial activity. Regulations in the business sector also provide protection for businessmen during their legitimate activities.

Legitimate business activities are carried out in the legal environment of the Russian Federation and are subject to a variety of regulatory legal acts. Razumovskaya E.V. identifies several methods of protecting the rights of entrepreneurs: substantive, procedural, and personal protection [1].

There are also various ways to protect the rights of entrepreneurs, including judicial and extrajudicial methods. Extrajudicial protection includes mechanisms operating outside the judicial system of the Russian Federation, for example, through notarization, which simultaneously performs the functions of a state body, although the choice of a notary remains with citizens, and through arbitration. This method can also be used for pre-trial settlement of disputes through the claim procedure [2].

The judicial method of protection includes dispute resolution in courts of general jurisdiction, arbitration, as well as the Supreme and Constitutional Courts. Legal entities or entrepreneurs are required to prepare and present all the evidence necessary to restore violated rights. Both the entrepreneur himself and the lawyer hired by him can represent the interests of the business in court. Companies or individual entrepreneurs apply to courts of general jurisdiction when the following circumstances arise: challenging notarized transactions; challenging decisions or actions (inaction) of state and municipal structures; restoration of rights to securities; participation in disputes where one of the parties is an individual; violation of labor rights when an entrepreneur acting in the role of the employer, comes into conflict with the employee; consideration of disputes on the fact of administrative violations related to the activities of the entrepreneur.

Arbitration courts deal with economic conflicts arising between commercial organizations and individual entrepreneurs. Reconsideration of the cases of entrepreneurs may require an appeal to the Supreme or Constitutional Court to protect their rights. When filing a case with the Constitutional Court, the interested person must substantiate his claims and prove the contradiction of the legislative act to the Constitution of the Russian Federation. In the process of exercising their legal rights and opportunities, the business community faces various risks. It is important to systematize the types of business disputes based on the sources of potential risks, depending on the participants in legal disputes. Illegal actions against entrepreneurs can occur on the part of government agencies, business partners, competitors, criminals and even employees of enterprises. These disputes can be resolved either separately or through combined procedures.

The protection of the rights of entrepreneurs takes place in accordance with various federal laws, depending on potential sources of risk. For example, protection against violations emanating from government agencies is regulated by Federal Law No. 294-F3 of December 26, 2008 "On the Protection of the Rights of Legal Entities and Individual Entrepreneurs in the exercise of State and Municipal Control." In this law, the key principles of protection include notification of control



actions, the assumption of good faith of entrepreneurs, transparency of information about inspections, systematic inspections within the powers of regulatory authorities and responsibility for violations of established control rules.

Protection against illegal actions by state and municipal structures is actively carried out through arbitration courts. The Arbitration Procedure Code of the Russian Federation, in particular Articles 198 and 200 of Section 4.1, establishes criteria for recognizing decisions of state or municipal bodies as illegal: initially, it must be proved that the decision does not comply with the law, as well as that it violates the rights and legitimate interests of the applicant in the field of his commercial or other economic activity [3].

As a result of the decision of December 13, 2018 in the case № A65-24540/2018, the court satisfied the requirements of Gazprom Transgaz Kazan against the Volga Region Office of Rostekhnadzor in Kazan on recognizing some points of the act drawn up during the on-site inspection as illegal. The specified act did not fully take into account hazardous production facilities, and also violated the requirements of Rostekhnadzor Order No. 538 dated November 14, 2013, which includes approved federal norms and rules in the field of industrial safety for examination [4].

In order to help entrepreneurs overcome "administrative barriers" in resolving disputes involving state and municipal bodies, their rights can be protected by regional ombudsmen or other authorized persons whose task is to reduce bureaucratic pressure and prevent corrupt actions by state authorities issuing illegal orders against businesses [5].

Illegal acts against entrepreneurs carried out by their employees are primarily regulated by the Labor Code, since such disputes are based on labor relations.

The categories of litigation in question can be considered collectively, especially when it comes to unlawful actions by government agencies against an entrepreneur that also affect the interests of his employees. An example is the decision of October 5, 2021 in the case №

A76-21890/2021, in which the court satisfied the entrepreneur's claims to the Chelyabinsk regional branch of the Social Insurance Fund of the Russian Federation. The entrepreneur demanded reimbursement of expenses related to the payment of insurance benefits to pregnant and disabled workers, who, according to the audit, did not have the necessary education and experience for the position of seamstresses, which makes it difficult to assess the result of their work. The Fund refused to pay, arguing that there was no economic need to hire these workers. In its decision, the court referred to the Labor Code and Federal Law No. 255FZ of December 29, 2006 "On Compulsory social Insurance in case of temporary disability and in connection with maternity", indicating that the entrepreneur confirmed the existence of an employment relationship and the fulfillment of their duties by employees, while assessing the need for their employment is not included in the competence of the foundation [6].

The rights of entrepreneurs can be violated by intruders who systematically commit illegal acts with direct intent. The Criminal Code, in section VIII, defines legal relations in the field of economic activity and contains articles providing for criminal liability of entrepreneurs and legal entities for committing crimes. In particular, the list of such crimes is given in Chapter 22 of the Criminal Code of the Russian Federation. The application of criminal liability to legal entities has its own characteristics: a legal entity cannot be brought to criminal responsibility directly, but all negative consequences will be borne by members of the organization's management — members of the board of directors, members of the collegial executive body or a person performing the Functions of a sole executive body (director, CEO, chairman of a production cooperative, etc.). This is reflected in the resolution of the Plenum of the Supreme Court of the Russian Federation dated November 15, 2016 No. 48 "On the practice of applying legislation by courts regulating the specifics of criminal liability for crimes in the field of entrepreneurial and other economic activities." When it comes to



crimes against entrepreneurs, the Criminal Code strictly regulates the procedure, terms of consideration of cases and the list of necessary evidence [7].

Thus, as a result of the study, we came to the conclusion that the Russian state actively supports the development of small and medium-sized businesses, prioritizing the creation of favorable conditions for their growth. The state, focusing on the development of the business community, strives to provide an honest and transparent legal framework for entrepreneurs, as well as to develop various mechanisms to protect their rights.

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