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PROBLEMS OF REALIZATION OF THE RIGHT TO ENTREPRENEURIAL ACTIVITY AND ITS CONSTITUTIONAL AND LEGAL CONTENT

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Annotation: The article analyzes the problems of the implementation of the constitutional right to conduct entrepreneurial and other economic activities

Key words: constitution, constitutional rights, entrepreneurial activity,economic activity.

Introduction

Identifying problems of the realization of human rights and freedoms and taking measures to eliminate them is the most important task of every democratic State governed by the rule of law. A state governed by the rule of law is called such because the laws work in it, and rights and freedoms are realized not in words, but in deeds. The Russian Federation, having proclaimed itself a state governed by the rule of law (Part 1. Article 1 of the Constitution of the Russian Federation [1]), has assumed obligations to its people and the international community to recognize, observe and protect the fundamental rights and freedoms of citizens (Article 2, Part 1 of Article 17, Article 18, Part 1 of Article 45 of the Constitution). However, as indicated by N.I. Matuzov, it is not enough to proclaim certain rights and freedoms, the main thing is to materialize them, put them into practice, because they are easily postulated on paper, but very difficult to implement in life [5, p. 299].The difficulties of implementing the provisions of Chapter 2 of the Constitution, which Russia faced during the construction of modern statehood,determined the urgency of identifying and studying the problems of the realization of human rights, as well as working out ways to eliminate them.

The purpose of this study is to identify and systematize the problems of implementing the right of citizens to freely use their abilities and property for entrepreneurial and other economic activities not prohibited by law (hereinafter referred to as the right to entrepreneurial activity) enshrined in Part 1 of Article 34 of the Constitution of the Russian Federation.

The term "problem" (from the Greek problema – obstacle, difficulty, task) usually refers to a complex theoretical or practical issue, a task that requires research and resolution. Speaking about the problems of the realization of human rights, they mean the difficulties and obstacles that arise on the way of their implementation, i.e. on the way of the real introduction of the owner of the subjective right to the social benefits that constitute the object of this subjective right.

In order to effectively solve the problems of the realization of human rights, it is necessary to identify and systematize them. Human rights and freedoms are very ambiguous in terms of social significance and content, in terms of the types of benefits underlying them, in terms of the nature of needs and interests satisfied through their implementation [7, p. 148]. These differences cause a variety of problems arising in the implementation of individual subjective human rights. At the same time, it is possible to identify the obstacles accompanying the realization of each right and freedom. Thus, the problems of the realization of human rights can be classified into general - hindering the exercise of any rights (for example, the problem of imperfection of legislation, low level of legal culture of the population, etc.), and private, characteristic of the realization of individual rights and freedoms, including the right to entrepreneurial activity.

The problems of the realization of rights and freedoms are not always rooted in the law itself, often their origins should be sought in economic, political, social and other relations. So, entrepreneurship is a complex multidimensional phenomenon that is closely interrelated and interdependent with all spheres of society. This circumstance determines the dependence of the

www.wordlyknowledge.uz Volume: 2, Issue: 1, 2023

possibility of doing business on economic, political, social and other conditions. In our opinion, the basis for attributing certain circumstances to factors that hinder the realization of the right in question is the discrepancy between economic, social, political and other conditions to the rational needs of the authorized person.Thus, the problems of the implementation of the constitutional right to entrepreneurial activity can be classified according to the spheres of public life on:

- economic (unfavorable investment climate, unavailability of loans, monopolization of the domestic market and high competition in the external market, etc.);

- political (discussion on the need to revise the results of privatization, indicative tax audits of major companies, "the fight against oligarchs" [2, p. 179], entail a growin distrust of entrepreneurs to the authorities [8] and its ability to pursue a long-term policy and ensure stable business conditions, resulting in "capital flight" and negative attitude from foreign partners);

- social (collision of private interests

of entrepreneurs with public interests of society, deep property differentiation of the population; high level of poverty, unemployment and the corresponding crime rate);

- cultural, ideological and psychological (low level of legal and entrepreneurial culture; low entrepreneurial activity of citizens due to self-doubt and distrust of the measures of support announced by the state; unwillingness of a significant part of the population to perceive entrepreneurial activity as a way to solve social and economic problems; negative attitude of the population to business);

-educational (insufficient level of knowledge of entrepreneurs and ordinary workers, lack of understanding of the basic basics of entrepreneurship, which is due to the poor quality and effectiveness of education, not focused on the formation of a politically and economically active personality, as well as a decrease in the scientific potential of the country);

- organizational (inefficiency of measures taken by the state to promote and stimulate entrepreneurship, which are often declarative in nature, infrastructural backwardness of the country, low executive discipline and professional level of managerial personnel, etc.);

- informational (problems of obtaining access to information resources, problems of information dissemination);

- legal.

A special position among other problems of the realization of human rights and freedoms is occupied by legal or legal problems, which is due to the guiding role of law as a regulator of public relations. In this sense, the law acts as a powerful tool in the hands of the legislator, the skillful use of which makes it possible to effectively influence the economic, political, social and other conditions for the realization of citizens' rights.

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www.wordlyknowledge.uz Volume: 2, Issue: 1, 2023

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