2019 году, а также противоречия между ведущими транснациональными корпорациями мира, владеющими интернет-платформами.

Наиболее активной в области регламентации деятельности именно социальных сетей стала Германия. Так, еще в 2017 году в государстве был принят Закон «О мерах в отношении социальных сетей». Данный нормативный правовой акт направлен, в первую очередь, на ликвидацию вражды, возникающей в социальных сетях. Закон обязывает социальные сети оперативно удалять контент, который признается незаконными в соответствии с уголовным законодательством страны. Например, призывы к насилию или оскорбления пользователей.

В 2020 году стало известно о том, что правительство Германии одобрило еще один законопроект, который позволяет предоставлять доступ спецслужбам к переписке пользователей мессенджеров (WhatsApp, Facebook Messenger и другие). Подобные меры должны оказать значительное содействие в борьбе с терроризмом.

Вместе с тем следует подчеркнуть, что социальные сети самостоятельно регулируют свою деятельность посредством пользовательских соглашений. В законодательстве Республики Беларусь пользовательское соглашение является публичной офертой и направлено на регламентацию общественных отношений между организацией, владеющей компьютерной программой или предоставляющей интернет-услуги, и ее непосредственным пользователем. Государство в данные правоотношения вступает лишь при наличии конфликта между вышеуказанными субъектами.

Следовательно, в настоящее время правовой статус социальной сети, как информационной платформы, юридически не закреплен в большинстве стран мира, в том числе и в Республике Беларусь. Данный пробел в законодательстве в перспективе может создать ряд проблем в правоотношениях между социальными медиа и государством.

Заключение. На наш взгляд, развитие современного информационного общества невозможно без предоставления социальным сетям статуса самостоятельного субъекта права и закрепления за ними четких прав, обязанностей, а также форм ответственности. Таким образом, в Республике Беларусь следует рассмотреть вопрос разработки отдельного нормативного правового акта, регламентирующего деятельность социальных сетей, либо внести существенные изменения в законы, регулирующие деятельность СМИ на территории нашей страны.

1. Digital 2020: глобальный обзор трендов и цифра за 2020 год от We Are Social и Hootsuite [Электронный ресурс]: Журнал Cossa. – Режим доступа: https://www.cossa.ru/news/252951/. – Дата доступа: 27.01.2021.

2. Путеводитель по социальным медиа [Электронный ресурс]: Представитель ОБСЕ по вопросам свободы СМИ. – Режим доступа: https://www. osce.org/ru/fom/99564?download=true. – Дата доступа: 27.01.2021.

COMPARATIVE LEGAL ANALYSIS JUDICIAL SYSTEMS OF THE REPUBLIC OF BELARUS AND FOREIGN COUNTRIES

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The purpose of the work is to analyze the concept, legal nature, structure and content of the judicial power in the Republic of Belarus and foreign countries.

Methods: system, historical-legal, comparative-legal, formal-legal.

The judiciary should be understood both as a system of bodies that exercise it, and as the ability of these bodies to perform certain actions and the very performance of these actions. These elements are organically linked to each other so closely that in the absence of one of them, we are no longer talking about power, but about anarchy. Justice is one of the most important manifestations of the judiciary. Justice is the law enforcement activity carried out by the court to consider specific cases with strict compliance with the requirements of the law and the order established by it, ensuring the legality, validity, fairness and general binding of court decisions. The independence and independence of the judiciary is necessary for it to provide a real opportunity to stop the arbitrariness of other authorities and to protect the rights and freedoms of individual citizens, their associations, and society as a whole.

The status of the judiciary is revealed, first of all, by formulating the principles of its implementation. The constitutional principles of the judiciary are the basic, initial, guiding normative provisions

(rules, requirements, ideas) of the most general nature enshrined in the Constitution of the Republic of Belarus and other laws, expressing the democratic essence of justice, forming a single system, defining the organization and activities of the judiciary to fulfill its tasks.

The Constitution of the Republic of Belarus formulates the initial provisions for the construction of the current judicial system. Specifying and developing the constitutional provisions, the Code on the Judicial System and the Status of Judges in Article 5 establishes that judicial power in the Republic of Belarus is exercised by the general courts and the Constitutional Court. The general courts include the Supreme Court of the Republic of Belarus, regional, Minsk city, economic courts of the regions and the city of Minsk, and district (city) courts. A characteristic feature of the judicial system of the Republic of Belarus is its unity.

The judicial systems of the vast majority of foreign countries belong to one of the two most common models: Anglo-Saxon (Anglo-American) or Romano-Germanic (European Continental).

Currently, the creation of specialized judicial systems is most typical for countries belonging to the Romano-German legal family (France, Germany). For countries belonging to the Anglo-Saxon legal family, there are trends towards the creation of specialized judicial bodies that do not form independent judicial systems, as well as administrative institutions that perform quasi-judicial functions.

The Code of the Republic of Belarus on the Judicial System and the Status of Judges of June 29, 2006 provides for the possibility of creating specialized courts in the system of general courts for minors, family, administrative, etc. [1]. There is a need to introduce mandatory specialization in the categories of cases in multi-component courts, and in the future-consideration of the creation of specialized courts. The development of the principle of judicial specialization in the Republic of Belarus will contribute to further improving the administration of justice, improving its quality, accessibility, and ensuring timely and competent protection of constitutional human rights and freedoms.

In the Republic of Belarus, the issue of creating a juvenile justice system has been discussed for a long time. Thus, the Criminal Executive Code of the Republic of Belarus stipulates that criminal cases involving crimes committed by minors are subject to consideration by special juvenile courts. However, to date, such courts have not been established, which is a gap in our legislation.

The organization of the judicial system directly depends on the type of state structure. World experience shows that there are no uniform templates and recipes. Everything is determined by the level of independence of the Federation, the distribution of competences between them and the center, the ratio of Federal law and Federal subjects. In most countries, the basic constitutional provisions governing the organization of the judiciary are extremely concise. They do not detail the structure of the general judicial system, and sometimes this issue is completely bypassed, as, for example, in the French Constitution, which does not have articles on the highest judicial instances – the Court of Cassation and the Council of State. Such laconism is not accidental. It leaves some leeway in reforming the judicial system.

In most Western states, after the reform of the judicial system in the second half of the XX century, a three-stage structure of the judiciary was formed, as a rule. The first-tier courts are significantly differentiated depending on the degree of complexity and category of cases. The second stage is occupied by the courts of appeal, which are called almost universally. They combine their main function, which is to consider complaints against decisions of the courts of first instance, with organizational and control activities. The third level of the judicial hierarchy is occupied by the supreme courts. They have the status of the highest court, which is enshrined in the constitutions of many countries. Some supreme courts are also endowed with the right of constitutional control, for example, in the United States, in the Scandinavian countries, while the Cassation Courts of Italy and France, the Supreme Court of Spain, the Federal Judicial Chamber of Germany do not have such a right. The supreme courts - in addition to the main judicial courts-have various organizational and control functions.

With all the diversity of the judicial systems of developed Western states, it is possible to distinguish some common features and trends of development, and regardless of the system of law. These include:

The judiciary is protected from all interference by the legislative and executive authorities. On the other hand, there is a restrictive concept of judicial intervention, which is legally established in European countries. In England, in the doctrines of inherited jurisdiction and judicial discretion, in France, a double judicial prohibition: in relation to the executive branch. At the same time, it is generally recognized that the courts make an important contribution to the rule-making process, and not only in the Anglo-American judicial system, and there are various ways to do this;

many countries are characterized by the subordination of national judicial systems to the decisions of regional higher judicial authorities (for example, in EU member States);

the presence of special courts and courts of limited jurisdiction; the presence of juvenile justice; the presence of disciplinary and honor courts measures of influence against civil servants, judges, lawyers, notaries;

the existence of special judicial bodies for the responsibility of the highest officials of the state (the president, ministers and members of the government);

the appeal and cassation procedure for reviewing court cases, as well as the supervisory procedure (European continental model);

the transition to "delegated justice", the simplification of the traditional judicial system, the creation of a huge number of quasi-judicial bodies, the tendency to consider civil and commercial cases in these bodies or in a pre-trial order;

Institute of the magistracy, and the application of the jury, elected lay judges, strengthening the justice collective professional judges (3 judges in France to 3-5 in Germany);

in the countries of the Romano-Germanic legal system of the Prosecutor's office by the Minister of justice, ensures effective operation of the judicial system at all levels;

a large number of courts at all levels in relation to per capita, provision of courts with qualified judges, judicial staff, witness protection programs; transparency and transparency of justice, publicity of meetings, centuries-old traditions of judicial ethics;

active development of e-justice.

The modern institution of constitutional control, known to the practice of more than 164 states, is characterized by its variability. Forms of constitutional control are increasingly difficult to reduce to the two main models of "American" and " European "There is a tendency to appear numerous" mixed " forms (Greece), in which certain features inherent in different models of judicial and quasi-judicial control are combined in one or another combination. While maintaining the fundamental difference between the "American" (decentralized) and" European " (centralized) models of constitutional control, which is expressed in the existence or absence of specialized bodies of constitutional justice, these models in many countries acquire a complex character, primarily within the competence of the judiciary, as well as in terms of the forms and types of constitutional control they apply. Moreover, in a number of states, the "mixed" model of constitutional justice is approved, which is characterized by a combination of not only various forms and types of control, but also its implementation by both courts of general jurisdiction and specialized bodies of constitutional justice.

Trends in the development of constitutional justice, the expansion of the powers of the constitutional courts at the present stage indicate that they are aimed at ensuring the effectiveness of constitutional justice, the establishment of the supremacy of the Constitution and constitutional legality. Thus, the constitutional courts give an opinion on the legality of presidential and parliamentary elections (France), monitor the correctness of referendums (Italy, Moldova), give an opinion on the removal of the head of state from office (Germany, Italy, Russian Federation), consider the constitutionality of the activities of political parties (Germany, Ukraine, Poland), decide on the inconsistency of law enforcement practices affecting the constitutional rights of citizens, exercise the right of legislative initiative, interpretation of laws (Russian Federation, Poland, Moldova), consider disputes on competence between central and administrative-territorial authorities in unitary states and bodies of federal subjects in federal states (Italy, Spain, the Russian Federation), and much more. The Constitutional Court of the Republic of Belarus considers questions about the constitutionality of normative legal acts as a whole, as well as their individual provisions of any state body or public association.

Describing the latest changes in the justice system of the Republic of Belarus and plan ways to improve it, in my opinion, the following should be noted:

to optimize and increase the efficiency of appeal in the economic courts of the planned creation of a single Economic court of appeal;

a legislative innovation has been adopted to limit judicial jurisdiction in absolutely uncontested cases and transfer some of these cases to the jurisdiction of executive inscriptions, which will reduce the burden on judges and focus them on more complex cases;

mandatory psychological testing is being introduced for candidates for the position of judge;

justice is becoming more transparent. So, in the first reading, the law on further openness of trials, their recording with the help of modern digital technologies, which means accompanying any

court session with constant video and audio recording, was adopted. This innovation was tested in the Supreme Court, and, taking into account real technical capabilities, from January 1, 2020, this practice is applied in regional, and then gradually in district courts, which will reduce the conflict of justice, eliminate comments that arise during the process, and discipline its participants;

It is planned to introduce the possibility of appealing against court decisions of the Supreme Court in the first instance, which were previously considered final;

the process of justice will have to be completed in the appellate court in the County courts, and the appeal of an enforceable court decisions in judicial review would be limited in time, and the actors, that is, after one year you will not be able to appeal the decision of the court of appeal.

1. Code of the Republic of Belarus on the Judicial System and the Status of Judges of June 29, 2006 No. 139-Z: adopted by the House of Representatives on May 31, 2006: approved by the Council of the Republic on June 16, 2006 (as amended). from December 10, 2020) // Etalon-Belarus [Electronic resource] / National Center for Legal Information. Rep. Belarus. - Minsk, 2020.

2. Constitutional (state) law of foreign countries. General part: textbook for universities / Ruk. avt. koll. i otv. ed. A. A. Mishin. - 4th ed., updated and dorab. - Moscow: Norma, 2009. - 560 p.

ТЕОРЕТИЧЕСКИЕ АСПЕКТЫ ПРАВОВОГО ОБЕСПЕЧЕНИЯ ЭЛЕКТРОННОГО БИЗНЕСА В РЕСПУБЛИКЕ БЕЛАРУСЬ

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Сегодня одним из важнейших инфраструктурных элементов формирования новой экономики является мировая система унифицированных компьютерных сетей хранения и передачи информации "Интернет". Бизнес переживает процесс переориентации на удаленную работу с клиентами, особенно в сложной эпидемиологической ситуации. Использование ИКТ становится повседневным явлением. Средства массовой информации и глобальные коммуникационные механизмы используются во всех сферах жизни. Все это свидетельствует об актуальности и важности совершенствования правового обеспечения в сфере электронного бизнеса.

Цель исследования: выявление актуальности особенностей и совершенствование механизма финансово-правового управления электронным бизнесом.

Материал и методы. В рамках исследования изучаются труды отечественных и зарубежных ученых, а также нормативные правовые акты. Использовались следующие общенаучные методы: анализ, сравнение, аналогия и другие, а также структурно-правовые и формально-правовые методы.

Результаты и их обсуждение. Республика Беларусь с 2010 года приступила к реализации Концепции национальной безопасности, в которой особое внимание уделяется информационной безопасности. Информационная сфера становится системообразующим фактором в жизни людей, обществ и государств.

В этой связи информационная сфера играет ключевую роль для национальной безопасности страны. Среди источников угроз национальной безопасности в информационной сфере в Концепции выделяются следующие явления и тенденции:

– распространение ложной или умышленно искаженной информации;

– качество национального контента не соответствует мировому уровню;

– недостаточная эффективность информационного обеспечения;

– открытость и уязвимость информационного пространства к внешним воздействиям;

– монополизация ключевых сегментов информационных рынков иностранными информационными структурами;

– развитие технологий манипулирования информацией и др.

Все это тесно связано с процессом ведения электронного бизнеса в Республике Беларусь. Категорию «электронный бизнес» можно рассмотреть с двух позиций. В первую очередь, как «внутреннюю организацию компании на базе единой информационной системы (КИС), повышающую эффективность взаимодействия сотрудников и стимулирующую процессы планирования и правления» [1]. Однако многие авторы более широко подходят к понятию, говоря об электронном бизнесе с позиции внешнего взаимодействия с партнерами, поставщиками, клиентами.