

constitutional practice of a number of states. The legal mechanism for ensuring the right to life contains the constitutional enshrinement of this right as a fundamental right and derivative rights and freedoms, the basic principles and obligations of society as a whole and of the state authorities for its implementation, and is detailed in the sectoral legislation. We would like to note that, in our opinion, somatic rights do not always have a positive impact on society. For example, legal permission of same-sex marriages becomes an obstacle to the resolution of demographic problems, propaganda of non-traditional family values, when, in our opinion, personal freedom and public interests come into a certain contradiction.

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### **LEGAL NATURE OF ACTIONS OF DEBITING FROM THE ACCOUNT WITHOUT A PAYMENT ORDER OF THE ACCOUNT HOLDER**

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Keywords: indisputability, recovery, money, enforcement of obligations, debiting, public financial obligations, private monetary obligations.

Along with jurisdictional forms of protection of rights, available legal instruments of non-jurisdictional procedure for enforcement of monetary obligations is widely used in the Republic of Belarus. Non-judicial debt recovery on a monetary obligation is an effective alternative to judicial protection.

The maximum simplification of the debt recovery mechanism through the introduction, use and improvement of the institution of debt recovery in an indisputable order, along with a positive effect, predictably gave rise to a number of problems, since it is not always the case that the desire to simplify acts and things results in no negative consequences for all parties to business transactions. The relevance of a comprehensive study of the institution of debt recovery in an indisputable order is supported by the essential specific features inherent to this civil institution: in case of debt recovery in an indisputable order interests of the debtor (and his/her debtors) are less protected than when the creditor resorts to any other forms of protection of the violated right.

The purpose of this study is to determine the legal nature of actions of debiting from the account without a payment order from the account holder, the major characteristics of an indisputable debt recovery.

**Material and methods.** The research material is the Banking Code of the Republic of Belarus, the Budget Code of the Republic of Belarus, regulatory legal acts regulating the procedure for monetary debt recovery at the request of public authorities. To perform the study, a complex of methods of scientific cognition was used (systemic and comparative analysis, historical, comparative law, logical, technical legal methods).

**Findings and their discussion.** It seems that a bank account should be treated as legal relations between a plurality of parties regarding holding and movement of money. It is required to single out public legal entities, including the financial and tax authorities of the state and the National Bank of the Republic of Belarus, in such plurality on a first-priority basis, only then follow private legal entities such as a specific bank and a client which are parties to a contract [9, p. 247]. In practice, many lawyers, and even some researchers, tend to use the concepts of “indisputable debiting” and “indisputable recovery” of money as one and the same concept. But it is difficult to agree with this.

It is obvious that the terms “indisputable recovery” and “indisputable debiting” are legal arrangements that differ from each other. They differ, firstly, in the subjects of legal regulation, secondly, in the composition of the subjects of legal relations, and thirdly, “indisputable recovery” is a law enforcement action taken by competent public authorities and notaries, and “indisputable debiting” is the completion of a sequence of bank transfer operations by the entity (bank) which is under the obligation pursuant to the payment instruction of the recoverer.

Indisputable recovery of money is applied to achieve two different goals: to protect the personal property interests of the subject (restoration of violated subjective civil rights) and to ensure the protection of public interests (recovery or return of money to the budget).

We share the position of O.A. Prokhorchik on the inexpediency of functioning of the indisputable recovery institution in the form in which it currently exists. The researcher points out that this issue has been long discussed, starting from the moment the aforesaid norms were included in the Budget Code. Indeed, such cash withdrawal is made free of charge and in an indisputable order, but it is “indisputable” only because the account holder is initially deprived of the opportunity to express his/her attitude to this procedure in a procedural form. [8, p. 241-243]. Debiting money from the account without the consent of the account holder is a severe restriction on the right of the account holder to independently dispose of the relevant property. This gives rise to the idea that the opinion stating that indisputable debiting constitutes a possible violation of constitutional provisions is reasonable.

In view of the foregoing, it is necessary to study in detail the criterion of disputability or indisputability of law.

Indisputability (non-contestation of a claim) means the debtor's reaction (or lack of it) to a specific action (claim) made by the creditor in order to protect his/her violated rights or legally protected interests, in other words: making claims necessarily precedes the fact of their non-contestation. Non-contestation is the opposite of a dispute, respectively: the existence of non-contestation shows the absence of a dispute, and the existence of a dispute shows the absence of non-contestation.

Thus, in the course of the indisputable recovery of money, the indisputability of the claims made must be confirmed by the inaction (silence) of the debtor when such claims are made or by actions showing that the debtor agrees with the claims put forward. The above means that in all cases before any indisputable recovery such claims must be made to the debtor in the form established by law.

Consequently, the indisputability of claims exists only if there is the combination of both features of indisputability, both objective and subjective.

**Conclusion.** In view of the foregoing, a recovery of money is indisputable when it has the characteristics specified in the following definition: “indisputable recovery of money” is a means of enforcement of payment obligations is a measure based on the consent of the debtor and a law enforcement act issued by an authorized public body to enforce public financial obligations or monetary obligations within private law relations that are of indisputable nature (based on documents confirming the debtor's debt) and are recognized (non-contested) by the debtor, but not fulfilled.

Any other debt recovery that does not meet this definition is an enforced recovery and, in accordance with Article 44 of the Constitution of the Republic of Belarus, must be carried out solely pursuant to a court ruling issued as a result of adjudication of a creditor's claim.

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### **TO THE CONCEPT OF VIOLENT CRIMES AS AN ELEMENT OF CRIMINALISTIC CHARACTERISTICS OF CRIME**

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Keywords: violence, violent crime, crime, physical violence, mental violent.

Human life is a fundamental social value, the highest and priceless good bestowed on him by nature [3, p. 19]. Violent crime is perhaps the most dangerous, because this type of crime encroaches on the most valuable thing that every person has – life and health. The importance for the study of this topic is that with the development of the Belarusian society at the present stage, it is accompanied by the recognition of human