III. CIVIL LAW AND PROCEDURE

Information for citation:
Golubtsov V. G., Valeev D. Kh. Sovremennoe sostoyanie i perspektivy reformirovaniya grazhdanskogo protsessa v gosudarstvakh Sodruzhestva Nezavisimykh Gosudarstv [The Current Status and Prospects of Reforming the Civil Procedure in the Countries of the Commonwealth of Independent States]. *Vestnik Permskogo Universiteta. Juridicheskie Nauki* – Perm University Herald. Juridical Sciences. 2017. Issue 38. Pp. 474–483. (In Russ.). DOI: 10.17072/1995-4190-2017-38-474-483.

UDC 347.9
DOI: 10.17072/1995-4190-2017-38-474-483

THE CURRENT STATUS AND PROSPECTS OF REFORMING THE CIVIL PROCEDURE IN THE COUNTRIES OF THE COMMONWEALTH OF INDEPENDENT STATES

V. G. Golubtsov

Perm State University
15, Bukireva st., Perm, 614990, Russia
ORCID: 0000-0003-3505-2348
ResearcherID: H-4690-2015
Articles in DB "Scopus" / "Web of Science":
DOI: 10.5829/idosi.mejsr.2013.13.pl.14010 **DOI:** 10.5829/idosi.wasj.2013.24.01.13177
DOI: 10.5829/idosi.mejsr.2013.15.8.11538 **DOI:** 10.17072/1995-4190-2016-32-175-184
DOI: 10.5829/idosi.wasj.2013.24.01.13176
e-mail: predprim.pravo@gmail.com

D. Kh. Valeev
Perm State University
15, Bukireva st., Perm, 614990, Russia
ORCID: 0000-0002-3233-2400
ResearcherID: K-7345-2016
e-mail: predprim.pravo@gmail.com

Introduction: *in the article, the analysis is given of the main provisions of the current legal regulation of the civil procedure in the countries of the Commonwealth of Independent States. This is a topical question for Russian legal science in the context of reforms that have taken place over the past three years and further changes planned in the civil procedure.* ***Purpose:*** *the authors made an attempt to identify the special features of the civil procedure that distinguish the legal system of one CIS state from the legal systems of all the other countries of the CIS.* ***Methods:*** *the research is based on the dialectical-materialistic method of cognizing legal reality, general scientific methods (analysis and synthesis, logical method), and specific scientific methods (system-structural, formal-legal, comparative law methods).* ***Results:*** *the study has revealed that, despite the many years' experience of enforcing the USSR procedural law, which became the basis for the subsequent development of legal branches in the CIS countries, serious differentiation of particular institutions of the sector has already been achieved. For example, the Constitutional Court of the Azerbaijan Republic is actually the higher authority for appealing against decisions of the Supreme Court. The new judicial system of Armenia operates on the basis of case law. The Civil Procedure Code of Kazakhstan provides for the possibility to apply for a participatory procedure as a kind of alternative settlement of a dispute. The courts of the aksakals operate in the Kyrgyz Republic. In Moldova, there is a special independent body – the Supreme Council of Magistracy. In 2014, the judicial reform*

was initiated in the Russian Federation, which resulted in the abolition of the Supreme Arbitration Court of the Russian Federation and delegation of its powers to the Supreme Court of the Russian Federation. In the Republic of Tajikistan, a person introduced to the position of judge for the first time ever can work as a trainee judge within a year. The structure of the judicial system of Turkmenistan does not have the Constitutional Court as an institution of judicial constitutional control. ***Conclusions:*** *the diverse experience of the CIS countries allows one to conduct comparative legal studies in order to identify the advantages and disadvantages of certain legal regulation mechanisms, both borrowed from European countries and those inherent for the nation by virtue of traditions and customs.*

Keywords: civil procedure; Constitutional Court; Supreme Court; judicial precedent; participatory procedure; Commonwealth of Independent States.

Information in Russian

СОВРЕМЕННОЕ СОСТОЯНИЕ И ПЕРСПЕКТИВЫ РЕФОРМИРОВАНИЯ ГРАЖДАНСКОГО ПРОЦЕССА В ГОСУДАРСТВАХ СОДРУЖЕСТВА НЕЗАВИСИМЫХ ГОСУДАРСТВ

В. Г. Голубцов

Доктор юридических наук, профессор,
зав. кафедрой предпринимательского права, гражданского и арбитражного процесса
Пермский государственный национальный исследовательский университет
614990, Россия, г. Пермь, ул. Букирева, 15
ORCID: 0000-0003-3505-2348
ResearcherID: H-4690-2015
Статьи в БД «Scopus» / «Web of Science»:
DOI: 10.5829/idosi.mejsr.2013.13.pl.14010 **DOI:** 10.5829/idosi.wasj.2013.24.01.13177
DOI: 10.5829/idosi.mejsr.2013.15.8.11538 **DOI:** 10.17072/1995-4190-2016-32-175-184
DOI: 10.5829/idosi.wasj.2013.24.01.13176
e-mail: predprim.pravo@gmail.com

Д. Х. Валеев

Доктор юридических наук, профессор,
профессор кафедры предпринимательского права, гражданского и арбитражного процесса
Пермский государственный национальный исследовательский университет
614990, Россия, г. Пермь, ул. Букирева, 15
ORCID: 0000-0002-3233-2400
ResearcherID: K-7345-2016
e-mail: predprim.pravo@gmail.com

Введение: *в статье представлен анализ основных положений современного правового регулирования гражданского процесса в странах Содружества Независимых Государств, что актуально для российской юридической науки в контексте произошедших за последние три года реформ и планируемых дальнейших изменений гражданского процесса.* ***Цель:*** *предпринята попытка выявить особенные черты гражданского процесса, отличающие правовую систему одного государства от всех иных стран СНГ.* ***Методы:*** *диалектико-материалистический метод познания правовой действительности, общенаучные методы (анализ и синтез, логический метод) и частнонаучные методы (системно-структурный, формально-юридический, сравнительно-правовой методы).* ***Результаты:*** *в ходе исследования обнаружено, что, несмотря на многолетний опыт процессуального права СССР, ставшего основой для последующего развития отраслей права в странах СНГ, на данном этапе уже достигнута серьезная дифференциация отдельных институтов отрасли. Так, Конституционный суд Азербайджанской Республики фактически является вышестоящей инстанцией для обжалования решений Вер-*

ховного суда. Новая судебная система Армении действует на основании прецедентного права. В Гражданском процессуальном кодексе Казахстана закреплена возможность обратиться к партисипативной процедуре (вид альтернативного способа разрешения спора). В Кыргызской Республике действуют суды аксакалов. В Республике Молдова действует специальный независимый орган – Высший совет магистратуры. С 2014 г. в Российской Федерации начата судебная реформа, результатом которой стали упразднение Высшего Арбитражного суда РФ и делегирование его полномочий Верховному суду РФ, разрабатывается Единый ГПК, происходит дифференциация процессуальной формы. В Республике Таджикистан лица, впервые представляемые на должность судьи, могут в течение года отработать в качестве стажера-судьи. Туркменистан не имеет в структуре судебной системы конституционного суда как института судебного конституционного контроля. Соответствие нормативных актов Конституции и законам определяет Меджлис. В Республике Узбекистан сохраняется возможность участия народных заседателей в отправлении правосудия. ***Выводы:*** *разнообразный опыт стран СНГ позволяет проводить сравнительно-правовые исследования с целью выявления преимуществ и недостатков отдельных механизмов правового регулирования как заимствованных у европейских стран, так и свойственных нации в силу традиций и обычаев.*

Ключевые слова: гражданский процесс; Конституционный суд; Верховный суд; судебный прецедент; партисипативная процедура; Содружество Независимых Государств

Introduction

The Commonwealth of Independent States (hereinafter referred to as the CIS) is a regional international organization aimed at regulating the relations of cooperation between the member states of the former USSR.

The Agreement on the creation of the Commonwealth of Independent States, comprised of the Preamble and 12 Articles, stated that the Union of SSR ceased to exist as a subject of international law and geopolitical reality. However, "from the perspective of the historical commonality of the peoples and connections between them, taking into account bilateral agreements, the commitment to the democratic state of law, the intention to develop the relations on the basis of the mutual recognition and respect for national sovereignty, the parties agreed to establish the Commonwealth of Independent States" [1].

This article covers the research and comparison of the principal provisions of the civil procedure law and court systems of each of the states. For convenience, the research findings are provided in the alphabetic order of the CIS countries.

The principal laws of the civil procedure of the CIS countries and the scientific works of the leading scientists of these countries are the basis of the research.

Main Content

The Azerbaijan Republic. New progressive laws have been adopted in the last ten years, including laws "On Constitutional Court", "On Courts and Judges", "On Public Prosecution", "On Police", "On Operative Investigation Activity" and others. Besides, the Civil Code, the Civil Procedure Code and other Codes that are fundamentally different from those of the preceding Codes were introduced. When Mr. Ilham Aliyev signed the Decree No. 352 "On Modernization of the Judicial System in the Azerbaijan Republic", the court reform moved to a qualitatively new level. The next step of modernizing the court system provides for the creation of new courts to meet the population demand in legal institutions and legal support in the conditions of the social and economic development of the regions; to eliminate the abusive activities, delays and other drawbacks that lead to the population dissatisfaction; to increase the efficiency of justice and the citizens' trust in courts; to simplify the procedure of applying to courts; to use new information technologies in court activities; to develop a more convenient structure and work pattern of the court apparatus; and to solve other important tasks.

In accordance with Article 130 of the Constitution (introduced on November 12, 1995 and amended following the results of the nationwide referendum of August 24, 2002), the Constitution-

[1] Agreement of December 8, 1991 "On the Establishment of the Commonwealth of Independent States". *Newsletter of the RF Congress of People's Deputies and the Supreme Soviet.* No. 51, Art. 1798.

al Court of the Azerbaijan Republic, as may be required by law, is entitled to settle disputes over the compliance of the decisions of the Azerbaijan Republic Supreme Court with the Azerbaijan Republic Constitution and laws. Thus, the Azerbaijan Republic Constitutional Court is actually a superior institution for appealing against the Supreme Court decisions.

What seems interesting is the rule that verification of the fact pattern of the cases that have been studied by the Supreme Court is not allowed (Article 34.2 of the Azerbaijan Republic law "On Constitutional Court").

There is no mechanism of the kind in the Russian Federation, however, for several years in a row there have been publications on the idea of uniting the RF Supreme Court and the RF Constitutional Court. In case the existing scheme of the supervisory appeal to the RF Supreme Court Presidium is preserved after the introduction of such a reform, the judges who conduct the constitutional court proceedings will actually participate in the final stage of appeal.

Armenia. The powers of the Constitutional Court of the Republic of Armenia do not include the possibility to review the decisions of the Cassational Court (the supreme judicial authority, except for the constitutional justice sphere). However, this state has another specific feature of the civil procedure sphere.

In Armenia, a new judicial system was introduced from January 1, 2008. This had been prescribed by the Judicial Code of Armenia[1] adopted on February 21, 2007.

In accordance with the Judicial Code, the courts of general jurisdiction, the specialized courts (civil, criminal, administrative courts), appeal and cassational courts were established from January 1, 2008.

A special role is given to the Council of the Court Chairmen of the Republic of Armenia, which is not a judicial body but a supreme body of self-government of the general jurisdiction courts.

It is worth mentioning that the new court system of Armenia operates on the case-law basis [10]. The case law means that the court disputes on cases with similar actual circumstances are settled uniformly, and the source of the case law in Armenia is the decisions of the European Court of Human Rights and Cassational Court of Armenia.

The Judicial Code defined the notion of the *case in precedent*, which is to guarantee the predictability of the jurisdiction [2, p. 258]. In accordance with Item 4 of Article 15 of the Judicial Code of the Republic of Armenia, the interpretations of law, including those given in the Order of the Cassational Court or the European Court of Human Rights for cases with particular circumstances of fact, are mandatory for consideration by a court reviewing a case with similar circumstances, except when the court is able to give solid arguments to justify that the case in precedent is not applicable for the given circumstances of fact.

The procedure law of Russia sets a task of obtaining the uniformity of the court practice, however this can hardly be achieved through the case law because the list of cases was extended where the courts have the right not to prepare the statement of reasons in the court order.

Belarus. In the Republic of Belarus, the sphere of the civil court proceedings faces processes similar to the reform of the Russian procedure law: the Superior Commercial Court was abolished, the general jurisdiction courts and the commercial courts were united into a single system, the possibility of adopting a unified Civil Procedure Code is being studied. The mentioned similarity of the modern phase of the procedural legislation development allows the scientists to discuss the practicability of the unified Civil Procedure Code both abstractedly and as applied to the national legislation.

The representatives of the Belarus scientific community come up with the idea that "by its nature, the reform of the court system arrangement and the unification of the court procedure rules are two unrelated phenomena: the reasons for each can be (and they often are) in two different disjointed planes, and correspondingly these phenomena have no interdependence with each other" [6, p. 166]. In general, there are no objective prerequisites and critical need for a unified Civil Procedure Code, it can only be considered as a potential project of the future provided that the doctrinal researches are available and the quality of the law-making works is improved [6, p. 181].

The Russian juridical community notes that the most important point in developing the unified Civil Procedure Code is the correlation between the civil and the administrative court procedure. For the

[1] Judicial Code of the Republic of Armenia. Available at http://www.parliament.am/legislation.php?sel=show&ID=2966&lang=rus#2c.

administrative court cases, the dualism principle can be preserved in regulating the rules of their review in accordance with both the Administrative Procedure Code and the unified Civil Procedure Code if adopted. Another important issue is the existence of two cassational institutions that differ in authority and rules in the arbitration courts and the general jurisdiction courts at the first cassation stage [5, p. 265].

Thus, one way or another, the structure of the court system is analyzed when evaluating the possibility of adopting a unified procedure code.

The court machinery in the Republic of Belarus is established by the Constitution of the Republic of Belarus, Law of the Republic of Belarus No. 124-Z "On Constitutional Court System" of January 8, 2014, by Republic of Belarus Code No. 139-Z "On Judicial System and Status of Judges" of June 29, 2006. The civil proceedings are regulated by the Civil Procedure Code of the Republic of Belarus No. 238 of January 11, 1999 and Commercial Procedural Code No. 219-Z of December 15, 1998.

The system of courts is arranged on the territorial and specialization basis. It consists of the Constitutional Court, the system of general courts and the system of commercial courts. Establishment of the extraordinary courts is prohibited.

The Republic of Belarus continues to use the institution of people's assessors participation in the administration of justice.

The Supreme Court of the Republic of Belarus is heading the system of general courts and is a superior court body that executes justice for civil, criminal and administrative offence cases, supervises the activities of the general courts and exercises its other authorities in accordance with the legislative acts [3].

Speaking about the Russian Federation, it is of particular interest that the RF Supreme Court is not included into the structure of general jurisdiction courts or into the arbitration courts system. This circumstance is viewed as one of the reason for adopting a unified Civil Procedure Code.

The unification and standardization in the civil procedure law sphere is also a concern for the European community, where the possibility is discussed of developing a common European Civil Procedure Code [9, p. 53] as a completely new and unique structure that would reflect the best norms and mechanisms of the national law.

Kazakhstan. The court system of the Republic of Kazakhstan consists of the Supreme Court of the Republic of Kazakhstan, local and specialized courts. The local courts are the regional courts and courts equivalent to them (the court of the Astana city and the court of the Almaty city), regional courts and courts equivalent to them (city court, interregional courts).

Establishment of the special and extraordinary courts under any name is not allowed.

Regional courts and courts equivalent to them are established similarly to the city courts, their structures are mostly the same; the total number of the regional courts is confirmed by the President of the Republic of Kazakhstan upon the recommendation of the Chairman of the Supreme Court of the Republic of Kazakhstan approved by the Supreme Court Council.

On January 1, 2016 a completely new Civil Procedure Code adopted on October 31, 2015 came into force in the Republic of Kazakhstan.

For the first time in the history of the post-soviet territories, the Civil Procedural Code of Kazakhstan fixed the possibility to use the so-called *participative* procedure along with the mediation. The participative procedure is an alternative approach of settling the disputes through the negotiations of the parties with mandatory participation of the both parties' lawyers with no judge [13].

The purpose of the negotiations is an agreement between the parties comprising the information on the parties of the participative procedure, the lawyers, the subject matter of the dispute, the agreed rights and obligations, the execution dates and liability. The parties execute the dispute settlement agreement voluntarily. If the terms of the agreement are not followed, the agreement will be subject to forcible execution upon application of the concerned party sent to court.

If the parties came to a voluntary agreement or a dispute settlement agreement by way of mediation or participative procedure, the state duty is fully returned to the parties. Under the previous Civil Procedure Code, the court could proportionally divide the expenditures between the parties if the parties did not agree upon the distribution of charges between them [1, p. 204].

It goes without saying that the mentioned procedure can bear the risks of misusing the right by the "strong" party of the dispute, as was already analyzed by the example of the arbitration (arbitral

proceedings) including those performed at the international level by reputable arbitration institutions. Such negative misbehavior includes abusive changing of the jurisdiction, splitting one conflict into several court cases to increase the chances to win and others [8; 9].

Increasing the number of the alternative ways to settle the dispute is surely a positive trend in the procedure law development and is a necessary condition for reducing the workload of the court system.

Kirghizia. The court system of the Kyrgyz Republic consists of the Constitutional Court of the Kyrgyz Republic, the Supreme Court of the Kyrgyz Republic and the local courts. The judicial power is exercised through the constitutional, civil, criminal, administrative and other forms of court proceedings [17].

The Kyrgyz Republic adopted the law No.113 "On the Courts of the Aqsaqals"[1] of July 5, 2002, under which the special public bodies are created on the voluntary basis following the elective principle and the principle of self-government. These public bodies are to review materials sent to them through an established procedure by courts, prosecutors, law enforcement agencies and other state bodies and their officials as prescribed by the Kyrgyz Republic legislation in force [7].

The citizens of the Kyrgyz Republic who have reached the age of 50, with general secondary education, living in the area for at least 5 years, having authority and respect with the population, can be elected for the positions in the courts of aqsaqals.

In respect of the family disputes, the court takes its decision on the merits.

During the first years of their functioning, the courts of aqsaqals were regarded as the foremost authority, but later their role and meaning got significantly weakened. There are publications in mass media that give proposals for improving this institution through the systematic training of the Southern region court chairmen on principal skills and abilities of the legal activities. That will allow to increase the efficiency and stability of the aqsaqal court activities on preventing the conflict situations of the South of Kyrgyzstan [7].

There is no similar court type in the Russian law, and when changing the procedure law, the legislator in a greater extent is guided by the European models of settling disputes (mediation, arbitration). At the same time, there is no prohibition for the parties to involve a highly respected third party for taking a decision on the dispute.

Moldavia. The court system in the Republic of Moldova consists of three levels of chain links: the courts of the first level, the courts of the second level and the courts of the third (the superior) level.

There are specialized courts that function as part of the court system, and in particular - the Military Court and the District Commercial Court.

A special independent institution operates in the Republic of Moldova - the Supreme Council of Magistracy, which was introduced for the court system organizing and functioning support. This institution is composed of judges and lecturers in law, the Chairman of the Supreme Court Chamber, the Minister of Justice, the Prosecutor General. The main competence of the Supreme Council of Magistracy is selecting the candidates to be approved for the position of the judge, for filling the vacant positions, for promoting to superior institutions [4, p. 8].

The Supreme Council of Magistracy can form court inspections for checking the organizational activities of the court institutions when executing justice, and for reviewing the petitions of the citizens submitted to the Supreme Council of Magistracy on the issues of the judicial ethics.

Russia. The court proceedings in the Russian Federation are arranged in accordance with the RF Constitution of December 12, 1993, RF Law No. 3132-I "On the Status of Judges in the Russian Federation" of June 26, 1992, Federal Constitutional Law No.1-FKZ "On the Judicial System of the Russian Federation" of December 31, 1996, RF Civil Procedure Code No. 138-FZ of November 14, 2002.

In 2014, a judicial reform was introduced in the Russian Federation that resulted in abolition of the RF Higher Arbitration Court and delegating its authority to the RF Supreme Court. Thus, the system of arbitration courts lost its independence and fell under the control of the RF Supreme Court. The latter's structure was expanded with the economic affairs committee specially created for this purpose [15, pp. 728–731].

In Russia, the work is continued on the development of the unified Code of Civil Proceedings that would result in the creation of the unified civil procedural form used by both the general jurisdiction and arbitration courts for reviewing cases [16, pp. 234–238].

[1] Law of the Kyrgyz Republic No.113 "On the Courts of the Aqsaqals" of July 5. 2002. Available at: http://www.gamsumo.gov.kg/ru/laws/laws-regulations/full/10.html.

At the moment, the draft unified civil procedure code looks like the "RF Civil Procedure Code + RF Administrative Procedure" model, and this not only brings questions about its compliance with the RF Administrative Procedure but also creates the situation of duplicating the norms that refer to the same institution of law but are applied by different system of courts. For example, the draft unified RF Civil Procedure Code incorporates two articles named "exclusive place of jurisdiction", one of which repeats the content of RF CPC Article 30 in force, and the second one – repeats the content of Article 38 of the RF Administrative Procedure Code.

Along with working on the unified Code, the Russian legislator takes steps to the unification of the separate institutions of the civil and arbitration process, i.e. of the summary procedure and the simplified procedure. Speaking about the principles of the process, the tendency towards convergence is also worth mentioning - the rule of the court session continuity was excluded from the RF Civil Procedure Code.

Besides, a great scientific and public interest was aroused by the draft federal law "On Amendments to the Russian Federation Civil Procedure Code, the Russian Federation Arbitration Procedure Code, the Russian Federation Administrative Court Procedure Code and into Separate Legislative Acts of the Russian Federation"[1]. The RF Supreme Court proposed to establish new appeal and cassational courts that would make up a system of retrial for cases reviewed by the RF courts of first instance.

With this, in accordance with the draft federal law, the court jurisdiction (but not the subject-matter jurisdiction) should indicate the competent system of courts (arbitration courts and courts of general jurisdiction). For this, the term of the "subject-matter jurisdiction" is proposed to be removed and replaced with the "court jurisdiction" term. However, when the RF was editing the RF Administrative Procedure Code, it was proposed to replace the "subject-matter jurisdiction" with word "competence". In our opinion, the word can be interpreted as a synonym to the subject-matter jurisdiction and will not add the necessary clarity.

The proposal to allow the courts to transfer the cases between two systems of court depending on the case court jurisdiction seems progressive. With this, an interesting explanation was added that in accordance with Articles 26, 27 of the RF CPC (covering the court jurisdiction for the RF territories' courts and for the RF Supreme Court), the court jurisdiction is checked not only at the moment of the commencement of proceedings for the case but also at the preliminary court session and at the main court session. It is worth noting that the rules of transferring the case from the arbitration court to the general jurisdiction court provide for several procedural actions: if the arbitration court detects the wrong court jurisdiction and supposes that the dispute is to be settled in the general jurisdiction court, then the arbitration court transfers the case to the "court of the same territory" (regional, territorial or equal court), and this court chooses the competent court within its system and forwards the case to the chosen court. The only thing that is not clear in this procedure is which court the case is to be transferred to (either to the one at the location of the arbitration court reviewing the case, or the one at the location of the proposed general jurisdiction court).

It goes without saying that a high rating should be given to the proposal to clarify Item 1 of Part 1 of Article 134 of the RF CPC by removing phrase "is subject to review in other court procedure", and list the types of the court procedures instead: constitutional, criminal, administrative offence proceedings.

Tajikistan. As the Constitution of the Republic of Tajikistan states, the judicial power is independent, protects the rights and freedoms of the individual, the interests of the state, organizations and establishments, legitimacy and justice.

In the Republic of Tajikistan, the judicial power is held by the Constitutional Court, the Supreme Court, the Superior Commercial Court, the Military Court, the Court of the Gorno-Badakhshan Autonomous Region, regional courts, the Dushanbe City Court, city courts and district courts.

The court proceedings in the Republic of Tajikistan are regulated by the Constitution of the Republic of Tajikistan of November 6, 1994, by Constitutional Law of the Republic of Tajikistan No. 1084 "On the Courts of the Republic of Tajikistan" of July 26, 2014, by the Civil Procedure Code of January 5, 2008.

In the Republic of Tajikistan, a person introduced to the position of a judge for the first time ever, can work as a trainee judge within a year upon the recommendation of the examination committee of the Council of Justice of the Republic of Tajikistan.

A trainee judge can be a person having a higher juridical education, not younger than 24 years of

[1] Regulation of the RF Supreme Court No. 30 of October 3, 2017 "About Submitting of Draft Federal Law "Concerning Introducing Changes into the Russian Federation Civil Procedural Code, the Russian Federation Arbitration Procedure Code, the Russian Federation Administrative Court Procedure Code and into Separate Legislative Acts of the Russian Federation", to the State Duma of the Federal Assembly of the Russian Federation". Available at: http://www.consultant.ru/cons/cgi/online.cgi?req=doc;base=ARB;n=514623#0

age, with minimum 2 years of professional experience, approved by the examination committee of the Council of Justice of the Republic of Tajikistan.

Turkmenistan. The judicial power in Turkmenistan is practiced through arbitration, civil, administrative and criminal proceedings.

On July 1, 2016 a new Civil Procedure Code of the Republic of Turkmenistan came into existence, to replace the modernized version of the Civil Procedure Code of 1964 of the Turkmen Soviet Socialist Republic.

In Turkmenistan, there are the Supreme Court, the Arbitration Court, velayat (regional) courts and city courts with the velayat rights, etrap (district) courts and city courts with the procedure stage rights.

In no CIS member other than Turkmenistan, the structure of the judicial system misses the Constitutional Court as an institution of judicial constitutional control. The compliance of the normative acts with the Constitution is checked by the Mejlis [14].

Uzbekistan. A new version of law "On Courts" was adopted in 2000, according to which the court specialization was defined, i.e. the civil case courts and the criminal case courts were introduced.

The court system of the country consists of the Constitutional Court, the Supreme Court, the Superior Commercial Court of the Republic of Uzbekistan, the Supreme Court of the Republic of Karakalpakstan, the Commercial Court of the Republic of Karakalpakstan, regional courts, Tashkent City Court, courts of districts, cities and commercial courts. In compliance with the Constitution and the law, the court system of Uzbekistan operates independently of the legislative and executive powers, political parties and other public associations. The establishment of the extraordinary courts is prohibited.

The Republic of Uzbekistan preserves the opportunity for people's assessors to participate in the justice process [12]. According to law "On Courts", a people's assessor can be a citizen of the Republic of Tajikistan, not younger than 30 years of age, elected through open voting at the meeting of the citizens at his place of living or his place of work, for the period of two and a half years.

People's assessors are taken for performing their duties in the courts on a rotational basis, for not more than 2 weeks in a year, except when the term needs to be prolonged due to the necessity to finish the review of the court case that was initiated with the involvement of the people's assessors. For the whole period, their average earnings at the place of work are paid.

Ukraine. As the Ukraine Constitution states, the court proceedings in the country are realized by the Constitutional Court of Ukraine and by the general jurisdiction courts.

The general jurisdiction courts are specialized in reviewing the civil, criminal, economic, administrative cases, and administrative offence cases. The system of general jurisdiction courts is represented by the local courts, courts of appeal, superior specialized courts, the Supreme Court of the Ukraine [11].

The local general courts are the regional courts, regional city courts, city courts and district courts. The local economic courts are the economic courts of the regions and the city of Kiev. The local administrative courts are the territorial administrative courts and other courts defined in the procedure law.

Conclusion

Some of the most interesting features of the civil process of each CIS country are:

– The Constitutional Court of the Azerbaijan Republic is actually a superior institution for appealing against the Supreme Court decisions;

– the new court system of Armenia operates on the case-law basis;

– the provisions of the Code "On the Judicial System and Status of Judges" of the Republic of Belarus allow for the establishment of the specialized courts in the system of the general and commercial courts;

– for the first time in the history of the post-soviet territories, the Civil Procedure Code of the Republic of Kazakhstan provides the possibility to use the so-called participative procedure along with the mediation;

– there are Courts of the Aqsaqals in the Kyrgyz Republic;

– a special independent institution operates in the Republic of Moldova - the Supreme Council of Magistracy;

– in 2014, a judicial reform was introduced in the Russian Federation that resulted in abolition of the RF Higher Arbitration Court and delegating its authority to the RF Supreme Court;

– in the Republic of Tajikistan, a person introduced to the position of a judge for the first time ever, can work as a trainee judge within a year upon the recommendation of the examination committee of the Council of Justice of the Republic of Tajikistan;

– Turkmenistan is the only CIS country having no Constitutional Court as an institution of

judicial constitutional control within the judicial system;

– the Republic of Uzbekistan preserves the opportunity for people's assessors to participate in the justice.

Thus, the research conducted, allows us to conclude that the court systems of the CIS countries as the countries of the former USSR are very much alike. At the same time, for 25 years after the collapse of the USSR, each state has been following its own path of development and that affects the court system as well.

References

1. *Asylbekova A. A. O nekotorykh izmeneniyakh v novom grazhdanskom protsessual'nom kodekse Respubliki Kazakhstan* [About some Innovations in the New Code of Civil Procedure of the Republic of Kazakhstan]. *Vestnik grazhdanskogo protsessa* – Herald of Civil Procedure. 2016. Issue 4. Pp. 198–208. (In Russ.).
2. *Mkrtumyan A. Yu. Rol' sudebnogo pretsedenta v razvitii grazhdanskogo prava Respubliki Armeniya* [The Role of Judicial Precedent in the Development of the Civil Law of the Republic of Armenia]. *Mezhdunarodnoe i natsional'noe pravosudie: teoriya, istoriya, praktika; pod obshch. red. S. K. Dryahlova* [International and National Justice: Theory, History, Practice; ed. by S. K. Dryahlov]. St. Petersburg, 2010. Pp. 255–259. (In Russ.).
3. *Romanova O. N. Nekotorye voprosy mezhdunarodnogo grazhdanskogo protsessa Respubliki Belarus'* [Some Issues of International Civil Procedure of the Republic of Belarus]. *Vestnik grazhdanskogo protsessa* – Herald of Civil Procedure. 2012. Issue 2. Pp. 186–220. (In Russ.).
4. *Svetlanov A. G. Mezhdunarodnyy grazhdanskiy protsess: sovremennye tendentsii* [International Civil Litigation: Current Trends]. Moscow, 2002. 182 p. (In Russ.).
5. *Sel'kova A. A. Edinyy GPK Rossii: ozhidaniya i perspektivy* [Unified Code of Civil Procedure of Russia: Expectations and Prospects]. *Vestnik grazhdanskogo protsessa* – Herald of Civil Procedure. 2016. Issue 4. Pp. 261–281. (In Russ.).
6. *Skobelev V. P. Edinyy GPK Respubliki Belarus': byt' ili ne byt'?* [Unified Code of Civil Procedure of the Republic of Belarus: to Be or not to Be?]. *Aktual'nye problemy grazhdanskogo protsessual'nogo prava; pod red. S. M. Mihajlova, A. I. Shukina* [Current Problems of Civil Procedure Law; ed. by S. M. Mikhajlov, A. I. Shukin]. Moscow, 2017. Pp. 165–167. (In Russ.)
7. *Toroev Zh. Sudy aksakalov v Kyrgyzstane* [Courts of Aksakals in Kyrgyzstan]. *Yurist* – Lawyer. 2005. Issue 1. Pp. 3–5. (In Russ.).
8. *Gaillard E.* Abuse of Process in International Arbitration. *ICSID Review.* 2017. Vol. 32. Issue 1. Pp. 19–21. (In Eng.). DOI: 10.1093/icsidreview/siw036.
9. *Gilles P.* Civil Justice Systems and Civil Procedures in a Changing World: Main Problems, Fundamental Reforms and Perspectives – A European View. *Russian Law Journal*. 2014. Vol. II. Issue 1. Pp. 41–57. (In Eng.).
10. *Judicial* Reform Index for Armenia. *American Bar Association.* December 2012. Vol. IV. Pp. 41–57. (In Eng.).
11. *Izarova I. O.* New Concept of Civil Procedure in a Policivilization World. *Austrian Journal of Humanities and Social Sciences.* 2015. Issue 5–6. Pp. 197–199. (In Eng.).
12. *Karaketov M.* Court-Connected Mediation in Uzbekistan and Japan: a Comparative Analysis. Nagoya: Nagoya University, 2011. 150 p. (In Eng.).
13. *Miraliyeva M. K.* Problems of Evaluation of Evidence in Civil Procedure in the Republic of Kazakhstan. *Ostinstitut Wismar*. 2016. Pp. 1–5. Available at: http://pps.kaznu.kz/kz/Main/FileShow2/51851/52/2/30/0/ (accessed 01.08.2017). (In Eng.).
14. *Stalbovskiy O., Stalbovskaya M. A.* Research Guide to the Turkmenistan Legal System. *GlobalLex.* June 2006. Available at: http://www.nyulawglobal.org/globalex/Turkmenistan.html (accessed 01.08.2017). (In Eng.).
15. *Valeev D. K., Baranov S. Y.* The Reform of the Civil Procedural Legislation: World Trends. Life Science Journal. 2014. Issue 11(12s). Pp. 728–731. (In Eng.).
16. *Valeev D. K., Golubtzov V. G.* Modernization of the Russian Law: a Review of the Laws on Enforcement Proceedings. *Life Science Journal.* 2014. Issue 11(8s). Pp. 234–238. (In Eng.).
17. *Yarkov V.* Harmonization of Civil Procedural Law in the Eurasian Countries in the Light of Civil Justice Development in the Post-Soviet Region. *Civil Procedure in Cross-Cultural Dialogue: Eurasia Context*; ed. by D. Maleshin. Moscow, 2012. Pp. 335–365. (In Eng.).

References in Russian

1. *Асылбекова А. А.* О некоторых изменениях в новом гражданском процессуальном кодексе Республики Казахстан // Вестник гражданского процесса. 2016. № 4. С. 198–208.
2. *Мкртумян А. Ю.* Роль судебного прецедента в развитии гражданского права Республики Армения // Международное и национальное

правосудие: теория, история, практика / под общ. ред. С. К. Дряхлова. СПб.: Изд. дом «Петрополис», 2010. С. 255–259.
3. *Романова О. Н.* Некоторые вопросы международного гражданского процесса Республики Беларусь // Вестник гражданского процесса. 2012. № 2. С. 186–220.
4. *Светланов А. Г.* Международный гражданский процесс: современные тенденции. М.: ТОН-Остожье, 2002. 182 с.
5. *Селькова А. А.* Единый ГПК России: ожидания и перспективы // Вестник гражданского процесса. 2016. № 4. С. 261–281.
6. *Скобелев В. П.* Единый ГПК Республики Беларусь: быть или не быть? // Актуальные проблемы гражданского процессуального права / под ред. С. М. Михайлова, А. И. Щукина. М.: Проспект, 2017. С. 165–167.
7. *Тороев Ж.* Суды аксакалов в Кыргызстане // Юрист. 2005. № 1. С. 3–5.
8. *Gaillard E.* Abuse of Process in International Arbitration // ICSID Review. 2017. Vol. 32, issue 1. Pp. 19–21. DOI: 10.1093/icsidreview/siw036.
9. *Gilles P.* Civil Justice Systems and Civil Procedures in a C hanging World: Main Problems, Fundamental Reforms and Perspectives – A European View // Russian Law Journal. 2014. Vol. II, issue 1. Pp. 41–57.
10. *Judicial* Reform Index for Armenia // American Bar Association. December 2012. Vol. IV. Pp. 41–57.
11. *Izarova I. O.* New Concept of Civil Procedure in a Policivilization World // Austrian Journal of Humanities and Social Sciences. 2015. Issue 5–6. Pp. 197–199
12. *Karaketov M.* Court-Connected Mediation in Uzbekistan and Japan: a Comparative Analysis. Nagoya: Nagoya University, 2011. 150 p.
13. *Miraliyeva M. K.* Problems of evaluation of evidence in civil procedure in the Republic of Kazakhstan // Ostinstitut Wismar. 2016. Pp. 1–5. URL: http://pps.kaznu.kz/kz/Main/FileShow2/51851/52/2/30/0/ (дата обращения: 01.08.2017).
14. *Stalbovskiy O., Stalbovskaya M. A.* Research Guide to the Turkmenistan Legal System // GlobalLex. June 2006. URL: http://www.nyulawglobal.org/globalex/Turkmenistan.html (дата обращения: 01.08.2017).
15. *Valeev D. K., Baranov S. Y.* The reform of the civil procedural legislation: world trends // Life Science Journal. 2014. Issue 11(12s). Pp. 728–731.
16. *Valeev D. K., Golubtzov V. G.* Modernization of the Russian law: a review of the laws on enforcement proceedings // Life Science Journal. 2014. Issue 11(8s). Pp. 234–238.
17. *Yarkov V.* Harmonization of Civil Procedural Law in the Eurasian Countries in the Light of Civil Justice Development in the Post-Soviet Region // Civil Procedure in Cross-Cultural Dialogue: Eurasia Context / ed. by D. Maleshin. Moscow, 2012. Pp. 335–365.