



Пиксин и Партнеры

Адвокатское Бюро

Tel.: +7 (495) 913 68 28 e-mail: info@piksin-partners.ru
Fax: +7 (495) 913 68 48 web-site: www.piksin-partners.ru

Office B1401, bld. B, 11, Derbenevskaya Emb., Moscow,
115114 Russia

Newsletter

No. 03/2016

News of the month:

1	Fundamentals of State Administration	01
2	Criminal Law	01
3	Judicial Acts and Procedural Law	02

This newsletter is a review of individual developments of the legislation of the Russian Federation. Information contained herein is not comprehensive and should not be treated as a legal advice. The readers should seek the advice of advocates and lawyers of our firm in case of any questions.

News of the month:**1. FUNDAMENTALS OF STATE ADMINISTRATION / ADMINISTRATIVE ACCOUNTABILITY**

- 1.1. Federal Law No. 77-FZ of March 30, 2016 On Amending the Code of Administrative Offences of the Russian Federation establishes penalty for officials for gross violation of accounting and reporting rules in the amount from 5 to 10 thousand rubles (currently the penalty is from 2 to 3 thousand rubles). In case of recommission of violation by officials, the penalty will be from 10 to 20 thousand rubles or disqualification for period from 1 to 2 years. Besides, the notion of “gross violation of accounting and reporting rules” is expanded, including the requirements to the accounting (financial) reporting, which now includes, but not limited to, the registration of business operation items that have not been held or fictitious or sham accounting items in accounting registers, administration of business accounts outside of the used accounting registers.
- 1.2. Pursuant to Federal Law No. 54-FZ of March 09, 2016 On Amending the Code of Administrative Offences of the Russian Federation, a new article 14.62 “Activity on Raising Funds and (or) Other Assets has been included into the Code of the Administrative Offences of the Russian Federation. Particularly, organization or performance of activities on raising funds and (or) other assets of individuals or legal entities, wherein payment of revenues or other profit to individuals whose funds had been raised earlier are performed by using the finds of other individuals or legal entities in the absence of investment, legal entrepreneurial or other activity connected with use of raised funds in the amount corresponding to the amount of funds raised, if such actions do not imply a criminal offence, entails imposition of penalty for individuals in the amount from 5 to 50 thousand rubles, for officials – from 20 to 100 thousand rubles, for legal entities – from 500 thousand to 1 million rubles.

2. CRIMINAL LAW

- 2.1. Pursuant to Federal Law No. 78-FZ of March 30, 2016 On Amending the Criminal Code of the Russian Federation and Article 151 of the Code of Criminal Procedure of the Russian Federation, the Criminal Code of the Russian Federation is amended by adding a new article 172.2. Organization of Activities on Raising Funds and (or) Other Assets, which establishes the criminal responsibility for organization of activities on raising funds and (or) other assets of individuals and/or legal entities on a massive scale, whereby payment of revenues is performed using the funds raised from other individuals or legal entities in the absence of investment or other legal entrepreneur or other activity connected with use of raised funds in the amount corresponding to the amount of raised funds or other assets.

3. JUDICIAL ACTS AND PROCEDURAL LAW

- 3.1. The Presidium of the Supreme Court of March 16, 2016 approved Review of Court Practice concerning Consideration of Cases on Protection of Honor, Dignity and Business Reputation. It is also noted that within the frameworks of the reform of the civil legislation, which has been performed recently, legal regulations on judicial protection of intangible benefits have been amended so as to establish extended remedies on legal protection of individuals that have been defamed, both including defamation in Internet. The Review contains the following conclusions: if the parties of defamation dispute are legal entities or individual entrepreneurs in the area not related to entrepreneurial or other business activity, this dispute is subject to consideration by court of general jurisdiction; fact of dissemination of false information or information tarnishing the honor and dignity may be proved using any evidences meeting the requirements of relevancy and admissibility; absence of at least one evidence of mandatory set of conditions for satisfaction of claims (the information must be defamatory, disseminated and false) constitute grounds for dismissal of appeal; a plaintiff's claims on protection of honor and dignity are to be dismissed if a plaintiff litigates information disclosed in official communication with governmental authorities or officials and the communication itself does not contain offensive language and is caused by intention of a defendant to implement his/her constitutional right to appeal to governmental agencies and municipalities; mass media is not responsible for dissemination of false information or information tarnishing the honor and dignity if it textually duplicates the message published by other mass media or if it is proved that it knew or could have known earlier that the disseminated information is false (however, mass media is not relieved from obligation to publish refuting of false data).
- 3.2. On March 24, 2016 the Resolution of the Plenum of the Supreme Court of the Russian Federation On Application by Courts of Certain Provisions of the Civil Code of the Russian Federation on Responsibility for Violation of Obligations has been enacted. Necessity to enact the Resolution of the Plenum of the Supreme Court of the Russian Federation is caused by Federal Law No. 42-FZ On Amending Part I of the Civil Code of the Russian Federation, which entered into force on June 01, 2015. This Resolution comprises explanation of general provisions related to responsibility and payment of damages, responsibility for failure to fulfill liabilities (Art. 295 of the Civil Code of the Russian Federation), as well as explanation of new provisions introduced by this Law to the Civil Code of the Russian Federation, including the following matters: payment of damages in case of termination of agreement (Art. 393.1 of the Civil Code of the Russian Federation); compensation for damages incurred due to occurrence of certain conditions indicated in an agreement (Art. 406.1 of the Civil Code of the Russian Federation); responsibility for unfair conduct of negotiations (Art. 434.1 of the Civil Code of the Russian Federation). Due to enactment of this Resolution, the particular provisions of resolutions of the Plenum of the Supreme Court of the Russian Federation and the Plenum of the Supreme Arbitration Court No. 6/8 of July 01, 1996 On Certain Aspects Related to Implementation of Part I of the Civil

Code of the Russian Federation and No. 13/14 of October 08, 1998 On Practical Application of Provisions of the Civil Code of the Russian Federation on interests on third-party money.

- 3.3. On March 29, 2016 Resolution of the Plenum of the Supreme Court of the Russian Federation No. 11 On Certain Aspects Appearing in the Process of Consideration of Cases on Awarding the Compensation for Violation of the Right to Trial within a Reasonable Time and of the Right on Execution of a Court Decision within a Reasonable Time. Necessity to clarify is caused by amendments to current laws both by enactment of the Code of Administrative Court Procedure of the Russian Federation. There are the following matters considered, among others: identification of group of individuals that have the right to bring a claim or an administrative claim on awarding a compensation before the court; jurisdiction of such cases; procedure for filing the request to reimburse, return of the request, preparation of a case for trial and the procedure of consideration, delivery of a decision on awarding a compensation and execution of such court decision. Similar Resolution of the Plenum of the Supreme Court of the Russian Federation and the Plenum of the Supreme Arbitration Court of the Russian Federation No.30/64 of December 23, 2010 is declared inapplicable.
- 3.4. Federal Law No. 47-FZ of March 02, 2016 On Amending the Code of Arbitration Procedure of the Russian Federation establishes a mandatory pre-court dispute resolution. A dispute in a civil case may be brought before the arbitration court upon implementation of measures on the pre-court dispute resolution upon expiry of 30 calendar days from the date of forwarding a claim (complaint), unless other term and/or procedure are established, pursuant to a law or an agreement, except for certain categories of cases. Economic disputes arising from the administrative or other public relationships may be brought before the arbitration court upon completion of procedure for the pre-court dispute resolution, if the federal laws establish it. If a defendant fails to perform the procedure for claim settlement or pre-court dispute resolution, in case such a procedure is mandatory under the law, it will be a ground for rejection of any claim. The Code of Arbitration Procedure of the Russian Federation implements the special judgment concept. An arbitration court may deliver a special judgment in case it found, in the course of consideration of dispute, any cases requiring elimination of noncompliance with the laws by any state, local self-government bodies or other bodies, or by entity entitled by a federal law with certain state or public authorities, by officials, lawyers, and subjects of professional activity. There are specified more precisely: list of cases that are considered under the simplified procedure, the procedure for decision-making in cases considered under the simplified procedure. Besides, the Code of Arbitration Procedure of the Russian Federation includes a chapter that regulates the procedure for summary proceedings. Judicial orders are to be issued for cases, wherein: requirements result from nonfulfillment or improper fulfillment of an agreement and are to be based on documents submitted by a recoverer, which establish the liabilities that are assumed but not fulfilled by a debtor, if the amount of the claims does not exceed 400 thousand rubles; the claim is based on completed by a notary protest of bill for nonpayment, non-acceptance or non-dating if the amount of the claim does not exceed 400 thousand rubles; there has



been asserted a claim on statutory charges and penalties, if the overall amount indicated in the statement of case and subject to recovery does not exceed 100 thousand rubles. Peculiarities of the cassation proceedings are established, said peculiarities relate to revision of a judicial order that has become final. The Federal law enters into force upon expiry of 90 days from the date of official publication of the Law.