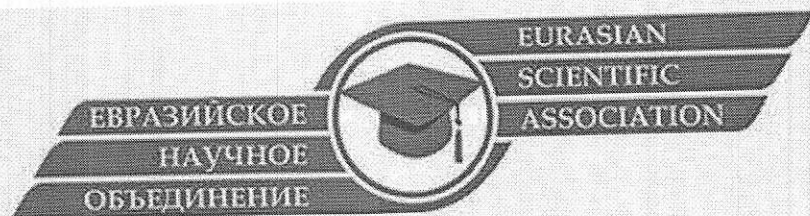


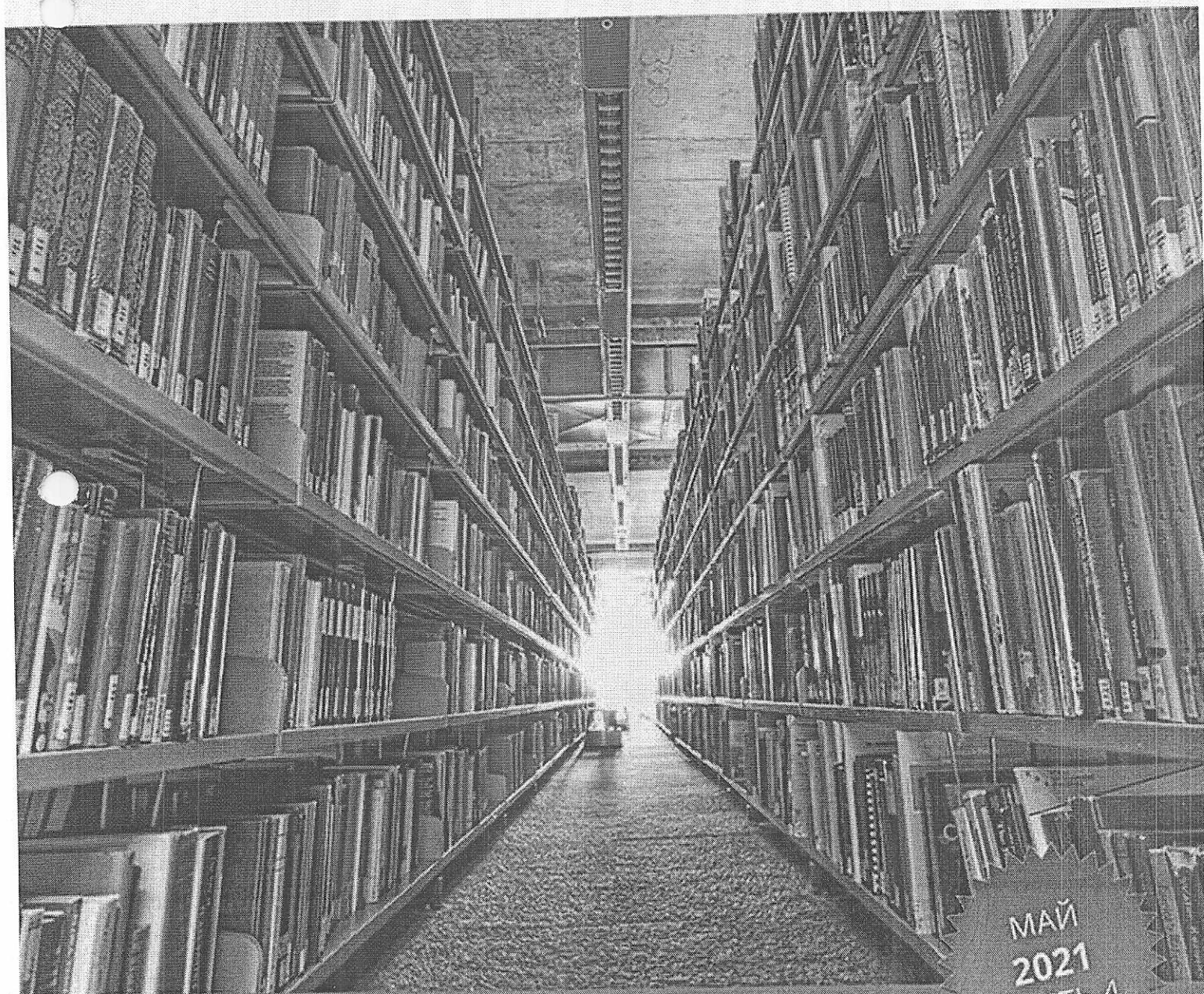
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ЮРИДИЧЕСКИЕ НАУКИ

The role of the constitutional principle of ensuring everyone the right to receive qualified legal assistance in the participation of a lawyer in criminal proceedings

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In the view of the topic of this article, the study and further development of the constitutional and legal nature of human and civil rights to legal assistance, the main laws of formation, the current state and dynamics of the organization and activities of the Bar as a guarantor of the constitutional right of a person and citizen to legal assistance is very important.

The Constitution of the Republic of Kazakhstan, adopted at a national referendum on August 30, 1995 in art. 12 proclaimed that human rights and freedoms are recognized and guaranteed in the Republic of Kazakhstan [1].

Human rights and freedoms belong to everyone from birth, are recognized as absolute and inalienable, determine the content and application of laws and other normative legal acts. Ideally, the very nature of activities in criminal proceedings should exclude violations of these rights. It is fundamentally important to ensure the rights of persons participating in the criminal process. In view of the foregoing, a huge role in ensuring the rights of individuals in criminal proceedings and the observance of rights in the course of it belongs to lawyers who are called upon to provide the necessary legal assistance to the participants in the proceedings. Fixed in Art. 13 of the Basic Law, the right of everyone to recognize his legal personality, to protect his rights and freedoms by all means that do not contradict the law, including the necessary defense, the right to judicial protection of his rights and freedoms and the right to receive qualified legal assistance can be practically exercised in the presence of such procedural methods and means, the provision of this assistance by lawyers who are able to protect the rights of the individual by virtue of their professional knowledge, as well as their independence from the bodies of criminal prosecution (prosecution) and the court [1].

To ensure the real provision of the rights and freedoms of all persons, the state today imposes on the lawyer the constitutional obligation to provide everyone who wants qualified legal assistance. The constitutional principle of ensuring everyone the right to receive qualified legal assistance is the basis for resolving the issue of the directions and limits of a lawyer's participation in criminal proceedings. The right to receive qualified legal

assistance in criminal proceedings should be understood as the guaranteed, provided by the Constitution of the Republic of Kazakhstan, the Criminal Procedure Code of the Republic of Kazakhstan, the opportunity for everyone to apply for the protection of their or someone else's rights and legitimate interests to a lawyer, who is entrusted by the state with a public duty to provide everyone who wishes a sufficiently high level of any type of legal aid provided in criminal proceedings.

In the legal literature, the category "defense" is considered in two aspects: a) narrowly as a criminal procedural function, which is understood as the procedural activity of the subjects of the defense (the accused, as well as his legal representative, defender, civil defendant, his legal representative and representative, aimed at refuting in whole or in part the accusation, identifying circumstances both justifying the accused and mitigating his punishment, as well as defending his rights and legitimate interests; b) broadly as a constitutional-legal category. In the latter case, protection is "an activity that consists in protecting a person from illegal violations of restrictions on rights, freedoms, interests, in preventing these violations and restrictions, as well as in compensating for harm caused if it was not possible to prevent or reflect the violation from the restriction" [2, from. 169].

The Institute of the Bar exists to help find a legal solution to legal problems on the basis of the current rules of law, to understand a particular situation, to get qualified legal protection, support and assistance. Let us turn to the essence of the mechanism of judicial protection, the realization of the right to judicial protection and the importance of judicial protection of rights and freedoms. The proper level of realization of the right to judicial protection can be guaranteed only if this right is exercised by a professional institution of judicial representation - the advocacy. The right to judicial protection includes the following elements: ensuring a person's access to justice, the right to a fair trial, the existence of a legal system directly established by law, the right to receive qualified legal assistance, consideration of a case within a reasonable time, independence of the court.

Criminal proceedings are a sphere of special protection of constitutional rights and legal interests of a person and a citizen. The activities of the Bar, as well as the

peculiarities of the organization of its functioning as an institution, guarantee the ability of lawyers to provide qualified legal assistance in order to prevent illegal or biased actions of bodies carrying out operational-search activities, inquiry, preliminary investigation and trial. The Law of the Republic of Kazakhstan "On advocacy and legal assistance" obliges a lawyer to honestly, reasonably and conscientiously defend the rights and legitimate interests of persons who applied to him, by all means not prohibited by the legislation of the Republic of Kazakhstan, to constantly improve their knowledge and improve their qualifications [3].

The literacy and effectiveness of the defense lawyer in criminal proceedings depends, first of all, on what his activities will be based on, otherwise, what its foundations are, what their possible potential is to protect the rights and legitimate interests of the client, disclosed through the solution of procedural, criminalistic and moral - ethical problems encountered in his activities.

Qualified legal assistance in relation to criminal proceedings is the purposeful activity of a lawyer to assist in the use of the opportunities provided by law to a person involved in the sphere of criminal procedural relations. This is due to the fact that the criminal procedural law has as its purpose protection from unjustified accusations and convictions, illegal restrictions on human and civil rights and freedoms, and in the case of illegal charges or convictions of an innocent person - his immediate and complete rehabilitation, as well as contribute to strengthening the rule of law and law and order, prevention of criminal offenses, the formation of a respectful attitude towards law (Article 8 of the Republic of Kazakhstan Code of Criminal Procedure) [4]. Lawyers' formations carry out the main function - the provision of qualified legal assistance to all who need it. This emphasizes its social importance in the state.

The provisions of the Law of the Republic of Kazakhstan "On advocacy and legal assistance" are used to implement the constitutional norms on the provision of qualified legal assistance, including on a free basis, in particular, Article 26 of this law indicates persons who have the right to receive state-guaranteed legal assistance [3]. Thus, all individuals and legal entities have the right to receive free state-guaranteed legal assistance in the form of legal information. State-guaranteed legal assistance in the form of legal advice, as well as protection and representation of the interests of individuals in courts, criminal prosecution bodies, other state bodies and non-governmental organizations is provided in the manner prescribed by the legislation of the Republic of Kazakhstan:

- 1) a person brought to administrative responsibility in accordance with the legislation of the Republic of Kazakhstan on administrative offenses;
- 2) the plaintiff in accordance with the civil procedural legislation of the Republic of Kazakhstan;
- 3) a suspect, accused, defendant, convicted, acquitted, victim in accordance with the criminal procedure legislation of the Republic of Kazakhstan.

A lawyer acting as a participant in proof is charged with proving the circumstances that favorably affect the procedural situation of their principals. A lawyer, by vir-

tue of his procedural task, is obliged to ensure it by actively and aggressively collecting and using evidentiary information on the case.

When defending the constitutional rights and legitimate interests of the client by a lawyer, proof plays an important role because the fate of the client and, ultimately, the court's verdict in a criminal case about his guilt or innocence depends on how effectively he will participate in the proof. ... The defense lawyer is charged with the general obligation to use all means and methods of defense not prohibited by the Criminal Procedure Code of the Republic of Kazakhstan, that is, by participating in the collection, verification and evaluation of evidence in compliance with the requirements of relevance, admissibility, reliability and sufficiency of evidence. In Art. 70 of the Republic of Kazakhstan Code of Criminal Procedure, it is noted that the defender is obliged to use all legal means and methods of defense in order to identify circumstances that refute the suspicion, accusation or mitigate the responsibility of the suspect, the accused, and provide them with the necessary qualified legal assistance [4].

Proving in criminal proceedings is a kind of cognition process, however, this cognition proceeds in a strictly prescribed form. Otherwise, the circumstances of the case established in the course of cognition are considered unidentified, unproven. Regulatory resolution of the Supreme Court of the Republic of Kazakhstan dated December 6, 2002 N 26 "On the practice of applying criminal procedural legislation regulating the right to defense" in clause 2 stipulates the following: acquitted for defense is the totality of all procedural opportunities provided by law to refute the suspicion that has arisen, or mitigate liability and punishment, as well as the right of the acquitted person to compensation for harm caused by unlawful detention, the issuance of an order on the qualification of the suspect's act, the application of a preventive measure, trial and conviction." [5].

In accordance with the current criminal procedure legislation, the participation of lawyers in pre-trial criminal proceedings, it can be argued, is regulated in detail only in relation to the stage of preliminary investigation and for the most part of those lawyers who perform the function of protecting the suspect and the accused. The declarative nature of the possibility of the participation of a lawyer as a representative of the victim, civil plaintiff, civil defendant must be eliminated by the legislator. Serious additions are also required in the Criminal Procedure Code of the Republic of Kazakhstan in terms of regulating the activities of a witness lawyer, since we believe that the procedural figure of a witness in matters of his professional representation is as if episodic, while witnesses are often interrogated for their involvement in a crime. measures of procedural coercion can also be applied to them.

By itself, pre-trial investigation or judicial review of a criminal case is a phenomenon that is unpleasant for ordinary citizens involved in criminal proceedings. A significant proportion of people seek to avoid contact with criminal proceedings or to minimize their participation in it. Methods of behavior are due to the procedural situation of citizens. Most often a witness does not want to "get involved in a criminal case," therefore he gives evidence that allows him to leave the process. In addition,

in most cases, the witness does not understand the actions of the investigating authorities, which, in turn, do not always explain to the witness all his rights, which he is vested with in accordance with the criminal procedure law, with the exception of his duties and criminal liability for giving deliberately false testimony and for refusal to testify.

Speaking constitutionally enshrined, legal aid should be considered in the constitutional and legal sense as a human and civil right, which is a targeted organized assistance to the realization of individual rights and freedoms, carried out by legal means in order to maximize the satisfaction of individual interests in a problematic legal situation. At the same time, legal assistance to an individual, acting as a type of human rights activity, can also be considered as a legal constitutional and legal guarantee that ensures the realization of human and civil rights and freedoms and contributes to the enactment of other legal guarantees for their protection and protection.

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Налогообложение транспортных средств в современных странах

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Аннотация. В статье исследуется зарубежный опыт налогообложения транспортных средств, осуществляется его сопоставление с транспортным налогообложением в России. Оцениваются перспективы развития налогообложения транспортных средств в России.

Ключевые слова: налогообложение, транспортные средства, зарубежные страны, налогоплательщики, транспортный налог.

Современную жизнь едва ли можно представить без транспортных средств. Как и любое другое имущество, транспортные средства облагаются налогом. Однако, в Российской Федерации транспортный налог вызывает все большее недовольство со стороны владельцев транспортных средств, как с точки зрения его размера, так и с позиции критериев его исчисления. В этой связи представляется необходимым исследование налогообложения транспортных средств в зарубежных странах. Зарубежный опыт может быть использован для внесения изменений в налоговое законодательство Российской Федерации.

Цель работы – получение наиболее полного представления о налогообложении транспортных средств

Disclosure of the constitutional principle of ensuring the right of everyone to qualified legal assistance as the basis for the participation of a lawyer in protecting the rights and legitimate interests of persons in criminal proceedings allows us to conclude that the consolidation of the right to legal assistance at the constitutional level indicates the formation of the institution of legislation aimed at consolidating and protecting the right to receive qualified legal assistance, and, at the same time, the whole institution of the Bar in the Republic of Kazakhstan.

The considered public relations on the implementation of the constitutional right of a person and citizen to legal assistance, the organization and functioning of the Bar as a specialized institution that performs the constitutional and legal function of providing qualified legal aid in the Republic of Kazakhstan allow us to determine the place and role of the Bar in the process of implementing the constitutional right of a person and citizen to legal help.

в зарубежных странах для сопоставления его ключевых особенностей с отечественным аналогом.

Прежде всего необходимо отметить, что транспортный налог взимается с владельцев зарегистрированных в государстве транспортных средств. Применительно к Российской Федерации транспортный налог носит региональный характер, который он получил в 2010 году [1, с. 67]. Критерием, который влияет на величину транспортного налога в нашей стране, является мощность автомобильного двигателя, измеряемая в лошадиных силах: чем выше мощность, тем больше налоговая ставка.

Налогообложение же в ряде зарубежных стран заметно отличается от отечественной системы. В этой