

*Materials of Conferences***CUSTOM AS A SOURCE OF CIVIL RIGHTS**

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Since our country's transition to a market economy, the creation of a new financial and economic infrastructure, business development, in addition to legal and contractual regulation, securing additional resources required regulation. Causing this need, the Civil Code of the Russian Federation (Civil Code) included the concept of «business custom». This was due to the fact that the state is to minimize its impact on private-law relations, providing a great opportunity for the participants to independently interact with each other. However, the approach of the legislator is expressly limited to the rights of subjects of civil relations. As you know, habits can be applied not only in business, as evidenced by the standards of other legislative acts

Official legalization business practice has occurred with the adoption of the Civil Code, Art. 5 (part 1), defining it as «established and widely applied in any field of business rule of conduct, not provided for by law, regardless of whether it is recorded in a document». In this case, paragraph 2 of Art. 5 of the Civil Code, outlined and place business practice in the hierarchy of other legal sources of civil law, pointing out that «business practices that are contrary to mandatory provisions of the parties to the relationship or contract law do not apply». But such a lengthy statement of the Civil Code has not introduced significant clarity in understanding the nature and content of business practice. This does not appear clear and after the Plenum of the Supreme Court and the Supreme Arbitration Court of the Russian Federation № 6/8 of July 1, 1996 «On some issues related to the application of the Civil Code of the Russian Federation». General provisions of the Civil Code did not remove the question of whether the concept is identical whether the notion of customary business practices legal custom and other forms of «normal» in the civil law in Russia.

Practice shows that the business practices are applied to the regulation of labor relations, although in this case their use is generally not sanctioned by the state. The need to expand the scope of business practice has led to the fact that this situation

has been addressed by the legislator. As a result, the Concept of Civil Legislation of the Russian Federation noted the following: «Article 5 of the Civil Code as a source of civil law called business custom. Meanwhile, the custom is widely used not only in business, for example, in relationships related to the definition of the order of citizens to use the common property». Continuing the list of «no business» civil relations in which actual business practices, you can call the relationship in the provision of health services and banking, insurance, etc. Thus, it is obvious the need for in Art. 5 of the Civil Code, the relevant changes.

Passed in the first reading of the draft Civil Code took the proposal and secured, and from March 1, 2013 enacted that «the prevailing custom is recognized and widely used in any area of business or other activities of a rule of conduct, not provided for by law, regardless of whether, whether it is recorded in a document». As can be seen, not only expands the scope of customs, but are relinquished by the institute business practice in general – in favor of customs in general, the corresponding provisions of other regulations in force in the Russian Federation. This is due primarily to the fact that references to the custom as a source of civil law (along with the business custom or usage of trade) are contained in international documents, including the Russian Federation concluded international treaties, and are included in the civil code of a number of . Therefore, in the Civil Code as a source of civil law should not only mention the business custom, but any charge the same token, custom.

Thus, changes in the art. 5 of the Civil Code is due, including the need for uniformity in the legislation, as a number of international agreements, including the prisoners of the Russian Federation, the custom is listed as a source of civil law. Thus, at present the scope of the customs to regulate civil relations will expand, which corresponds not only to the emerging practice, but the logic of the legislator, as reflected in other than the Civil Code, the laws and the requirements of international treaties to which the Russian Federation.

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