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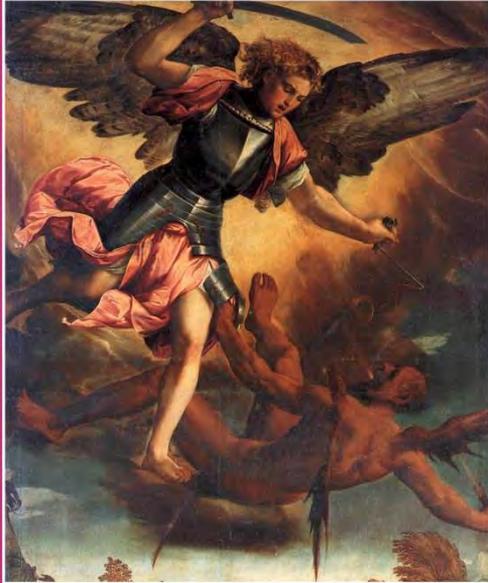
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Legal Regulation of Entrepreneurship under Import Substitution in the Russian Federation

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Abstrac

The article is intended to justify the need for implementation of an effective model of legal base development for small business and entrepreneurship, as well as minimization of negative processes from the sectional policy.

The leading research method for this problem is the comparative and legal analysis of legal framework using mathematical models for research of entrepreneurship in Russia that can give scientific credence to the conclusion of advantages and disadvantages of legal regulation of entrepreneurship and identify degenerative processes in the structure of the relationship between government and business.

The main results show that lack of real effective legal mechanisms that ensure effective activity of enterprises, hyper administration, corruption, regional deformations of juridical policy – all these factors represent an obvious obstacle to entrepreneurship development and mitigation of negative consequences in the economy under sanctions.

Materials of the article may be useful for planning of juridical policy and prospective cooperation in the international legal aspect that enable implementation of joint projects, for analysis of international investment policy prospects in respect of Russian economy, as well as for analysis of the main social and political trends under sanctions.

Keywords: sanctions, juridical policy, business and state, entrepreneurship under sanctions, legal regulation of small business in Russia.

JEL Classification: F16, F14, L51.

Regulación legal del emprendimiento bajo sustitución de importaciones en la Federación de Rusia

Resumen

El artículo pretende justificar la necesidad de implementar un modelo efectivo de desarrollo de base legal para pequeñas empresas y emprendimiento, así como minimizar los procesos negativos de la política seccional.

El método de investigación líder para este problema es el análisis comparativo y legal del marco legal utilizando modelos matemáticos para la investigación del emprendimiento en Rusia que puede dar crédito científico a la conclusión de las ventajas y desventajas de la regulación legal del emprendimiento e identificar procesos degenerativos en la estructura de La relación entre el gobierno y las empresas.

Los principales resultados muestran que la falta de mecanismos legales efectivos reales que garanticen la actividad efectiva de las empresas, la hiperadministración, la corrupción, las deformaciones regionales de la política jurídica, todos estos factores representan un obstáculo obvio para el desarrollo empresarial y la mitigación de las consecuencias negativas en la economía bajo sanciones.

Los materiales del artículo pueden ser útiles para la planificación de la política jurídica y la cooperación prospectiva en el aspecto legal internacional que permite la implementación de proyectos conjuntos, para el análisis de las perspectivas de la política de inversión internacional con respecto a la economía rusa, así como para el análisis de los principales aspectos sociales y tendencias políticas bajo sanciones.

Palabras clave: sanciones, política jurídica, empresa y estado, emprendimiento bajo sanciones, regulación legal de pequeñas empresas en Rusia.

Clasificación JEL: F16, F14, L51.

1. Introduction

In recent years, business development trends in Russia are determined not so much by the influence of external factor as by the continued influence of negative trends within the country. Today, a specific feature is their dependence on the external environment, including insufficient own funds and, as a consequence, the need for raising additional new expensive borrowed financial resources.

Entrepreneurship ensures steady growth of the economy, improvement of living standards of the citizens. However, at present, entrepreneurship depends on political decisions and sanctions policy of the European countries and the USA, responsive food embargo from the Russian Federation (November 2017), which, on the one hand, creates difficulties for the economic development of Russia, and, on the other hand, creates conditions for the promotion of entrepreneurship. In the Western European countries and the USA, small business is quite developed (Harris, 2003; OECD, 2015; Kiseleva et al., 2018; Akhmetshin et al., 2019) unlike in Russia. Consequently, objectively, there is a growing need for a higher number of small business enterprises in the sector of the Russian economy (Byrkova, 2015; Stepashova et al., 2014).

Therefore, it appears to be important and relevant to analyze legislation governing business development in Russia, the imperfection of which may be the cause of its falling behind from that of the most developing countries in a number of indicators.

2. Materials and methods

2.1. Research methods

In the research process, the theoretical methods, such as the comparative study of main legal institutions, the hermeneutics of statutory acts, empirical materials' analysis, consolidation of scientific findings obtained during the study of entrepreneurial development problematic field, legal modelling, as well as results' graphical presentation methods.

2.2. Research methods

Empirical research base forms prospective expectations of employees and business organizations: key elements, factors and consequences. The survey was conducted based on a questionnaire developed by us.

In total, 980 people were surveyed, of them – 58% men and 42% women. The age of the respondents varied from 18 to 55 years, the average age was 33, the composition of the respondents mostly consisted of 26-36-year-old people. The respondents were from such cities as Moscow (45% of the surveyed), Smolensk, Tver, Ryazan, Yaroslavl (12%), Saint Petersburg (43%). Industries, where

the surveyed people worked, were banks and finance (25%), construction (12.0%), food industry (13.0%), production of fast moving consumer goods (15%), trade (15%), small business (20%). Among the respondents, 76.4% worked as specialists, 17.6% – as supervisors of 1-2 subordinates, 5.6% – as team leaders of up to 3 people in a group and 0.4% – as department managers or higher. The average length of service of the surveyed – 11.5% total years of service and 5.8% in the profession. Of them, 81.1% respondents worked under the permanent employment agreement, 13.5% – under an agreement concluded for a period from 1 to 5 years, 5.2% – under employment agreement for less than one year, and two people noted that they worked based on verbal agreements.

As to education, 36.7% of the surveyed had secondary education, 1.7% had second secondary education, 98.3% had higher education, 1.4% had second higher education, 5.8% were Masters and Doctors of Sciences.

2.3. Research stages

The problem was researched in three stages:

At the first stage, empirical research base was collected and analyzed, theoretical analysis of existing methodological approaches in legal, economic and political scientific literature, problem statement, and goal setting were carried out, adequate research methods were identified, experimental research plan was prepared;

At the second stage, expert and analytical work was carried out, conclusions obtained during collection and analysis of empirical material were reviewed, checked and refined;

At the third stage, empirical material processing was completed, theoretical and practical conclusions were refined, obtained results were summarized and systematized.

3. Results and discussions

3.1. Analysis of the empirical data obtained from the respondents

Now, 34% of Russians would like to start their own business, as compared to 29% in 1991. The number of people, who do not want to do business, grew even more significantly — from 49% to 60%. 25 years ago Russians had little knowledge of business and economy. Current potential businesspeople answer the questions more consciously. Also, we would like to point to the rise in the number of future businesspeople who are confident that they will manage to start their own business (from 35% to 71%). The number of the surveyed who took active steps to start their own company grew from 8% to 17%) (Fig. 1).

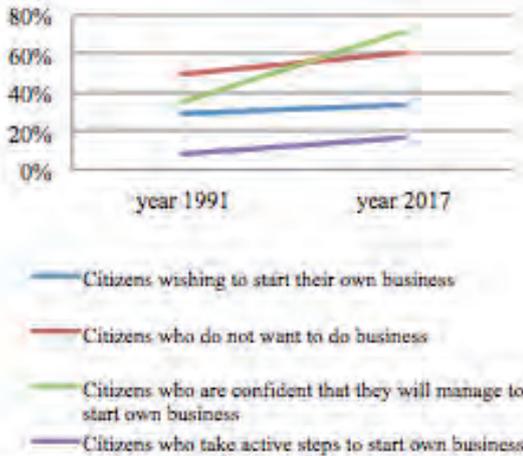


Figure 1. The respondents' empirical database analysis

By world standards, Russian youth has a fairly high interest in the business. 62% of young Russians in the survey stated that they were considering the possibility to start their own business, while the global average number is 34%. 45% of Russians were not afraid to invest money in small business and entrepreneurship. At the age of 20-25 years, 41.2% were ready to invest, 26-33 years – 30.8%, 35-45 years – 16.7%, 45-55 years – 11.3%.

The most attractive sector for future business-makers is the trade sector of the economy.

37.1% of people who are going to start their own business, want to engage in this industry;

activity in the sphere of production of goods (jobs, services) is chosen by 24.5% activity in the sphere of industrial production, development and implementation of innovative products – by 16.8%:

activity in the sphere of folk art crafts, handicraft activities, rural and ecological tourism – by 15.2%;

creation and development of infrastructure for supporting export-oriented small and medium-sized businesses – by 4.2%:

support of social entrepreneurship – by 2.2% (Fig. 2, Fig. 3).

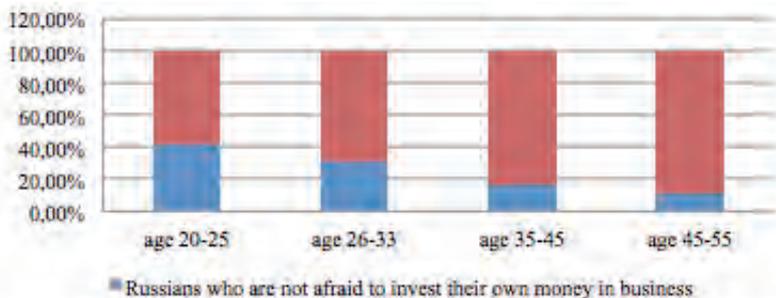


Figure 2. The most attractive sphere for future business-makers is the trade sector

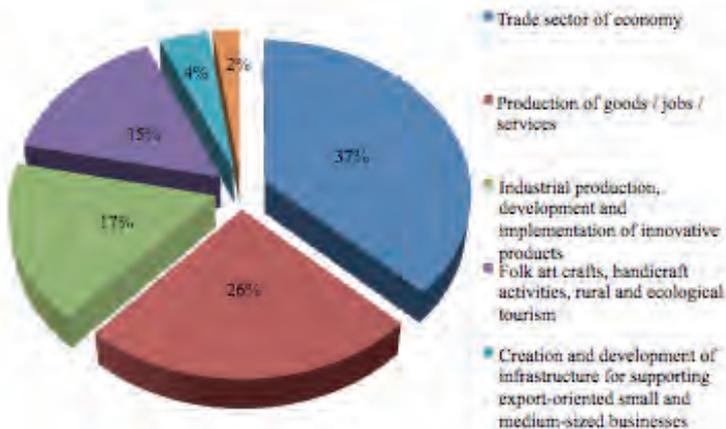


Figure 3. Evaluation of the Russian Federation juridical policy for small and medium enterprise development

3.2. Optimization and consolidation of business legislation

It can be stated that a global campaign on meeting the internal demand by Russian producers was launched in Russia. At the same time, this process has to be better systematized. It is necessary to create a set of permanent legal mechanisms, which would enable setting specific tasks, and to implement tools that allow their fulfilment. Otherwise, the import substitution process will become chaotic again (Annual report of “Federal Corporation for Development of Small and Medium-Sized Entrepreneurship”, 2016).

On January 1, 2012, the taxation system has been extended as a unified tax on imputed income, which will create predictable conditions for activity of more than 2 mln taxpayers.

HR record management at micro-enterprises (with the number of employees up to 15 people) has been simplified. Such enterprises are released from the responsibility to approve industrial relations law local acts. This decision will reduce the financial burden relating to the performance of labor legislation requirements for 90% of small business enterprises.

For the first time, a long-term strategic planning document “The Strategy for Development of Small and Medium Business in the Russian Federation until 2030” was approved in the sphere of small and medium business development. The guide of this document increases in the share of small and medium enterprises in the gross domestic product by two times (from 20 to 40%). The target model for “Support of Small and Medium Entrepreneurship” was approved (Decree of the Government of the Russian Federation N 1083-p, 2016).

In addition, presidium of Council for Strategic Development and Priority Projects under the President of the Russian Federation approved provisions of high-priority project for the main strategic direction of the Russian Federation “Small Business and Support of Individual Entrepreneurial Initiative” that provide for implementation of support measures for both new and operating enterprises in 2017-2018 to increase the number of employed people in the sphere of small business (National project “Small Business and Support of Individual Entrepreneurial Initiative”, 2018).

In 2016, federal funds in the amount of 11.1 bln rubles were provided to the regions for provision of subsidies, guarantees, microloans, creation and ensuring activity of organizations that form an infrastructure for support of small and medium entrepreneurship (business incubators, export support centers, competence centers in the field of innovations and industrial production, capital construction facilities).

The network of regional organizations of small and medium entrepreneurship support infrastructure was expanded: 321 competence centers were established considering financing of 2016. These organizations provide a broad range of information and consulting, socially oriented, financial and credit services, export support services and services for small and medium businesses involved in the field of innovations and industrial production.

The Government of the Russian Federation adopted a decree aimed to improve the procedure for federal property lease to small and medium-sized businesses. It is expected that there will be a multi-fold increase in real estate units included in the list of federal property intended for the provision of property support to small and medium-sized businesses.

A unified register of small and medium entrepreneurship was started that ensured a new level of accessibility to state support measures: starting from August 1, 2016, entrepreneurs do not need to prove their affiliation with the small or medium-sized business.

For 2017-2018, exemption from income tax is provided for self-employed citizens engaged in tutoring, supervision and care for specific categories of citizens, cleaning of residential premises and housekeeping, who had sent a respective notice to the tax authority. In such a case, the subjects of the federation are authorized to expand the list of activities of self-employed citizens, which revenues are exempt from taxation.

Actions have been taken to develop a “single window” system for the provision of services to entrepreneurs. Multifunctional government and municipal services’ centers, which render services to small and medium-sized businesses, are included in the list of organizations that form small and medium entrepreneurship support infrastructure.

Meanwhile, a wide technology gap between Russia and the leading countries of the world requires local manufacturing content, calling the foreign companies to move their plants to the Russian Federation. Local manufacturing content of foreign companies is a pseudo-import substitution as the majority of international companies are focused on the production of equipment to be sold to technologically backward regions. Such a policy deliberately predetermines an enhanced technology gap through the trends of active establishing the plants for assembling of foreign equipment according to 10-15-year-old conceptual developments in the territory of Russia. To stimulate demand for products of small and medium-sized businesses, the quota for direct purchases of goods, jobs and services by state-owned companies from small and medium-sized businesses has been increased from 10 to 15% (Decree of the Government of the Russian Federation No 1352, 2014).

An analysis of the Russian law for the last years has shown that the main emphasis in small business development was placed on the provision of access to financial resources, provision of tax reliefs and preferences, as well as reduction of administrative barriers during creation of infrastructure elements (organizations purchasing goods and services produced by small-sized businesses, entrepreneurship promotion funds, consultation centers, etc.).

3.3. Analysis of the system of state support measures for small business and entrepreneurship in the Russian Federation

The system of state support measures for small business development forms the basis for the federal program of the Ministry of Economic Development of

he Russian Federation “Economic Development and Innovative Economy” of Subprogram 2 “Development of Small and Medium Enterprises”, which includes measures 2.1 “Federal Financial Program for Supporting Small and Medium Enterprises”, 2.2 “Improvement of Legal and Regulatory Framework of Small and Medium Enterprises” and 2.3 “Promotion of Youth Entrepreneurship” (implemented from 08.06.2016) (Decree of the Government of RF No 316, 2014).

Meanwhile, there has been inconsistency in business state support, which was provided in much larger volumes in 2005-2010 than now. Thus, the extent of small business support from the federal budget for the period under review increased by 16 times on average. There also has been a notable increase in allocated funds in the vast majority of Russian subjects. However, since 2011, the emerging trend changed dramatically: 20.8 bln rubles were in the budget plans for small business support for 2011, 10 bln rubles – for 2012 and only 5.8 bln rubles – for 2013. It cannot go unnoticed that in recent years, there has been an increase in percentage rates and tariffs for natural monopolies’ services, which reduces the value of funds allocated from budgets for small business and entrepreneurship support in the Russian Federation even more (Goncharova, 2015).

Since the implementation of the state program, a number of legislative changes were adopted, which ensured regulation of this sphere of economic relations. In some cases, legal regulation measures are not specific.

Thus, the state program “Economic Development and Innovative Economy” (Decree of the Government of RF No 316, 2014) contains abstract phrases in the description of the main provisions:

- “convergence of bookkeeping and tax accounting”;
- “liberalization of legislation”;
- “development of small and medium enterprises in some sectors of the economy”, etc.

These expressions allow willful interpretation and make it impossible to determine a specific list of actions for implementation of the state program.

We analyzed the federal program goals and objectives for compliance with Methodical Guidelines for Development and Implementation of State Programs of the Russian Federation approved by order of the Ministry of Economic Development of Russia dated November 20, 2013 No 690. The Methodical Guidelines contain requirements to the goals of programmatic documents: specificity, concreteness, measurability, achievability, relevance (Order of the Ministry of Economic Development of Russia No 690, 2013).

When analyzing the goal of the subprogram “Development of Small and Medium Enterprises” of the federal program “Economic Development and

Innovative Economy”, some inaccuracies were identified. In particular, the goal of the subprogram reads as follows: “increase in the share of small and medium enterprises in the economy of the Russian Federation” (Decree of the Government of RF No 316, 2014). From an economic perspective, the phrase “share in the economy” has no informative aspect and is abstract. That is, it does not meet the criterion of “concreteness” of the Methodical Guidelines. Therefore, the goal is unmeasurable, abstract and unattainable. We believe that it is more appropriate to replace this expression with “share of small and medium enterprises in GDP”.

Along with the federal program of the Ministry of Economic Development of Russia, each subject of the Russian Federation implements a range of measures for improvement of the small entrepreneurship institute in adopted regional documents that ensure achieving the objectives of the state for the higher contribution of small and medium businesses to the national economy. It should be admitted that Russian regions are very diverse in terms of their businesses, and this requires that some specificities in the nature of provided support are taken into account.

In this connection, the country’s leadership at all levels of the economy should strive to create favorable conditions for the development of independent small and medium enterprises. Among such conditions are the cancellation of corporate property tax relief for payers of special tax treatment, the introduction of sales tax, arbitrary changes in layout plans of non-stationary trading enterprises in some subjects of the Russian Federation and a number of other measures.

Moreover, the administrative regulation system in some fields and spheres remains unfriendly for small enterprises and does not take into account the specifics of doing business within small business patterns. Combined with high-level fiscal burden, the specified circumstances do not allow the enterprises at the initial phases of their activity to increase the market for products, improve profitability and thus ensure the transition from a microbusiness to small or medium business.

In addition, both among the academic community and practitioners, the use of so-called “tax holidays” is often discussed, which is particularly important for goods, jobs and services that are potentially in the orbit of import substitution. “Tax holiday” periods should be determined in view of individual characteristics of the emerging Russian market, and they should correspond with product profitability indicators. Also, concessional lending, subsidy and interest-free loan programs, which can be accessed by small business and should be provided for implementation of the most promising business ideas, may have a

positive effect.

When it comes to small business support in Russia, the main focus should be placed not so much on the provision of any funds as on the creation of a favorable business climate that would enable a really effective process of small business formation and development in the country.

Unfortunately, by now, some inconsistency of decision-making in this sphere has been observed.

Nonetheless, the state still takes certain actions to implement the import substitution policy and business support:

- sectoral import substitution programs are developed and implemented (in the sphere of energy, industry, agriculture, IT-industry);
- industry development fund has been established, which contributes to obtaining more profitable borrowed funds (interest rate on loans from 5% per annum);
- conditions are being set for creating certain preferences for Russian producers in state and municipal procurement.

However, the problem of small and medium business development persists, and the main reason for this is the lack of real-life financial and credit mechanisms to ensure the effective operation of enterprises.

Tax, administrative, bank, and currency norms of law that govern entrepreneurial activity are still quite contradictory and inconsistent. As a result, only one-fourth of the enterprises carry out their entrepreneurial activities legally. The system of law that govern relations in the sphere of entrepreneurship should be transparent, clear, stable, and the procedure should be understandable and accessible. The existing statutory acts do not have clear and thoughtful implementation mechanisms. The failure of the state to perform its own decisions generates uncertainty in prospect for further development, leads to the indifference of active members of the population and along with this, stimulates the development of “shadow business”, “shadow capital”, fuels the corruption element. Contradictory legislative acts, their varying interpretations by different state structures, bureaucratic complexity of procedures for business registration, activity licensing, product certification, registration of ownership, etc., as well as related financial costs, continue to be the major challenges in small enterprise activity (Kiseleva et al., 2018).

Local authorities also produce a negative impact on small business, trying to compensate for a portion of proceeds to the federal budget, imposing additional local taxes and fees. Underestimation of the value of the small business by the state causes distrust in the government on the part of the business community, aggravates existing problems, reduces the development dynamics, and p

perhaps curtails private sector of entrepreneurship while exacerbating economic problems and increasing social tensions in the country.

Agricultural development over the last years has been very uneven. Various government programs were aimed at formal yield gain and not at the increase in production of scarce goods. For example, Russia has no problems with grain production, it only has problems with its sales. Oil crops were paid attention to too late: Russian oil mills are still loaded with Russian products by not more than 75%. The declared success in food production is explained by the lower quality of products. As follows from the comment of the press service of the Ministry of Economic Development, much depends on which period the import dynamics is compared to. "From 2014 to 2016 the import volume of agricultural products and food industry declined by 37.4%", reports the agency. This refers to import reduction in monetary terms.

Conclusion: The imperfection of the tax system, paired with excessive administration and corruption, stand in the way of entrepreneurship formation and development in Russia. All statutory documents regulating the activities of small enterprises were prepared by various authorities, and each of these statutory acts, considered separately, contains logical requirements, but in the aggregate, they create formidable barriers to private business.

However, even a small enterprise that decides to wind down its entrepreneurial activity is unable to do it in a legally correct way. The applicable law establishes an extremely complicated procedure for voluntary liquidation of the legal entity. As a result, there is a significant number of non-working firms, which exist only formally.

Legal documents that regulate social and labor relations in the Russian Federation take little account of their specifics in the sphere of small entrepreneurship, which leads to social insecurity of hired employees of small businesses, especially those having labor relations with entrepreneurs without corporate status, as well as an unsatisfactory state in the field of occupational health and safety.

In addition, the major reasons that hamper the dynamic development of small and medium-sized businesses may include unfair competition and violation of the anti-monopoly legal framework. Complicated land lease registration procedure, associated with considerable time and material costs, regulated both at the federal and regional levels, high cost of lease and purchase of premises, and the complicated procedure for registration of rights for non-residential premises restrain entrepreneurial activity as well. Import substitution is essentially a false slogan. It can be considered only as one of the mechanisms of new industrialization. Over the past 25 years, Russia has been de-industrialized and now exists in a semi-colonial mode.

Review of scientific literature has revealed that, presently, the focus is placed on government regulation and management in the sphere of economic activity. First, this is related to the fact that market relations produce negative forms of economic relations, and second, under appropriate conditions, government regulation boosts new economic forms of relations. The state makes an impact using several methods: economic (taxes, prices, loans, quotas) and administrative (registration, licensing).

Analysis of legal practice suggests that the most important function of the state in the economic sphere is to create necessary conditions that ensure its normal and effective functioning and balance of interests of the state, society and individual. In order to achieve this, it is necessary to create and launch an effective control mechanism for compliance with existing legal norms, take necessary steps on getting out of economic instability, and increase the competitiveness of Russian products. For this purpose, as it is noted in the literature, it is necessary to conduct active state anti-inflation, foreign exchange, fiscal and monetary policy aimed at import substitution and support of the real sector of the economy.

4. Conclusion

We established that statutory and legal acts that regulate entrepreneurial activity contain conflicting norms, which are contradictory in terms of methods for solving social relations, having no clear and thoughtful implementation mechanism. The failure of the state to perform its own decisions fuels the corruption element. As a result, only a small share of enterprises carries out their activities legally. Moreover, instability of legislation in the sphere of tax and financial regulation of the sector persists.

Despite the measures taken in recent years, for some activities, the high cost of administrative procedures remains a major challenge and the administrative burden on small business is excessive. Amendments to the law made as part of respective action plans, in general, promote simplification of procedures. Nonetheless, they remain unfavorable as compared with economically developed states.

Materials of this article may be useful for entrepreneurs adapting to the new conditions of economic activities, as well as specialists in the field of economic, financial and entrepreneurial law. In the course of the research, new issues and problems were encountered that require a solution. It is necessary to continue the studies on the development of methods for performance assessment of legal regulation of entrepreneurial activity and solution of the problem of legal

technology improvement for the codification of statutory acts in the sphere of entrepreneurship.

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