

**AXIOLOGICAL APPROACH IN FINANCIAL LAW
(REVIEW OF THE CONFERENCE "AXIOLOGY IN THE FINANCIAL LAW OF CENTRAL
AND EASTERN EUROPE", GRODNO, SEPTEMBER 19-20, 2019)**

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The report on the speeches of the participants of the scientific conference "Axiology in the financial law of Central and Eastern Europe" is presented in the article. The conference was organized by Yanka Kupala State University of Grodno and Center for Public Finance of Central and Eastern Europe and took place in Grodno on September, 19-20, 2019. The most relevant topics were: the essence of legal values, constitutional basis of financial law, axiological approach to budgetary system, fiscal federalism, taxation of cross-border transactions, tax security.

Keywords

Axiology, financial law, tax law,
budget law, conference, legal
value, Central Europe, Eastern
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The annual conference of the Center for Public Finance of Central and Eastern Europe "Axiology in the financial law of Central and Eastern Europe" ("Axiology in the financial law of Central and Eastern Europe") took place in Yanka Kupala State University of Grodno, in the hospitable Belarusian land, on September 19-20, 2019. The conference was attended by more than 60 scientists from Poland, Czech Republic, Slovakia, Austria, Belarus and Russia, as well as more than 100 concerned listeners from among University professors, practitioners of financial management, students and postgraduates.

The conference was opened by the first Vice-rector of Grodno State University, Professor **O. A. Romanov**, in his welcoming speech noted the special relevance of scientific understanding of legal values as the basis of lawmaking and law enforcement. Also with words of welcome, Vice-rector for scientific work of this University, Associate Professor **Yu. Ya. Romanovskiy**; Dean of law faculty, Yanka Kupala State University, Associate Professor **S. E. Chepurnova**; President Of the Center for Public Finance of Central and Eastern Europe, Head of the Department of public finance and financial law of the University of Bialystok, Professor **E. Ruskovsky**, who noted the

representative participants of the conference participants and expressed hope for a constructive understanding of the actual problems of financial law by applying the achievements of axiology.

Chairman of the organizing Committee of the conference, Associate Professor of international law, Associate Professor **L. Ya. Abramchik** devoted her speech to the axiological aspects of the implementation of the principles of tax law in the process of tax administration. An important step towards taking into account the basic legal values in the practice of tax administration was the consolidation in the new edition of the Tax Code of the Republic of Belarus, which came into force on January 1, 2019, based on these values, the principles of presumption of good faith of the taxpayer (he is considered to be in good faith until otherwise is proved by documented information), fairness (one taxpayer one object of taxation can be taxed only once per tax period), stability of tax legislation (during the financial year, taxes, fees (duties) should not be changed), transparency of tax legislation. These principles require specification in the tax legislation, according to which they will be deciphered by law enforcers.

Head of the Department of state and municipal law of Dostoevsky Omsk State University, Professor

A. N. Kostyukov paid attention to the implementation of constitutional values in financial law. On the one hand, the Constitution is the key source of financial law, enshrining its basic values. On the other hand, the Basic law directly provides for the need for financial and legal support of constitutional values. A serious problem is the uncertainty of the constitutional expression of many values, which is a defect of legal technique and is clearly manifested in the interpretation of constitutional provisions (for example, the attribution of financial legislation to the subjects of exclusive jurisdiction of the Russian Federation, while including the General principles of taxation and fees in the subjects of joint jurisdiction of the Russian Federation and its subjects). Sometimes inconsistency in assessing the place of individual constitutional values in the field of financial law is manifested by the constitutional Court of the Russian Federation (for example, recognizing non-monetary forms of settlements with the supplier for the purposes of applying tax deductions on excise duties, but allowing them for the purposes of calculating value added tax). The problem is also the lack of normative consolidation of some constitutional values (such as the alignment of socio-economic development of the subjects of the Federation).

Speech by Professor of the Department of public Finance of the University Nicholas Copernicus in Torun, Professor **V. Moravsky** concerned the interpretation of tax law as a way to resolve tax conflicts. A special role in preventing such conflicts belongs to the explanations of the legislation provided by the tax authorities at the request of taxpayers. In a situation where the explanations provided actually contradict the legislation, the interests of taxpayers will be a priority value if the taxpayer actually performed actions according to the explanations received, and he had no reasonable grounds to doubt the accuracy of the interpretation of the law.

Head of the Department of legal regulation of Economics and Finance of the Institute of public service and management of RANEPa, Professor **E. V. Chernikova** comprehensively highlighted the axiological aspects of the financial activities of the state and municipalities. Financial activity is not

only a special type of state activity, but also a means of achieving the goals set by the state or local self-government. The function of redistribution of national income has significantly strengthened the administrative component of the financial activities of the state and municipalities by a complex system of goal-setting. It is a legal phenomenon integrated into the social and economic life of society and allows for public administrative influence on social processes.

Chief researcher of the sector of administrative law and administrative process of the Institute of state and law of the Russian Academy of Sciences Professor **S. V. Zapolskiy** raised the problem of distinguishing the subject of financial law from other public relations in terms of the use of new methods of public financial activity. A clear understanding of the nature of the values on which financial and legal regulation is based is required: they are General legal, but are implemented in each branch of law (including financial and civil) in a unique refraction. Therefore, the use in financial lawmaking of constructions originally used by civilists (such as a contract) means not the application of private legal methods to financial relations and not the transformation of the latter into private law, but the development of financial and legal regulation in accordance with General legal values.

Head of the Department of financial law of Voronezh state University, Professor **M. V. Karaseva (Sentsova)** devoted her speech to the correlation of civil determination and autonomy of tax law. The legal value of tax law is manifested in its relationship with the branches of law and legal phenomena governing property relations. The role of categories traditionally used by civil law in the regulation of tax relations is difficult to overestimate. The provisions of the tax law shall be interpreted subject to the civil law structures. In the practice of law enforcement activities, situations often arise when civil law institutions are applied to property relations in the field of taxation, and not fully corresponding to the content of such relations. However, such subsidiary application is caused objectively, due to the lack of necessary rules in the array of legislation on taxes and fees.

Deputy Dean of the faculty of law, Associate Professor **A. M. Vartanyan** highlighted the

problematic issues of fulfillment of tax obligations arising in the process of reorganization of legal entities in the Republic of Belarus. Despite the General rule prohibiting the application of civil legislation to tax relations, the application and interpretation of civil law is inevitable in matters of the performance of a tax obligation during the reorganization of a legal entity.

Dean of the higher school of law of the Caspian public University, Professor **S. P. Moroz** told about the values on which investment law in the Republic of Kazakhstan is based. From the axiological point of view, the legal support of the international financial center "Astana" is of particular interest. The Centre has a special legal regime based on common law (principles, legislation and precedents of England and Wales); for residents, there is a zero tax rate on corporate and individual income, as well as on profits from the sale of securities, dividends and rewards on listed securities for 50 years. The court of MFC "Astana" also carries out legal proceedings on the basis of norms and principles of English common law, the court consists of outstanding British lawyers.

Senior lecturer, Department of Economics and sociology, University of Lodz, PhD in Law **Ya. Marchak** highlighted in detail the economic determinants of public Finance from the standpoint of their impact on the formation of financial and legal values.

Head of the Department of financial law of The Russian State University of justice, Associate Professor **I. A. Tsindeliani** from axiological positions considered the system of financial law, paying special attention to its principles. Value categories not only determine the formation of elements of the financial law system, but also predetermine their interaction in the process of legal regulation. The principles of financial law, being the direct legal regulators of public relations in the field of public Finance, should not be identified with financial and legal norms; they are independent elements of the financial law system.

Head of the Department of administrative and financial law Of the University of Zielona Gora, Professor **A. Gorgol** devoted a speech to the regulation of tax procedures in Poland. Assistant of

the Department of public finance and financial law of the University in Bialystok **E. Lotko** presented the results of a socio-legal study of the motivation of Polish taxpayers to pay taxes. According to the results of the survey of residents of Podlaskie and Masovian voivodeships of Poland, as well as interviewing entrepreneurs, the factors determining tax discipline were identified, the most important of which is the understanding that the taxes paid are used for specific socially useful purposes.

Associate Professor of the Department of state and municipal law of Dostoevsky Omsk State University **K. V. Maslov** by analyzing the characteristics of the tax security of the state justified the need for its inclusion in the number of legal values. Tax security is based on the fundamental provisions of the Constitution of the state, allows to ensure the implementation of other legal values in the state. Awareness of tax security as a value should permeate the legislation governing tax administration. Taking into account key values and threats to tax security is also necessary in law enforcement and in the process of implementing measures for the professional development of tax service employees.

Professor, Department of financial law, University of Wroclaw **K. Kopystyanska** devoted her speech to the scientific analysis of changes in the Polish tax legislation in terms of taxation of income of controlled foreign companies. Legal values underlying the CFC, based on the reports of the Organization for economic cooperation and development (in particular, on the provisions of the plan BEPS (Base Erosion and Profit Shifting), so that the rules relating to CFCs differ significantly from the classical Finance-legal standards enshrined in national legislation, as terminology and using the existing legal values (the tax from the taxpayer's income otherwise independent). On the one hand, the tax regulations of the CFC are designed to effectively combat cross-border tax evasion, on the other hand, they are among the most obscure and difficult to understand in Polish tax legislation.

Head of the Department of state, municipal finance and financial engineering of the Higher school of business of the Southern Federal University, Professor **D. A. Artemenko** analyzed the main novelties of the Russian legislation concerning

tax administration and tax control over the calculation of corporate income tax.

Researcher at the Department of financial law, tax law and economics of the Paul Josef Shafarik University in Kosice **A. Popovich** devoted his speech to the characteristics of the place of the principles of tax administration in the system of legal values. Legal principles are the basis of legal norms and the reason for their existence. At the same time, the implementation of the principles does not require their mandatory reflection in the legal norms. Maxims occupy an intermediate place in the series of norms and principles, concretizing the latter. The principles of tax administration are based on the provisions of the Constitution, acts of constitutional interpretation and international law. They should be implemented in the public interest in each of the tax administration procedures.

Professor, Department of public Finance and financial law, University of Bialystok **S. Priesnarovicz** shared his vision of the values that are planned to be laid in the Institute of tax dispute resolution in the new edition of the Polish Tax code (*Ordynacja podatkowa*). The basis is the tax consensus-the achievement by the taxpayer and the tax authority of an agreement on a tax dispute in the mediation process with the assistance of a mediator from among the persons accredited by the tax administration.

Dean of the faculty of personnel management and public service, head of the Department of legal support of state and municipal service of the Institute of public service, RANEPa, Professor **E. Yu. Kireeva** revealed the financial and legal values underlying the financial activities of municipalities. It is necessary for scientists and legislators to have a holistic perception of such values, the basis of which is the financial independence of municipalities.

Professor of Department of financial law, Russian State University of justice, Professor **I. V. Bit-Shabo** made a report on the trends in the development of Eastern European legislation in the field of state extra-budgetary funds. The General trend in Eastern European legislation is the gradual abandonment of the paternalistic role of the state in financing social programs: the orientation towards raising the retirement age. The speaker

predicts the division of the burden of payment of insurance premiums between the employee and the employer in the Russian Federation, which actualizes the public demand for improving the quality of social security.

Report of Associate Professor of the Department of public finance and financial law of the University in Bialystok, Professor **U. Zawadska-Pak** was devoted to the successes and problems of implementing joint budgeting in Poland. This is the process of budget management of public legal education, in which the expenditure of budget funds is made on the basis of decisions taken directly by the population. Such budgeting should be based both on the general principles of budgetary expenditures (legality, efficiency, utility) and take into account the special principles of direct democracy.

Associate Professor of the Department of state and municipal law of Dostoevsky Omsk State University, Associate Professor, **I. V. Glazunova** analyzed the actual problems of such a relatively new financial and legal institution for Russia as Treasury support of the budget. This comprehensive tool of public administration is used at the stage of execution of the budget for expenditures and includes the conduct, accounting and authorization by the Federal Treasury of transactions on personal accounts, which are opened to persons performing government contracts. Treasury support of the budget is aimed at implementing the principle of targeted and effective use of budget funds.

As part of the work of the section of young scientists, special attention was paid to the reports of: Professor of the Department of financial law, tax law and Economics of the University of Paul Joseph Safarik in Kosice **M. Stoyakova**, dedicated to the values of customs administration in Slovakia; master of law **A. Kalonzny** from Warsaw dedicated his speech to the defects of reflection of legal values in the Polish legislation on the taxation of real estate, as well as **A. Reiwer-Kaliszewska** from Gdynia, dedicated to the procedural mechanisms of dispute resolution, which are associated with the application of anti-dumping measures in the EU.

Unfortunately, the volume of this article cannot give a detailed review of performances of all participants of the conference believe that the

description allows to reach a sufficient idea of the depth covered in the scholarly debate of issues of financial and legal axiology.

On the lobby of the conference, the award of the Center for Public Finance of Central and Eastern Europe for the outstanding thesis (monograph) in the field of public Finance and tax law of Central and Eastern Europe in 2018-19 was presented. The award was received by the Assistant of the

Department of public finance and financial law of the University in Bialystok **E. Lotko** for her thesis "Financial and legal instruments to limit public debt in Poland". Elections of the Center's governing bodies were held on the lobby of the conference.

The next conference of the Center for public finance of Central and Eastern Europe will be held in September 2020 in Almaty, Republic of Kazakhstan.

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