

Copyright © 2015 by Academic Publishing House *Researcher*



Published in the Russian Federation
Russian Journal of Comparative Law
Has been issued since 2014.

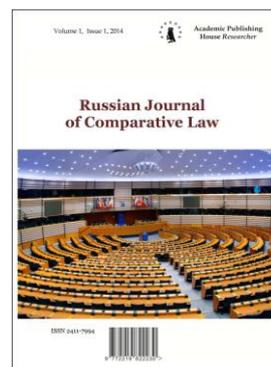
ISSN 2411-7994

E-ISSN 2413-7618

Vol. 6, Is. 4, pp. 176-178, 2015

DOI: 10.13187/rjcl.2015.6.176

<http://ejournal41.com>



Review

UDC 343.37

**Biriukov P. Criminal Liability of Legal Persons in EU-States / P.N. Biriukov.
Voronezh : VSU Publishing House, 2015. 319 p.'**

Alexei A. Moiseev

Russian Customs Academy, Russian Federation
140009, Moscow Region, Lubertsy City, Komsomolsky Avenue 4
Doctor of Law, Professor
E-mail: moiseev@customsacademy.ru

Abstract

The article presents a review of the book by famous Russian lawyer P. Biriukov «Criminal Liability of Legal Persons in EU-States».

Keywords: P. Biriukov, criminal responsibility, the EU member states.

The present professor Biriukov's book [1] is devoted to a very controversial topic in the contemporary legal science and in Russian legal science as well. The book contains a comprehensive study of the criminal responsibility problem of legal persons in the European Union.

As professor exactly underlined on his pages, «Nowadays the question of the necessity of introducing of criminal liability of organizations is discussed in the Russian Federation» (p. 9). Obviously, it is worth research of foreign states effective experience in this sphere. There is a possibility to select the most successful models of corporate liability, to solve problems of dependence of corporate liability on individual condemnation, to study issues arising in organization criminal prosecution. During the legal institution creating this book would help us avoid «to design a bicycle» and «walk twice into the same water» (p. 15).

The author is focused not only on basic issues of this phenomenon within the EU legal system, but also the legislation of 19 EU-states which provides criminal liability of the organizations.

It is important to emphasize, that the author presents complicated legal material in simply way, he covers two fundamental chapters of his scientific content on the 319 pages.

The first paragraph of the first chapter «The EU Company Law» concerns important questions such as principles of legal entities regulation in the EU law, methods of domestic laws approximation and unification, trading partnership characteristics for purposes of the EU law regulation, harmonization of EU law member states company, the trading partnership Directives, the disclosure of information Directives, the reorganization of joint-stock companies Directives, the single companies Directive.

The most important principles for the regulation of legal entities in the primary EU law are highlighted (p. 20): to guarantee the freedom of establishment of legal bodies, to abolish the restrictions of branch offices creating, to represent offices and subsidiary undertakings on any member country territory on national regime conditions; to establish minimum of legal bodies requirements to guaranty equal security for all members and creditors of legal bodies all over the European Union; to mitigate activity of Trans-European companies by abolishing obstacles caused by national legal systems differences; to stimulate cooperation between legal bodies from different member states in all spheres of business activity.

The author has paid attention to the most important acts of the EU law in this area. The trading partnership Directives about obligatory disclosure of information (the 1-st, 2-nd and 11-th Directives), merging and division of stock corporations (the 3-rd, 6-th and 10-th Directives), stock corporation acquisition as a result of engrossment of stocks or other securities by outward investors (13-th Directive), one man companies (12-th Directive) are reviewed by the author.

The history of acceptance and action of disclosure of information Directives, reorganization of joint-stock companies Directives, single companies Directive are also considered.

In the next paragraph of the first chapter the author details the three types of European Legal Persons, such as The European Economic Interest Group (EEIG), The European Company (SE) and The European Cooperative Association (SCE).

For instance, a suitable legal instrument at Community level in the form of the European Economic Interest Group, as noted, was created in August 1989 by entering into force the Council Regulation (EEC) № 2137/85 of 25 July 1985 on the European Economic Interest Group (EEIG) containing its Statute.

Regarding the European Company, The Council Regulation (EC) № 2157/2001 of 8 October 2001 on the Statute for a European Company (SE) 2001 is an EU Regulation containing the rules for a public EU company, called European Company.

A legal status of a European Cooperative Society (SCE) is based on the Community law. The EEA-wide laws governing the SCE legal form consist of two pieces of EU legislation: Council Regulation (EC) № 1435/2003 of 22 July 2003¹⁰ which established the SCE legal form; Council Directive 2003/72/EC of 22 July 2003 supplementing the Statute for a European Cooperative Society with regard to involvement of employees which sets out rules about representation and involvement of employees in SCE.

The third paragraph of the first chapter contains the author's position on some EU plans relative to development of the Company Law. In particular, «Entrepreneurship 2020: a three-step plan for unlocking Europe's entrepreneurship potential» is mentioned by prof. Biriukov [p. 51], which is «blueprint to reinvigorate Europe's entrepreneurial culture. He focuses on education and training and creating the right environment, as well as role models and reaching out to specific groups. The entrepreneurship 2020 action plan reigniting the entrepreneurial spirit in Europe aims to support entrepreneurs, who play an essential role in boosting employment, growth and a stronger economy. Europe's new companies, particularly small businesses, generate more than four million new jobs every year alone. The action plan seeks to change the culture and attitudes of European citizens with regard to entrepreneurship and to see it as an attractive and realistic career. It invites Member States to make entrepreneurship education a mandatory part of school education and aims to change the public's perception of entrepreneurs, so that they get the recognition and support they deserve. The action plan also addresses the multiple barriers faced by would-be entrepreneurs, such as the lack of appropriate education and training, difficulty in accessing credits and markets, problems in transferring businesses, fear and stigma of failure and too much red tape».

The action plan's proposals, which are to be put into action by administrations at all appropriate levels, are shown here and are grouped under three headings.

As part of the Europe-2020 strategy, the EU is redrawing its policy to ensure a strong, diversified, resource-efficient and competitive industrial base to meet the challenges of the global market. A European Social Entrepreneurship Fund (ESEF) label is designed to identify funds focusing on European social businesses, making it easier for them to attract investment.

In the end of the first chapter the author concluded that the primary EU law sets basic provisions on the status of legal persons in the EU Members. Documents of the EU institutions primarily aimed to harmonize national legislation.

Consequently, the harmonization of national legislation is the obvious task of EU member-states.

The eye-catching feature of the second chapter of the research is that it's sufficiently detailed by description of national legislation of 19 EU-states in the area of the criminal liability of the legal person and appropriate measures for the implementation of European law in their law systems.

As an example the Finnish reader (an official or a corporate lawyer) could find the relevant information about Finnish company law [p. 138], which is based on Act on Limited liability companies 2006, the Restructuring of Enterprises Act 1993, the Securities Markets Act 2012, the Cooperatives Act 2013, the Trade Register Act 1979 etc.

Author also defines «two main types of a legal body in Finland: 1) commercial organizations (limited liability companies, general partnerships, LPs, cooperatives, private enterprises) and 2) noncommercial organizations (associations and funds)» (p. 139). The general characteristic of these legal entities types, as well as their criminal liability in the Finnish law is also given. To conclude the section about Finland the author says that «in general the Finnish legislation complies with international obligations of the state» (p. 148). Other paragraphs of the second chapter are created «in the image and likeness» of that part.

Hence, such an informative legal book could be interesting and useful to a wider audience – both Russian and foreign. It is to recommend *prof. Biriukov's Criminal liability of legal persons in EU-countries* to all researchers of international and European law.

References:

1. Biriukov P. Criminal Liability of Legal Persons in EU-States / P. N. Biriukov. – Voronezh : VSU Publishing House, 2015. – 319 p.; <http://www.intlawvsu.ru/wp-content/uploads/2015/11/Biriukov-P.-Criminal-liability-of-legal-persons-in-EU-countries.pdf>

УДК 343.37

П. Бирюков. Уголовная ответственность юридических лиц в государствах-членах ЕС / П.Н. Бирюков. Воронеж: Издательский дом Воронежского государственного университета, 2015. 319 с.

Алексей Александрович Моисеев

Российская таможенная академия, Российская Федерация
140009, Московская область, г. Люберцы, Комсомольский проспект, д. 4
доктор юридических наук, профессор
E-mail: moiseev@customsacademy.ru

Аннотация. Представлена рецензия на книгу известного российского правоведа П. Бирюкова «Уголовная ответственность юридических лиц в государствах-членах ЕС».

Ключевые слова: П. Бирюков, уголовная ответственность, государства члены ЕС.