

Trade legislation problems of the Moscow city

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Abstract. In Moscow, the priorities of legislative process traditionally involve the provision of stable functioning of all municipal facilities, social sphere, including the support of vulnerable segments of the population. The combination of different functions, executed by Moscow, is reflected in complex system of urban management, specificity of municipal facilities with its peculiar plexus of numerous directions. The problems of development of trade relations and food safety, both at federal and regional levels, acquire greater significance. It is conditioned not only by economic prerequisites, but also by social, organizational and legal peculiarities of development of Russian Federation and its constituents. The analysis of the resulting problems and their further legislative solution is an essential component of effective and stable development of administrative system, formed in Moscow and involving all government bodies and local government in the city.

[Samoilova V.V. **Trade legislation problems of the Moscow city.** *Life Sci J* 2014;11(6s):562-564] (ISSN:1097-8135). <http://www.lifesciencesite.com>. 117

Keywords: treaty, law, cluster principle, trade, market.

Introduction

A Federal Law #381, dated 28.12.09, which came in force in 2010 "On the Principles of State Regulation of Trade Activity in Russian Federation" verifies that the legal regulation of relations in the sphere of trade activity is carried out by regulatory legal acts of Russian Federation, laws of the constituents of Russian Federation, other regulatory legal acts of the constituents of Russian Federation, i.e. this issue refers to joint competence of Russian Federation and the constituents of Russian Federation [1].

It shall be noted, that the regulation of this sphere of relations in foreign practice is carried out under special legislation, called trading regulations or antitrust law, which is one of the main effective instrument to provide market economy and food security [2]. One of the examples of the legislative acts in the specified sphere in Trading Standards Institute, regulating the wide spectrum of trade relations and presenting a basis for creation of trade regulation of local character in England [3].

The legislation of Moscow, as one of the largest constituents of Russian Federation in number of population, also does not rest and requires its improvement, taking into consideration new realities.

The Law #29 of the Moscow city, dated 09.12.98, "Concerning the Activity in the Moscow City" (further - the Law of the Moscow city, the Law) was passed in 1998 in conditions of absence of sectoral Federal Law, which would bear the system character and determine the rational trade policy [4].

The main principles of organization of trade activity in the Moscow city, in comply with this Law, are the following:

- the development of entrepreneurial business and competition;
- the creation of affective system of measures on protection of consumers' rights;
- the creation of state bodies in regulation of trade activity, including the support of socially important types of trade activity;
- the support of native manufacturers."

The Section 3 of this Law also provides the definitions of main terms and notions, used in regulated sphere of relations, including the definition of small-scale retailing:

"Small-retail trade is the variety of retail business, connected with realization of goods, not required special conditions of sale, through the objects of small-retail network" [4].

One of the problems of the Law is the regulation of not all types of relations, subject to regulation in the sphere of trade by the constituents of Russian Federation in comply with the Federal Legislation, and also fragmental or declarative regulation (for instance, the issues of information support).

Besides, separate provisions contradict the federal legislation (for instance, the provisions of the Article 16 of the Law on Liquidation of Legal Entities) or reduplicate its provisions in the absence of necessity [5]. Meanwhile, the necessity in accordance to federal legislation in regulation of trade relations at local level is a standard in some economically developed states [6].

Some rather urgent issues do not find the reflection in the above-mentioned Law, for instance, concerning the enforcement of rights of the individuals with disabilities, foreign tourists etc.

The majority of provisions of the Law got old from the viewpoint of terminology, compliance with the federal legislation. Many have the declarative character.

The terminology of the Law is not in comply with the Federal Law dated 28.12.2009 #381 "On the Principles of State Regulation of Trade Activity in Russian Federation", in particular, it refers to the terms of retail facility, stationary retail facility, unsteady retail facility, distributive facility etc.

The Article 12, concerning the supportive measures of native manufacturers in the sphere of trade activity (for instance, concerning the accommodating the interests of Moscow industry in interregional agreements; concerning the introduction of supplementary quality control measures for the consumer goods, saleable in the city etc) does not contradict the federal legislation in whole, but it just contains the declarative norms, requiring specification. The abovementioned article shall be excluded or shall contain the specific measures, in particular, to provide native manufacturers with 90% of places at agricultural markets, what is in comply with the item 8 of Food Safety Doctrine of Russian Federation, approved by the Decree of the President of Russia, dated 30.01.2010 #120 "Concerning the Approval of the Food Safety Doctrine of Russian Federation" [7]; as per this Decree, to evaluate the state of food safety, it is determined as a criterion a specific gravity of agricultural, fish products and goods in bulk of trade resources (taking into consideration the carryover storage) of the domestic market of the relevant products.

The abovementioned provision can be provided not in the Law of the Moscow city, but in the normative act of the Government of the Moscow city (Regulation dated 22.05 2007 #394 "Concerning the Measures for Implementation of the Federal Law dated 30 of December 2006 # 271" Concerning Retail Markets and Amendments to Labor Code of the Russian Federation" [8], alongside with another measures to support native manufacturers, including the Moscow ones (tax, administrative facilities within the competence of the RF constituent).

The Article 17 is devoted to legal regulation of labor of trade personnel. The majority of norms of this article are irrelevant, as they are provided by the federal legislation, and sometimes contradict it. Thus, for instance, as per the paragraph 1, the labor relations, working and leisure time, labor protection are regulated by labor legislation of Russian Federation. The federal legislation also regulates other issues of labor relations, not only the ones, mentioned in this paragraph.

The order of collective bargaining, the obligation to bring into agreement the terms and

conditions of such contracts are also regulated by the Labor Code of Russian Federation. To make a collective contract on behalf of the employer can not only the head of the legal body, but also the other body, in particular, acting under the power of attorney.

There are left without competent legal regulation the functions of Moscow, as a constituents of Russian Federation in the items of information supply in the sphere of trade and food safety, both to state authorities and local government, and to entities and individuals, including the consumers.

In whole, it appears that the relations in the sphere of trade and food safety are not regulated in details by the studied Law. The analysis of foreign legislation provides the examples of more detailed regulation of trade relations. Thus, the necessity to create equal conditions for trade activity motivates the legislator in the countries of Western Europe (Italy, Spain etc) to regulate even the working conditions of the trade companies, and to determine in normative the beginning and end of the sale season. The activity of the government on regional planning, programming and state financing in the sphere of trade is regulated by the Law [9]. The trade in public places is sometimes accepted only as per special permission of municipality, the use of which presupposes recurring payments to the budget [10].

To solve these problems of imperfect legislation of the Moscow city about trade, the following variants are suggested:

- 1) to make amendments to the effective Law;
- 2) to develop and pass a new law with the similar or another name;
- 3) to develop and pass a general law about trade and food safety in the Moscow city.

The first variant of solution of problem requires significant changes: it will have to exclude nearly 20% of norms from the Law, to make amendments into the effective ones; it is more reasonable to state nearly 40-50% of norms in a new version, and to supplement nearly 20% with new norms. Thus, the effective Law can be changes in the part of 60-90%, what, from the legal point of view, provides a possibility to state about the reasonability of the new law passing.

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4/24/2014