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Abstract

In the article, the author examines the regulatory framework governing the status of joint-stock companies, a joint-stock company is considered as a subject of civil law. The instability of the legislation on joint-stock companies is noted.

Keywords: legal entity, joint-stock company, commercial organization, business entity, public joint-stock company.

Introduction

Today, there is a dynamic change in the norms of civil legislation. The transformation of the Civil Code of the Russian Federation requires a new assessment of individual institutions of civil law. One of these institutions is the institute of legal entities in its various organizational and legal forms. By the variety of these forms, the legislator emphasizes that these subjects of civil law relations have different goals and capabilities, which actually determines the choice of a specific form by the participants of these legal entities. At the same time, the legislator rarely excluded applicable forms of legal entities. A special role in choosing the form is played by the minimum authorized capital, the minimum required number of participants, the goals and responsibilities of participants for the obligations of a particular legal entity. Today, there is a dynamic change in the norms of civil legislation. The transformation of the Civil Code of the Russian Federation requires a new assessment of individual institutions of civil law. One of these institutions is the institute of legal entities in its various organizational and legal forms. By the variety of these forms, the legislator emphasizes that these subjects of civil law relations have different goals and capabilities, which actually determines the choice of a specific form by the participants of these legal entities. At the same time, the legislator rarely excluded applicable forms of legal entities. A special role in choosing the form is played by the minimum authorized capital, the minimum required number of participants, the goals and responsibilities of participants for the obligations of a particular legal entity.

The problem of improving the Civil Code of the Russian Federation is caused by both theoretical and, to a greater extent, law enforcement problems. The improvement of regulatory and legal regulation is conditioned by the needs of time and the development of such business entities as joint-stock companies. In the Civil Code of the Russian Federation, legal entities are classified into commercial legal entities and non-profit organizations. The joint-stock company has the status of a business company as a commercial organization. At the same time, a new concept is introduced joint-stock companies - public and non-public. All this requires a new theoretical understanding of the legal status of a joint-stock company.



First of all, the legal status of a joint-stock company (hereinafter referred to as JSC) is emphasized by the status of a legal entity, an economic company. The concept of an economic society is currently defined in article 66 of the Civil Code In the Russian Federation, which indicates that it is a commercial corporate organization that has an authorized capital divided into shares (contributions) of participants [1].

Thus, an economic company is, first of all, a commercial organization that aims to make a profit. It is profit that is the criterion for classifying a legal entity to the status of a commercial one. Referring to the concept of a joint-stock company allows, first of all, to talk about the corporate nature of an economic society. For a clear understanding of the concept of JSC, it is necessary to refer to the legal regulation. First of all, the legal status of a joint-stock company, as noted above, is fixed in the Civil Code of the Russian Federation as a legal entity having a commercial nature, as well as special legislation. "On Joint-Stock Companies" [2] (hereinafter referred to as the Law on Joint-Stock Companies), which regulates in detail the procedure for the creation, activities, management bodies, rights and obligations of participants and other provisions relating to the functioning of an economic company. However, it should be noted that there is some instability in the legislation on joint-stock companies. One example is the adjustment of shareholders' rights aimed at limiting the rights of minority shareholders, the perception of minority shareholders as potentially abusing their rights [3 p. 181], etc. The mandatory rule on the obligation to audit is quite burdensome, regardless of the financial indicators and types of activities of the joint-stock company, this will especially affect non-public joint-stock companies. In accordance with the charter of the JSC, the audit of the accounting (financial) statements of the JSC is also carried out at the request of shareholders holding more than 10% of the shares in the authorized capital of the company. This norm is provided for in paragraph 1 of part 1 of Article 5 of Federal Law No. 307-FZ of December 30, 2008 "On Auditing activities" (as amended. Federal Law from December 1, 2014 No. 403-FZ) [4] and part 5 of Article 67.1 of the Civil Code of the Russian Federation [1]. An additional requirement was the obligation to transfer the register of shareholders to a licensed registrar, which is stipulated in Part 5 of Article 3 of Federal Law No. 142-FZ of July 02, 2013 [5], as well as certification of decisions of general meetings by the registrar or with the participation of a notary (with the invitation of the notary to the shareholders' meeting).

JSC, as a legal entity, bears civil liability. The legislation also regulates the legal status of JSC subsidiaries. The concept of subsidiaries in the legislation is given in the Civil Code of the Russian Federation [1] and in the Law on Joint-Stock Companies [2]. The analysis of the regulatory framework shows that in addition to The Civil Code of the Russian Federation and the Law on JSC issues of legal regulation of the status Joint-stock companies are contained in the Tax Code of the Russian Federation [6] and The Labor Code of the Russian Federation [7]. The legal norms contained in the above-mentioned regulations, determine the legal status of a joint-stock company in tax and labor relations.

The legal status of the joint-stock companies, including the specifics of their creation, reorganization and liquidation, the rights and obligations of the shareholders of the Joint-stock company, those who carry out activities in certain areas are regulated by special federal laws on these types of legal entities. These include, in particular, joint-stock companies operating in the banking, insurance and clearing sectors, specialized financial companies, employees' joint-stock companies (people's enterprises), project finance companies, professional participants in the



securities market, joint-stock companies and mutual funds, investment fund management companies, non-governmental pension funds and other non-credit financial organizations.

Other special legislation is also in force within the framework of JSC liability issues. The basis of the guarantee of creditors' rights is the property of a particular business company. In particular, the bankruptcy regime imposes certain restrictions on the debtor and is aimed at satisfying the rights of creditors. A joint-stock company may be declared bankrupt, therefore, the norms defining the bankruptcy status, with all the ensuing obligations, may be applied to it [8 p. 14].

It is also important in the source sense of regulating issues of corporate relations related to the status of a joint-stock company that there is legislation that regulates the registration of a legal entity in the Unified State Register of Legal Entities (USRLE). Thus, today there is an extensive regulatory and legal source base regulating the status of JSC, which includes the norms of the constitutional, civil, tax, budget, labor law, as well as the norms of special legislation on joint-stock companies. The main regulatory acts are the Civil Code and the Law on JSC, which establish the basic principles for regulating the activities of JSC.

In the legislation on joint-stock companies, the defining features of management bodies are what modern researchers pay attention to [9 p. 101]. Since the joint-stock company has a commercial character, profit is the main purpose of the management of this legal entity and the distribution of this profit through the participants of the joint-stock company, which is enshrined in the civil legislation of shareholders (paragraphs 1, 2 of Articles 50, Article 65.1 of the Civil Code of the Russian Federation). However, other business entities have a commercial and corporate nature with similar management functions, for example, companies with limited Liability Company (hereinafter - LLC). In this regard, it is necessary to somehow separate these legal entities. The distinctive features of a joint-stock company include the fact that the authorized capital of a joint-stock company is formed at the expense of securities - shares.

According to the definition given in the Civil Code of the Russian Federation (Article 96), the main feature of a joint-stock company is a business company based on the association of research institutes of capital. The concept of authorized capital is of decisive importance, although the Civil Code of the Russian Federation does not contain this concept. The authorized capital is actually the contribution of the company's participants, expressed in monetary form. The authorized capital of a joint-stock company consists of shares. It is the action as a unit reflecting the participation of participants JSC, and reflects the specifics of the activity of this legal entity. To date, the issue of shares is regulated only within the framework of the JSC's activities.

It is also worth noting that as part of the changes and additions in the Civil Code of the Russian Federation, business companies in Russia, according to Article 66.3 The Civil Code of the Russian Federation is divided into public and non-public. The main difference is that in public business companies, shares are publicly traded in accordance with securities legislation. Thus, the types of joint-stock companies should include public (PAO) and non-public joint-stock companies (NAO). Joint-stock companies that do not place their shares on the securities market belong to the so-called non-public joint-stock companies. Today, PAOs are companies that were previously open joint stock companies (JSC).

It should be noted that the concept of "public" is widely used in the legislation of foreign countries to designate several legal structures. As a rule, we are talking about the division of legal entities into public (established by the state or local government to meet public interests) and private [10 p. 229].



It should also be noted that the amendments to the Civil Code of the Russian Federation provide an opportunity, subject to the conditions provided for by law, to change the status of a joint-stock company from non-public to public and vice versa. A similar rule is contained in Article 7.1 of the Law on JSC [2]. The NAO also has the right to establish additional obligations of shareholders, this right is sufficiently provided for in the NATO Charter (Part 7 of Article 7 of the JSC Law). The NATO Charter assigns the legislator a separate role, in particular, it is allowed to settle a number of issues, while The norms for PJSC are more regulated by law.

The question posed by modern researchers is quite fair: since currently the Civil Code of the Russian Federation does not contain the concept of CJSC and JSC, but at the same time these organizations are present in business turnover, and there have been no changes in documents, how should the norms on PJSC and NAO be applied [11 p. 50].

However, the legislator does not rush business entities to change their names, that is, the new rules are not urgent. The rules on PAO and NAO are dispositive, that is, changes in the name should be reflected at the first amendment to the constituent documents.

But at the same time, in practice, there is some confusion in business turnover, since some companies have already changed their names to PAO, others remain joint stock companies and even CJSC.

Based on this, in practice it is necessary to resolve the issue with the names of the joint-stock companies, according to the current legislation, specifying specific but reasonable time limits during which the joint-stock companies should be transformed into new forms - PAO or NAO, or into other organizational and legal forms of legal entities, make changes to their constituent documents and records in the Unified State Register. Part 7 of Article 27 of the Federal Law of June 29, 2015 No. 210-FZ "On Amendments to Certain Legislative Acts of the Russian Federation and Invalidation of Certain Provisions of Legislative Acts of the Russian Federation" [12] by July 1, 2020, the obligation to determine its form is assigned only to joint-stock companies established before September 1, 2014, whose brand names and charters contain instructions on the publicity of the joint-stock company, and depending on this, either contact the Bank Russia for registration of the draft shares or to amend its statutes.

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