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THE CONCEPT OF AN INDIVIDUAL ENTREPRENEUR PROBLEMS AND FEATURES

Summary

This article discusses the legal status of an individual entrepreneur. Based on the analysis of the foreign approach to the issue of support and development of small and medium-sized businesses, the author concludes that the measures taken for the development of small businesses in General and the institution of individual entrepreneurs in particular are clearly insufficient for full-fledged assistance in the realities of our country. It is necessary to solve not only the issues of preferential taxation, credit, and legal education, but also to organize other assistance to small businesses: additional education, access to the latest achievements in science and technology, and social support. In addition, there are a number of legislative problems related to the status of an individual entrepreneur, which also need to be resolved in the near future. In conclusion, the author concludes that in order to increase the share of small businesses and individual entrepreneurs, it is necessary to solve a number of organizational tasks, as well as make changes to legislative acts related to individual entrepreneurs.

Keywords: small business entities, individual entrepreneur, status of individual entrepreneur, property of individual entrepreneur, legal personality.

Our country is undergoing active economic reforms, one of the goals of which is to involve our compatriots more actively in the field of entrepreneurship. Indeed, unlike most developed countries, the number of citizens involved in small business activities in our country is quite small. The vast majority of our citizens prefer to be employees. And, even if they are not quite satisfied with the size of the salary, the average citizen will be very likely to look for a new job. Our fellow citizens are the last to think about doing business

The vast majority of the working population of our country prefer to work in public institutions. Working for them will be a priority even if the salary at a commercial enterprise will be slightly higher. Naturally, if the salary differs significantly, or we are talking about a large, even private, holding company, then it is highly likely that the choice will not be made in favor of a state-owned enterprise. In all other cases, people prefer to work for the state.

This is due to the almost absolute compliance of state-owned enterprises with The labor code. People are sure that they are highly likely to work strictly set hours, they will not be involved in work on a day off, they will go on vacation on time and spend all the days required by law.

Not unimportant fact is the confidence in the stability of work in a public institution. In contrast to a private enterprise, employees of public institutions and enterprises are less concerned about the possibility of unexpected cuts or reductions in wages.

All these differences become especially significant in difficult times, in times of economic crises and other political and social troubles.

As noted above, in developed economic countries, the number of employees employed in small businesses is significantly higher than in Russia. Today, the economy of all developed countries is deeply connected with small and medium-sized businesses. The activities of such enterprises have a positive impact on creating a competitive environment in the country's economy, creating jobs, and ultimately improving the standard of living of citizens. It should also be noted that the involvement of citizens in the sphere of small business significantly

motivates the most active part of the population to develop and make the most effective use of their qualifications, accumulated experience and knowledge.

The most developed economic countries are characterized by increased popularization of small business as one of the foundations of a successful economy. The most significant indicators of the economic efficiency of the small business sector are the share of the population employed in this sector of the economy, as well as the share of small businesses in the country's GDP. In most developed countries, small businesses employ more than 60% of able-bodied citizens. In the leading countries, the share of citizens in small and medium-sized businesses is 65% in the United States, 75% in the European Union, and more than 80% in Japan. In our country, this share is no more than 26%. For Russia, the share of small businesses in GDP is only 23%, while in the United States-53%, in Japan-55%, and in the European Union - 75% [8, p. 473].

Governments of developed countries are making great efforts to support and promote small businesses.

For example, the United States has developed an extensive system of development, promotion and support for small businesses, which includes financial, Advisory and innovative assistance. At the beginning of work, small businesses are allocated preferential loans from the state with a maturity of 7-10 years. Significant support for small businesses is also provided in Japan, where small businesses are provided with preferential taxation and various programs of preferential lending, assistance in the professional development of employees through the active use of the latest techniques (training, internships), as well as the provision of the latest achievements of science and technology [9, p.67].

No less support for small businesses is provided by the EU countries, where financial, coordination, consulting and expert support for small businesses is created and effectively implemented [5, p. 95].

In one of the most developed economies in the world, on the island of Taiwan, 98 % of all enterprises are small and medium-sized businesses [11, p. 126].

Thus, the percentage of small and medium-sized businesses in our country differs significantly from developed countries. And not for the better. Obviously, in order to increase the number of small and medium-sized businesses, our state must also take a number of measures aimed at developing and maintaining this sector of the economy. One of these measures could be to reduce the fiscal burden, primarily in the areas of medicine, construction and manufacturing [3, p. 65].

Another problem faced by small businesses at the initial stage is the lack of savings to start doing business. Meanwhile, even the first academic economists raised the question of initial capital as a prerequisite for starting a business [17, p. 101]. Thus, the outstanding English economist Richard Catillon, who introduced the concept of entrepreneur into business, pointed out the mandatory presence of primary capital before starting a business. In addition, he identified risk as one of the mandatory conditions for business activity [18 p. 31]. No less well-known French economist Frantsuya Quesnay, when studying farms, concluded that to start farming, accumulated wealth is necessary, which is further divided into primary, initial and current capital investments [13, p.279-287].

At the beginning of business activity, entrepreneurs usually do not have any personal savings to start a business, or a credit history on the basis of which banks could issue initial loans. In addition, given the difficult economic situation in our country, as well as around the world, it should be noted that the majority of the population does not have money, but also any real estate objects or other assets for which banks could issue loans. Thus, a start-up entrepreneur is forced, again at his own risk, to apply for initial capital in microfinance and micro-credit enterprises. Given that these companies lend money at a much higher interest rate than banks,

many business ideas are not profitable even at the beginning of the search for funds for their implementation [1, p. 115].

The experience of advanced countries shows that only by removing administrative barriers, the situation with Russian small businesses will not be resolved. Legislation on small businesses should not be based on the principle of "do not interfere", but on the principle of "help" [7, p. 149]. Another important area of assistance for the development and expansion of small businesses could be the implementation of a certain legal likbez on this issue. It seems that the development of small businesses can go at a completely different pace, if a more holistic view of the legislation is obtained by all those involved in it: entrepreneurs, employees and consumers. There is an opinion that the average entrepreneur has an inflated self-esteem, but at the same time is helpless in the legal field. In addition, the majority of entrepreneurs are not organized into any professional communities or unions. The typical modern consumer, on the contrary, is a very active, if not aggressive type of participant in economic relations. However, a certain aggressiveness cannot replace legal literacy. An increasing number of consumers believe that consumer protection depends on their perseverance. In addition, many officials, having insufficient legal knowledge, often engage in self-education, while not in the best sense of the word. A legal state cannot exist without legally educated citizens, which gives scientists the right to raise the question of the need for all-Russian legal education [7, 153].

Now the all-Russian geographical dictation is quite popular, which is held annually, as well as the all-Russian dictation on the Russian language. It seems that an annual legal dictation could be carried out by analogy. Naturally, it is necessary to carry out preliminary work on legal universal education

4035178 individual entrepreneurs and 3564704 legal entities are registered in Russia. Thus, the share of individual entrepreneurs is 53.1% [12].

Given that the total number of legal entities includes a fairly large number of non-profit enterprises, we can confidently state that individual entrepreneurs represent the vast majority in the field of small and medium-sized businesses in quantitative terms.

In order to develop proposals for the development of this type of economic activity, it is advisable to consider the legal status of individual entrepreneurs and related problems, and, if possible, suggest ways to solve them.

Currently, issues of legal status are defined in article 23 of the Civil code of the Russian Federation. According to the current legislation, individual entrepreneurs have the full range of rights and obligations, which in turn can be divided into property, non-property, obligation, inheritance and intellectual rights, as well as obligations [4, p.34].

The current legislation contains rules in which an individual entrepreneur is equated in legal status to a legal entity. According to some scientists, this is due to the fact that Russian legal norms do not contain special business rules for individuals [6, p. 29].

According to other authors, this rule is based on the fact that business relations will remain entrepreneurial regardless of the composition of participants. Such a legislative decision seems to scientists not the most justified. From their point of view, this approach does not sufficiently take into account the peculiarities of individual entrepreneurs [16, p.53].

In accordance with article 2 of the Civil code of the Russian Federation, a person engaged in entrepreneurial activity must be registered in accordance with the procedure established by law. The law does not refer to the registration of business activity, but to the registration of this person as a business entity. A number of authors point out some contradictions in this formulation. Thus, if an individual carries out business activities without obtaining the official status of an individual entrepreneur, he is not an entrepreneur. In the event that an individual has received the status of an individual entrepreneur in accordance with the established procedure, he does not actually conduct business activities, but is nevertheless recognized as an individual entrepreneur. Scientists Express the opinion that the sign of registration, in this case, can not be

considered as a sign that characterizes any activity as entrepreneurial. Requirements for registration of a business entity as an individual entrepreneur should be considered, in their opinion, as one of the conditions for proper entrepreneurship or requirements for a business entity that does not carry out its activities [2, p.25].

It is impossible not to focus on the legal personality of individual entrepreneurs. In legal science, it is customary to distinguish the following features of the subject of business law:

- ownership of rights and obligations;
- availability of property;
- liability for violation of their obligations;
- state registration [10, p. 41-43].

In accordance with the current legislation, an individual entrepreneur does not have a separate physical personality. Unlike legal entities.

The legal structure of an individual entrepreneur does not have strictly defined boundaries. The law does not define the requirements for the availability of property. The amount of legal capacity is not fixed.

Thus, the law does not specify the requirements for the existence of an individual property owner. In addition, according to the law, the size of a private company is not fixed. Secondly, having studied the legal capabilities of persons with limited legal capacity, as well as minors, it can be concluded that the presence of full legal capacity is currently not a necessary condition for conducting business. In addition, at the moment, neither partial restriction of authority nor complete refusal is the basis for termination of registration of a public or private operator in accordance with Federal law No. 129-FZ of 08.08.2001 "on state registration of legal entities and individual entrepreneurs".

Considering the issues of legal personality of an individual entrepreneur, it is also impossible to focus on the issue of his legal capacity. In the structure of legal capacity of citizens, transaction capacity and delinquency are often distinguished. Sdelkosposobnost is the capacity to acquire rights in the transaction. Delinquency is the ability to engage in illegal behavior that is the basis for bringing to justice. The ability to bear responsibility is a kind of ability to bear responsibilities. There is an opinion in the literature that "delinquency" does not relate to all the grounds of responsibility of an individual entrepreneur. Tort is not the sole basis of liability. Liability may also arise for breach of contractual obligations. A mandatory element of bringing to justice is guilt. In accordance with paragraph 3 of article 401 of the Civil code of the Russian Federation, the responsibility of an individual entrepreneur can occur regardless of the presence of guilt. In this regard, a number of scientists suggest that the ability to bear responsibilities should be identified as an element of legal capacity, which will include the ability to bear responsibility as a legal obligation. Such terminology, according to the authors, would allow taking into account all types of business liability, not just for torts.

In the structure of the individual entrepreneur's legal capacity, the following elements are proposed:

- the ability to determine the scope of the contract, as well as the optimal ratio of the rights granted and possible obligations;
- ability to acquire entrepreneurial skills;
- the ability to carry business responsibilities;
- ability to protect business rights [15, p. 50-51].

According to a number of scientists, the property of an individual entrepreneur should coincide with the purpose of using it for profit and be separate from personal property [14, p.79].

Based on the above, we can conclude that increasing the share of individual entrepreneurs and other small businesses is currently one of the priority tasks of the state in the field of economy. For a speedy solution of this question it is necessary to solve not only a number of

organizational issues in providing real help and support small businesses, but to align existing legislation governing the activities of individual entrepreneurs by eliminating contradictions.

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