substitute. Therefore, the testator can appoint an unlimited number of persons, thereby having the opportunity to limit a particular person in obtaining hereditary property.

Also, the testator has the opportunity to appoint an heir for each specific reason or grounds. This provides for the principle of freedom of will. As well as the indication by the testator of only some grounds for substitution assumes that in other cases the legal order will be applied.

If a successor is appointed (hereditary substitution), then legal inheritance, hereditary transmission, inheritance in the event of the death of the commoners-are canceled.

It should be noted cases where the designated heir can not inherit the property of the testator. It is worth noting that this list is closed.

An additional (sub-appointed) successor, or substitute, does not inherit the property of the deceased in cases:

1. Transfer of property to the legal (direct) successor;
2. Death additional persons;
3. Loss of the right of inheritance by the appointed successor.

In practice, there are many disputes in the application of the institution of substitution. In this regard, the appeal definition of the Sverdlovsk Regional Court is interesting. The essence of this court case was that after the death of the testator, the will with the substitution was not taken into account and certificates were issued for heirs only by law, in connection with which the right of substitution was violated. Subsequently, this right was restored [8].

Thus, it can be said that the testator by his will can regulate the circle and number of his successors, changing or supplementing the list of legal heirs. The substitution allows to include in the most developed way those persons whom the testator wishes to see in a circle of the successors. However, do not forget that the will is burdened with the right to a mandatory share for some categories of heirs.

1. Sukhanov, E.A. Civil law [Text] / E.A. Sukhanov. - M.: Statute, 2011.- 292 p.
2. The Civil Code of the Russian Federation. Part Three: Federal Law of November 26, 2001 No. 147-FZ // Collection of Legislation of the Russian Federation. - 2001. №. 49.
3. Kirillov, A.A. To the question of testamentary substitution [Text] / A.A. Kirillov // Actual problems of Russian law. - 2014. №. 5. - S. 816 -820.
4. Palshkova, A. M. Special testamentary dispositions in Roman law [Text] / A.M. Palshkova // Inheritance law. 2009. - № 3. - S. 8-13.
5. Ovchinnikova, K.O. Substitution in the law of succession [Text] / K.O. Ovchinnikova // Economics and society. - 2016. №.12. - S. 12-20.
6. Sutyagin, A. V. Property relations of spouses and inheritance [Text] / A.V. Sutyagin. - M.: GrossMedia, 2008.S. 128.
7. Guev A.N. Article commentary on part three of the Civil Code of the Russian Federation [Text] / A.N. Guev. - M.: INFRA, 2010.S. 415.
8. Appeal ruling of the Sverdlovsk Regional Court of June 26, 2012 in the case 33-7182 / 2012 // Official site Judicial and regulatory acts of the Russian Federation [Electronic resource]. URL: <http://sudact.ru/regular/doc/eyCQYMw9zPNP/> (accessed 10/27/2019)

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Legal entities' tort capacity

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Abstract

This article is about the concept and specifics of a legal entity. In addition, the article represents an attempt to identify and analyze different points of view on the signs of tort in order to provide a detailed definition of its legal components.

Keywords: tort capacity, responsibility, legal personality, legal capacity, legal entity.

The emergence of the institution of a legal entity is directly related to the fact that there has been a change in the entire social organization existing in society, as well as with the formation of economic relations and, as a result, public consciousness [6, p. 21].

In the process of the society formation, the legal regulation of relations with the participation of only individuals as the main subjects of private law proved to be insufficient for the emerging economic turnover.

According to the Russian civil law, the institution of a legal entity is part of the main ones. It is a set (subsystem) of norms that determine the legal capacity of a legal entity and methods for its implementation, the procedure of the formation, reorganization and liquidation of legal entities, as well as the specifics of their organizational and legal forms.

A legal entity can be recognized as any organization that has acquired management of separate property or is engaged in certain business activities.

In addition, it is this organization that, in its legal name, can conduct a variety of actions or carry out processes of personal non-property or property rights [2, p. 32].

In the Russian Federation, legal entities are endowed with a wide range of legal capacity and legal capacity, which gives them the opportunity to independently conduct business activities.

It is believed that such huge opportunities should be accompanied by an increased responsibility. We opine that in order to achieve the protection of the rights and interests of the state and citizens successfully and effectively, it is necessary to strengthen measures of responsibility.

Traditionally, tort is understood as the ability to withstanding certain responsibility measures for illegal actions that were committed to achieve corporate goals [5, c. 87].

The appearance of tort of a legal entity coincides with the period of state registration, but despite this fact, for some enterprises it appears only after the basis of their activity has been laid.

The scope of tort of legal entities is equal. At the same time, the following points have a certain influence on it:

- organizational and legal form of the enterprise;
- presence of legal capacity;
- full dependence on decisions of other legal entities.

It is important to notice that the tort ability of the subsidiary and main legal entity is unified, due to the fact that the actual opportunities that the subsidiary has, make it possible to bring it to a specific form of responsibility.

In addition to the foregoing, the tort ability of the legal entity, as well as the founder, is complementary. This is directly related to the fact that the founder undergoes liability for a wide variety of offenses of the legal entity formed by him. In this case, the company may be liable for various offenses permissible by its founder.

Due to the fact that legal entities are direct participants in civil legal relations, they have legal capacity and capacity to act (Clause 1, Article 48 of the Civil Code of the Russian Federation) [1].

The legal capacity of a legal entity includes the opportunity to have civil rights that will fully comply with the objectives of the activity provided for in the constituent document, and bear responsibilities related to this activity.

Legal entity's capacity to act is the ability of a legal entity to receive and exercise property and personal non-property rights on its own behalf, create obligations for itself and fulfill them.

A legal entity has all three elements of legal personality occur simultaneously from the moment of registration of this organization as a legal entity [4, p. 112].

Legal entities with special legal capacity should also have appropriate tort, as the requirements for their legal personality on the part of the state and society are increasing.

A theoretical study of the problems of liability of a legal entity is important, because it allows to determine the provisions that will serve as the basis for research in a particular branch of law. Theoretical study must develop faster, so that the development of other scientific branches is not restrained and corresponds to the objective needs of the practical sphere.

To identify problematic issues in this area, it seems relevant to consider the concept of liability of a legal entity.

Responsibility of the organization is the obligation indicated by the legislator to undergo the negative consequences of violation of the provisions of the law. In Russian law, legal entities are subject to civil, administrative liability.

However, a legal entity cannot be held criminally liable.

On this topic, various scholars and legal scholars are engaged in heated debate and, in this regard, it is noted that the lack of criminal liability of legal entities is a problem in the current legislation. Briefly analyze these statements.

In many developed countries and countries after Soviet territory, it is recognized that legal entities should be subject to criminal liability [10, p. 90].

On the international level, conventions have been adopted that proclaim this provision. The Russian Federation remains almost the only state in which this norm is absent. When developing the text of the current Criminal Code of the Russian Federation, an article was envisaged in which the features of assigning criminal liability to legal entities were considered. However, this norm was not adopted [8, p. 67].

It must be pointed out that in the Russian legal system there is a principle of personal guilty liability. Therefore, it is rational to consider the instruction of the Investigative Committee of the Russian Federation that if a legal entity participated in the crime, then it should be subjected to criminal prosecution along with an individual.

Today, a legal entity is considered only a “tool” for committing a crime, and all the blame lies with the individual. It seems that this approach belittles the degree of guilt and significance of a legal entity. The will of a legal entity is autonomous (it is carried out through the will of the governing bodies) - this principle is used by most countries [9, p. 87].

Thus, the question of the possibility of bringing legal entities to criminal liability today is open and unresolved.

A legal entity is an independent participant in civil turnover; its obligations are not related to the obligations of the founder or any of its other participants.

The founder (participant) of a legal entity or the owner of its property is not liable for the obligations of the legal entity, and the legal entity is not liable for the obligations of the founder (participant) or owner, with the exception of cases provided for by the Civil Code of the Russian Federation, or the constituent documents of the legal entity.

The liability of a legal entity can be supplemented by the liability of the founders or other participants of a legal entity only if they are guilty, which is not so easy to prove [3, p. 82].

In the event of the bankruptcy of the debtor through the fault of the founders (participants) of the debtor, the owner of the property of the debtor, unitary enterprise or other persons (including the fault of the head of the debtor), who are entitled to give binding instructions to the debtor or have the ability to otherwise determine its actions, on the data persons may be held subsidiary liability for its obligations [7, p. 89].

Thus, from the current civil law and domestic legal science regarding civil law, the uncertainty of approaches to the fault of a legal entity, which is the main problem of the tort of legal entities, follows.

Tort – is a category that is closely related to the subjective side of the offense and, specifically, with the category of guilt, which is the leading sign of tort of a legal entity.

In relation to a legal entity, various opinions are expressed in the legal literature on the presence of guilt as an integral element of its tort. A feature of the status of a legal entity as an

abstract subject of law is that specific individuals act on its behalf in legal relations. Therefore, many jurists believe that the guilt of a legal entity has always connected with the guilt of people and cannot be anything else.

1. The Civil Code of the Russian Federation. Part 1 of November 30, 1994 No. 51-FZ // SZ RF. 1994. No. 32 p.
 2. Alekseev S.S. Civil law / C.V. Alekseev. - M.: Prospect, 2015 . 440 p.
 3. Andreev V.K. Legal entities. Introduction to Corporate Law: Lecture / V.K. Andreev. - M.: Russian Academy of Justice, 2014. 221 p.
 4. Gribanov V.P. Legal entities / V.P. Gribanov. - M.: Jurisprudence, 2012. 156 p.
 5. Grishaeva S.P. Civil law / S.P. Grishaev. - M.: BEK, 2013. 76 p.
 6. Guseva T.A. State registration of legal entities / T.A. Gusev, A.V. Churyaev. M.: Russian State Humanitarian University, 2017. 240 p.
 7. Evetsky A.A. About legal entities / A.A. Evetsky. - M.: Lights, 2016. 471 p.
 8. Evetsky A.A. About legal entities / A.A. Evetsky. - M.: Lights, 2016. 471 p.
 9. Zakurakina O.V. Formation and development of theories of a legal entity in Russia / O.V. Zakurakina. - Perm: Mercury, 2014. – 102 p.
 10. Zakurakina O.V. Formation and development of theories of a legal entity in Russia / O.V. Zakurakina. - Perm: Mercury, 2014. –102 p.
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