

LEGAL ENTITY AS A SUBJECT OF CIVIL LAW

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In the theory of civil law, three main subjects are distinguished: individuals (citizens), legal entities, and the state. In the context of a developing market economy, the role of legal entities in civil turnover increases every day, which makes them a significant subject of civil law. Article 39 of the Civil Code defines a legal entity as an organization that owns or operates separate property and is liable for its obligations with that property, may acquire and exercise property and personal non-property rights, bear obligations, and act as a plaintiff or defendant in court on its own behalf.

From this definition, we can distinguish several features inherent in a legal entity, which make it an independent subject of civil law relations. The first essential feature is *organizational unity*. This typically means the existence of governance bodies within the legal entity (a general meeting, supervisory board, sole executive body, etc.), as well as founding documents (articles of incorporation, charter), which together enable the legal entity to act in property relations as a single subject.

Separate property ownership implies that the organization has assets recorded on its own balance sheet under the right of economic management or operational control. Some legal scholars argue that it is sufficient for a legal entity to have separate property regardless of formal ownership. From this viewpoint, even property under the right of use satisfies the requirement of asset separation. However, we believe that this assertion does not fully align with the concept of property separation, since possession without ownership deprives the entity of legal ownership status and puts its creditors at risk.

Independent property liability is another essential attribute of a legal entity. The essence of this principle lies in the fact that the participants (founders) of a legal entity are not liable for its obligations to creditors, and conversely, the legal entity is not liable for the obligations of its participants. When analyzing this feature, it should be noted that the organization is liable to its creditors with all property it owns, not just the assets reflected on its balance sheet. For instance, in practice, if a legal entity becomes insolvent, creditors have the right to claim not only the current assets of the organization but also its receivables.

It is important to note that there are exceptions to this rule. For example, under the Law “On Limited Liability Companies,” management bodies may be held liable to the company for losses caused by their wrongful actions (or inaction). Notably, this doctrine is well developed in common law countries and is known as “*piercing the corporate veil*”.

Thus, the aforementioned features collectively form the basis for a legal entity’s participation in civil circulation on its own behalf, including the ability to independently acquire rights (such as ownership and the use of means of individualization), bear legal obligations, and act as a plaintiff or defendant in court.

As a subject of civil law relations, a legal entity possesses *legal personality*, which consists of legal capacity and capacity to act. The idea that a legal entity, as a non-living entity, does not possess legal

capacity is incorrect. Organizations, just like individuals, are independently liable for their actions or inactions. The key difference between legal entities and individuals lies in the moment when legal personality arises. According to the Civil Code, legal capacity of an individual begins at birth, while capacity to act arises upon reaching the age of majority (18 years), except in cases of emancipation or marriage. Notably, a legal entity acquires both legal capacity and capacity to act simultaneously at the moment of its creation, which is marked by its state registration.

This rule applies only to the general legal capacity of a legal entity, which corresponds to the goals of its activity. It should also be noted that, in addition to general legal capacity, the theory and practice of civil law recognize the concept of special legal capacity. Article 41 of the Civil Code states that a legal entity's special capacity is determined by its charter, internal regulations, or applicable legislation. In practice, special legal capacity arises when a legal entity obtains a license to engage in a specific type of entrepreneurial activity.

Depending on their purposes, legal entities are divided into commercial and non-commercial organizations. A commercial organization aims to generate profit as its main purpose, while a non-commercial organization does not have profit-making as its primary goal. The assumption that non-commercial organizations are categorically prohibited from engaging in entrepreneurial activity is incorrect. The law does not prohibit non-commercial organizations from engaging in profit-generating activities. Specifically, Article 40 of the Civil Code provides that a non-commercial organization may engage in entrepreneurial activity to the extent that it aligns with its statutory objectives. This means such business activity must correspond to the primary goals of the non-commercial organization. For example, a political party may sell merchandise to strengthen its material and technical base — this is permissible under current legislation.

In summary, a legal entity is an independent and significant subject of civil law. It differs from other subjects by specific features, particularly in that its legal capacity and capacity to act arise simultaneously at the moment of its creation.

References

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