CLASSIFICATION OF COMMERCIAL CORPORATE ORGANIZATIONS IN THE RUSSIAN FEDERATION

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INTRODUCTION
This article is devoted to the research of the classification of commercial corporate organizations in the Russian Federation.

LITERATURE REVIEW / STATE-OF-ARTS / RESEARCH BACKGROUND
The organization and activities of commercial organizations have been widely studied in the works of domestic and foreign authors, in particular: S.S. Alekseeva (CIVIL, 2018), A. Baybarin (BAYBARIN et al, 2020, p. 6805-6811), G.F. Ruchkina (CORPORATE, 2020), L.A. Kamaleva (KAMALIEVA, 2020, p. 222-229), E.A. Sukhanov (SUKHANOV, 2007), A.V. Krotov (KROTOV et al, 2020, p. 3521-3526), E. Moros (MOROS, GONCHAROV, 2020, p. 114-128), V.F. Popondopulo (POPONDOPULO, 2015), as well as a number of other authors.

However, in our opinion, there is still an insufficient number of modern studies devoted to the analysis of the system of commercial corporate organizations in the Russian Federation (especially after the last reform of civil legislation in 2013-2014), which requires a comprehensive in-depth analysis of modern problems of the formation and functioning of the system of commercial corporate organizations, as well as the development of recommendations for their resolution.

METHOD ALSO CALLED MATERIALS AND METHODS OR EXPERIMENTAL METHODS
This article in the process of cognition of state-legal and social and philosophical phenomena were used: a) general scientific methods (formal-logical, systemic, structural-functional, concrete-historical); (GONCHAROV, CHIMITOVA, 2020, p. 86-95; GONCHAROV et al, 2021a, p. 362-366; GONCHAROV et all, 2021b, p. 367-373) b) general logical methods of theoretical analysis (analysis, synthesis, generalization, comparison, abstraction, analogy, modeling, etc.); (GONCHAROV et all, 2021c, p. 374-382; GONCHAROV et all, 2021d, p. 383-389; GONCHAROV et all, 2021e, p. 410-416) c) private scientific methods (technical and legal analysis, specification, interpretation, etc.) (GONCHAROV et all, 2021f, p. 401-409; GONCHAROV et all, 2020a, p. 78-90; GONCHAROV et all, 2020b, p. 93-106).

MAIN PART
An exhaustive list of commercial corporate organizations is given in § 2 of Chapter 4 of Part 1 of the Civil Code of the Russian Federation under the title "Commercial Corporate Organizations". This list includes such corporations as: a general partnership; a limited partnership; a peasant (farm) economy; a limited liability company; a joint-stock company; a production cooperative. Systematizing the legally established types of commercial corporate organizations, we can present them in the form of the following classification (Figure 1).
According to the general legislative provisions, commercial corporate organizations are recognized as business companies and partnerships, the share capital of which is divided into contributions (shares) of participants (founders). The property formed at the expense of the shares of the participants (founders), as well as acquired and produced in a business company or partnership in the course of its operation, belongs to such a company or partnership on the rights of ownership. (ZALAVSKAYA, 2019, p. 54).

Figure 1. Classification of commercial corporate organizations

Source: Search data.

The scope of powers of the participants in a business partnership is determined by their proportional shares in the charter capital of the partnership (company). Another scope of powers of participants in non-public business entities may be provided for in the charter of the organization, as well as in corporate agreements, provided that information is entered on the existence of such agreements and on the scope of powers of the USRE participants provided for therein. Let’s take a closer look at the types of commercial corporate organizations presented in Figure 1.1.

1. General partnerships. In Art. 69 of the Civil Code of the Russian Federation provides basic rules on general partnerships. A partnership is recognized as a full partnership, the participants of which, in accordance with the agreement concluded between them, carry out entrepreneurial activities on behalf of the partnership and are responsible for the obligations of the partnership with their property. Persons can participate in only one general partnership. In accordance with paragraph 5 of Art. 66 of the Civil Code of the Russian Federation, commercial organizations and (or) individual entrepreneurs can act as participants in a full partnership. At the same time, each participant of the type of partnership under consideration cannot participate in another full partnership, as well as be a full partner in limited partnerships. However, this does not preclude the possibility of being an investor in a limited partnership and participating in business companies.

2. Limited partnership is an organization in which, together with the participants, on behalf of the partnership engaged in entrepreneurial activities and responsible for the partnership’s
obligations through their property (general partners), there are participants (one participant) - limited partners (investors), assuming the risks of losses caused by the activities of the partnership, within the scope of their contributions to the partnership and not participating in the entrepreneurial activities of the partnership.

Persons can act as general partners only in any one limited partnership. Participants in general partnerships cannot be general partners in limited partnerships. General partners of limited partnerships cannot be participants in general partnerships.

3. Peasant (farm) economy. The return to Russian corporate law of this type of commercial corporate organizations is due to the desire of domestic legislators who are dissatisfied with the loss of peasant farms as legal entities in the current Federal Law "On Peasant (Farm) Economy". (ABOUT, 2003) After all, the preceding Law of the RSFSR, which has a similar name, (ABOUT, 1990) contained an unconditional definition of a peasant farm as an independent economic entity endowed with the right of a legal entity and represented by a group of individuals, a family or an individual citizen engaged in production, processing and sale of agricultural products.

The Federal Law of 30.12.2012 (ON, 2012) amended the Civil Code, according to which citizens who work together in the agricultural sector without forming a legal entity on the basis of an agreement on the establishment of a peasant farm economy, were given the opportunity to create legal entities - peasant (farm) economy.

A peasant (farm) economy, established as a legal entity, is an association of individuals on a voluntary basis on the basis of membership for joint production or other economic activities in the agricultural sector, based on their personal participation and the pooling of property contributions of the participants of the peasant (farm) economy.

The legislative interpretation of peasant (farm) economy makes it possible to see in it a new organizational and legal form of legal entities, which in many features resembles an agricultural cooperative. It is also noteworthy that Article 86.1 of the Civil Code of the Russian Federation, dedicated to the legal regulation of peasant (farm) economy, is located after the article on limited partnerships and before the provisions on a limited liability company. In this regard, researchers believe (ZALAVSKAYA, 2019, p. 60) that KFHs in the status of legal entities are, in fact, an intermediate (between a partnership and a society) type of organizational and legal forms of commercial corporate organizations. The specificity of the legal status of peasant (farm) economy consists, in particular, in the procedure for applying creditor foreclosure on land plots owned by the farm. They are subject to sale at a public auction in favor of persons who, according to the law, have the right to continue using land plots in accordance with their intended purpose by virtue of paragraph 4 of Art. 86.1 of the Civil Code of the Russian Federation.

4. Limited liability company - today it is one of the most accessible and popular from the point of view of creating organizational and legal forms. The advantages of this type of business activity are as follows:

- to establish a limited liability company (LLC), it is enough to use the authorized capital in the amount of 10 thousand rubles;
- LLC participates in civil legal relations on its own behalf as an independent person;
- its participants are not responsible for the company’s obligations;
- the company can carry out any types of activities that are not prohibited by law, if they do not contradict the goals and subject of the company’s activities.

That is, economic risks are limited for all LLC participants by the value of their shares, their personal participation in the company’s affairs is not necessary, and capital formation can be carried out according to minimum requirements.

The norms for LLC are enshrined in the Federal Law "On Limited Liability Company". [ON, 1998] Thus, the LLC is a business company established by one or more persons, with the authorized capital divided into shares; those participating in the company are not responsible...
for its obligations and assume the risk of loss received from the operation of the LLC within the framework of the value of their authorized shares; LLC participants who have not fully contributed their shares are jointly and severally liable for the organization’s obligations within the framework of the value of the unpaid parts of their authorized shares.

The legal status of the LLC is defined not only in the aforementioned law "On Limited Liability Companies", but also in civil norms. In particular, according to the norms of paragraph 1 of Art. 88 of the Civil Code of the Russian Federation and paragraph 3 of Art. 7 of the Federal Law "On Limited Liability Companies", no more than 50 people can participate in such an organization. If the number of members of the LLC exceeds this threshold, then the LLC must be transformed into a joint stock company within a year. If, during the established period, the LLC is not transformed into a joint-stock company and the number of its participants is not reduced to 50, then it must be liquidated in court according to the requirements of the state registration body of legal entities, or other state bodies, or municipal self-government bodies vested with the right to present such requirements by virtue of federal legislation (Article 61 of the Civil Code of the Russian Federation).

Thus, the statutory limit for the number of LLC members is a specific feature of this form of commercial corporate organizations. In addition, a complex corporate structure is not created in an LLC, as is the case with joint stock companies. Also, LLC can be a company established by one participant.

5. A joint-stock company, like an LLC, is a business company - a capital association. This distinguishes a joint-stock company from a business partnership, which, in fact, is an association of persons. Along with the fact, as already noted, a joint-stock company and LLC are economic companies of different organizational and legal form. The principality of their difference lies in the different nature of shares in joint-stock companies and shares in LLC.

Joint-stock companies are created, reorganized, liquidated in accordance with the Civil Code of the Russian Federation and the Federal Law “On Joint Stock Companies”, (ABOUT, 1995), which also establishes the legal status of this type of commercial corporate organizations, the obligations and rights of shareholders, the procedure for protecting the interests and rights of shareholders.

Joint-stock companies are legal entities in relation to which their shareholders (i.e. participants) are endowed with corporate rights (paragraph 3 of Article 48 of the Civil Code of the Russian Federation). Shares owned by members (shareholders) represent a certificate of the corporate rights of shareholders in relation to the joint-stock company. Each of the ordinary shares of such an organization endows its owner - shareholder with the same amount of rights. (STOLYAROV, 2014, p. 46)

Shareholders holding ordinary shares have the right, according to the law and the charter of the joint-stock company, to take part in general meetings of shareholders, as well as the right to vote, receive dividends, and if the company is liquidated, its property part. Shareholders holding preference shares do not have the right to vote at general meetings of shareholders, unless the Federal Law “On Joint-Stock Companies” stipulates otherwise. In a particular case, holders of preferred shares have the right to vote in resolving issues of liquidation and reorganization of joint-stock companies. In order to ensure the rights of participants holding ordinary shares, the law provides for the par value of the preferred placed shares, which does not exceed a quarter (25%) of the authorized capital of the organization.

Joint-stock companies are subdivided into public and non-public (Articles 66.3 and 97 of the Civil Code of the Russian Federation).

Public joint-stock companies (paragraph 1 of Article 66.3 of the Civil Code of the Russian Federation) are obliged to provide information on the corporate name of the organization for entry into the Unified State Register of Legal Entities with a note that this joint-stock company is public. A public joint-stock company is endowed with the right to publicly place shares and securities in respect of which public circulation is possible under the conditions specified in the laws on securities, from the date the information on the corporate name of the organization is entered into the Unified State Register of Legal Entities containing a note that it is a public joint-stock company (VINOKUROV, 2014, p. 10)
Public joint-stock companies must form collegial governing bodies (paragraph 4 of Article 66.3 of the Civil Code of the Russian Federation) with at least five members. The competence and procedure for the formation of such a body are established by the legislation on joint-stock companies and the charter of the organization. Obligations to keep the register of participants in public joint-stock companies and perform the functions of the counting commission are assigned to independent organizations with a legally prescribed license. A public joint-stock company is also obliged to publish financial statements for free access to all interested users.

Non-public joint-stock companies are commercial corporate organizations, shares and securities of which are distributed only within their shareholders, without entering the public circulation markets. A non-public joint-stock company, unlike a public one, is not obliged to publish its financial statements.

The legislation also distinguishes a type of non-public joint-stock companies: joint-stock companies of employees (people’s enterprises). The peculiarity of this organizational and legal form of commercial corporate organizations consists mainly that the shareholders of such organizations are their own employees. The legal provisions on people’s enterprises are regulated in the Federal Law "On the Peculiarities of the Legal Status of Joint-Stock Companies of Employees (People’s Enterprises)". (ABOUT, 1998) It should be noted that people’s enterprises are a fairly rare form of legal entities: as of 2020, only about 200 names of such enterprises were registered in Russia. (DOROKHIN, 2020, p. 43)

6. Production cooperatives. The most general rules on production cooperatives are given in Articles 106.1-106.6 of the Civil Code of the Russian Federation. More detailed provisions are given in the Federal Law "On Production Cooperatives", (ON, 1996) "On agricultural cooperation". (ON, 1995)

A production cooperative is a commercial corporate organization, the main goal of which is to make a profit (paragraph 1 of Article 50 of the Civil Code of the Russian Federation). This is how it differs from a consumer cooperative, which is a non-profit corporate organization.

Production cooperatives have the following characteristics.

This kind of cooperative is established on the basis of a voluntary association of individuals - members of the cooperative. Forced participation in a production cooperative is unacceptable. Article 4 of the Federal Law "On Production Cooperatives" indicates: cooperatives are established solely on the basis of a decision of its members. In addition, the law and the constituent documents may establish participation in the activities (but not in the establishment) of the cooperative of legal entities. (RESOLUTION, 2006) At the same time, in accordance with Art. 8 of the Federal Law "On Agricultural Cooperatives" in order to create a cooperative, legal entities and individuals wishing to form a cooperative convene an organizing committee to prepare a feasibility study for the cooperative’s work, a charter project, etc.

The production cooperative operates on the basis of personal labor and other participation of its members. The legislation mainly focuses this organizational and legal form on personal labor participation. As a different kind of participation, a financial investment is accepted (making shares). The Law limits the number of participants in a cooperative who have made share contributions and participate in its activities, but without personal labor participation (no more than 25%). In agricultural cooperatives, the number of such members cannot exceed 20% (Article 14 of the Federal Law on agricultural cooperation).

The most important feature of production cooperatives is that the participants of such cooperatives are subsidiary responsible for the obligations of the organization (from the Latin subsidiarius - auxiliary, responsible). Such responsibility is expressed in the fact that the participants of production cooperatives are responsible with their personal property in situations where the cooperative property is not enough to pay the debt under the obligations in the manner and in the amount provided for in the Federal Law "On Production Cooperatives" and in the organization’s charter. (GRISHAEV, 2021)

Thus, the functioning of production cooperatives proceeds from the personal labor and other participation of its members. Another participation is a monetary investment (share contributions), which limits the number of participants in the cooperative who do not carry out
personal labor participation in the work of the cooperative. The peculiarity of production cooperatives also lies in the fact that they combine both individuals and capital. In essence, this is an intermediate form between a business partnership and society. The participants of a production cooperative are not limited in the right to dispose of their profits.

CONCLUSIONS AND FURTHER RESEARCH
Thus, there are the following main types of commercial corporate organizations: societies, partnerships, peasant (farm) economy, production cooperatives. Some of the listed types, in turn, are also subdivided into: limited liability companies and joint-stock companies, general partnerships and limited partnerships. Joint-stock companies are public and non-public.

Among the main criteria for the classification of commercial corporate organizations are: 1) what is combined into a corporation - capital or persons (individuals or legal entities); 2) the number of members (participants); 3) the nature of participation in the organization; 4) the nature and procedure for the liability of participants in a corporate organization for its obligations; 5) the possibility of public circulation of shares and securities of a corporate organization (in relation to joint-stock companies).

The legal procedure for the regulation of various types of commercial corporate organizations is established in the Civil Code of the Russian Federation, as well as in various federal laws.

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Classification of commercial corporate organizations in the Russian Federation

Resumo
Este artigo é dedicado à pesquisa da classificação de organizações empresariais comerciais na Federação Russa. Os autores observam que este tipo de entidade jurídica é a base da economia russa. O nível de sustentabilidade das Organizações Empresariais Comerciais afeta diretamente a preservação e o desenvolvimento do potencial econômico da Rússia.

Palavras-chave: Governança corporativa. Sociedades anônimas. Perspectivas de desenvolvimento. Federação Russa. Organizações comerciais.

Abstract
This article is devoted to the research of the classification of commercial corporate organizations in the Russian Federation. The authors note that this type of legal entity is the basis of the Russian economy. The level of sustainability of commercial corporate organizations directly affects the preservation and development of Russia’s economic potential.

Keywords: Corporate governance. Joint-stock companies. Development prospects. Russian Federation. Commercial organizations.

Resumen
Este artículo está dedicado a la investigación de la clasificación de las organizaciones empresariales comerciales en la Federación de Rusia. Los autores señalan que este tipo de entidad legal es la base de la economía rusa. El nivel de sostenibilidad de las organizaciones empresariales comerciales afecta directamente la preservación y el desarrollo del potencial económico de Rusia.

Palabras-clave: Gobierno corporativo. Sociedades anónimas. Perspectivas de desarrollo. Federación de Rusia. Organizaciones comerciales.