PROBLEMS OF REALIZATION OF THE CIVIL STATUS OF AN INDIVIDUAL ENTREPRENEUR IN THE RUSSIAN FEDERATION

INTRODUCTION
Today, individual entrepreneurship is the most common form of business in the Russian Federation. However, at the moment there is no single approach in Russia to determine the status of an individual entrepreneur, this leads to difficulties in the activities of private entrepreneurs, misunderstandings and aggravation of contradictions between their economic status and legal status.

The practice of developing small business abroad, as well as changes in the economy, social and political environment over the past decades have made it clear to us that this niche is quite promising and has a positive impact both on the development of the economic component of the country as a whole and on improving the well-being of people living in the state. Thanks to the increase in the number of individual entrepreneurs, the problem of unemployment is being solved, the increase in the standard of living of individual citizens, as well as stateless persons or citizens of other states, the turnover of goods and the increase in production.

Since the establishment of entrepreneurship in Russia, the legislative system, regarding the legal status of individual entrepreneurs, has stepped far forward. However, there are still a lot of gaps in this issue.

Firstly, the duties of an individual entrepreneur in the civil law sphere do not have a clear regulation, since they relate to different types of economic activity. In view of this, they are regulated by various industry regulatory legal acts with different legal force.

Secondly, in the Civil Code of the Russian Federation (hereinafter-the Civil Code of the Russian Federation) (The Civil Code of the Russian Federation (Electronic resource); parts one, two, three and four, http://www.consultant.ru/) there are no legal norms that would clearly distinguish the property responsibility of the entrepreneur himself and his responsibility for personal obligations as a human citizen, not related to the implementation of entrepreneurial activity.

In the modern period, a comprehensive settlement of these aspects of the legal status of an entrepreneur will give an opportunity to take a fresh look at their legal status, identify the features and problematic aspects of its implementation, as well as make appropriate recommendations to the current domestic legislation in order to improve it within the framework of the direction under study.

These circumstances, which indicate the undoubted relevance of the research topic, determine the relevance, theoretical and practical significance of this article.

LITERATURE REVIEW
The theoretical basis of this study was the scientific works of the largest Soviet and Russian scientists in the field of theory of law, civil and business law: M.I. Baytin (BAYTIN, 2006), N.V. Vitruk (VITRUK, 2008), V.E. Chirkin (CHIRKIN, 2003), etc.
When determining the essence and features of entrepreneurial activity, analyzing the legal status of an entrepreneur, the works of domestic researchers were used: D.V. Alontseva (ALONTSEVA, 2019), T.I. Erokhina (EROKHINA, KAZAROSYAN, 2016), L.V. Maslennikova, E.G. Brantova (MASLENNIKOVA, BRANTOVA, 2017), O.A. Lavrishcheva (LAVRISHEVA, 2021), V.P. Bykova, I.V. Markelova, E.V. Chernikova (BYKOV, MARKELOV, CHERNIKOVA, 2018), etc.

The problems of legal personality, the realization of the basic (statutory) rights and duties of an entrepreneur were studied with the involvement of monographs and other scientific and theoretical works: L.A. Aksenchuk (AKSENCHUK, 2001), T.A. Batrova (BATROVA, 2007), T.V. Belova (BELOVA, 2014), O.A. Kuliush (KULIUSH, 2011), E.V. Samoylenko (SAMOYLENKO, 2010), G.V. Stankevich (STANKEVICH, 2014), etc.

This publication has studied and reflected the conclusions and proposals of dissertation studies considering various aspects of the legal status of an individual entrepreneur in Russia by the following authors: E.V. Abakumova (ABAKUMOVA, 2009), Yu.P. Kashirina (KASHIRINA, 2012), M.D. Shapsugova (SHAPSUGOVA, 2012), V.V. Yakunina (YAKUNINA, 2009).

The analysis of this literature suggests that a large number of concepts, ideas and scientific views have accumulated in Russian science, substantiating the problems of the legal status of an entrepreneur. But at the same time, despite the fact that the problem is generally recognized and fairly well covered, a holistic concept of the legal status of individual entrepreneurs is still missing in Russia, which requires more detailed consideration within the framework of this study.

It should be emphasized that certain areas of entrepreneurial activity and the legal status of entrepreneurs are covered in various publications of foreign scientists. For example, the historical, economic and social aspects of understanding the entrepreneur’s activities are touched upon in the works of the following authors: Liu W. and Chen J. (LIU; CHEN, 2013); Miao ZH and Li JY (MIAO, LI, 2013); Jing Q. (8, 2012); Duran AS (DURAN, 2015), Sung-E. (SUNGUR, 2020); Zupanic, J. (ZUPANIC, 2021), etc.

**METHODOLOGY**

When writing the work, the authors used the provisions of the dialectical method of cognition of economic and legal phenomena, as well as the methods of formal logic and such general scientific methods as analysis, synthesis, analogy, comparison, induction, deduction, system analysis.

In addition, private scientific methods were used: the method of systematic, comparative analysis and other methods. The system method allowed us to consider the elements of the civil legal personality of an entrepreneur and identify their specifics. The method of content analysis made it possible to ensure the completeness, reliability and consistency of the data obtained as a result of generalization.

The comparative legal method made it possible to analyze the main (statutory) rights and obligations of an individual entrepreneur. With the help of prognostic methods, the trends in the development of the object under study were determined and a vision of the possible positive consequences of the implementation of the provisions of Russian legislation in this area was provided.

The legal analysis was based on an assessment of the norms and formulations of the current Russian legislation from the point of view of their effectiveness and correctness on the issues of: the emergence, implementation and exercise of the rights and obligations of individual entrepreneurs.

The empirical base of the study was made up of materials of judicial practice. The significant conclusions were based on the guiding explanations of the Plenums of the Supreme Court of the Russian Federation.

The use of the above methods in their entirety made it possible to conduct a comprehensive and comprehensive study of the legal status of an individual entrepreneur and to identify current problems of its implementation in the Russian Federation, as well as to develop proposals for improving the current legislation in this area.
RESULTS

The legal status of an individual consists of two main elements: legal capacity and legal capacity. In turn, legal capacity consists of transaction capacity and delictworthiness. Meanwhile, the legal status of an individual - a citizen and an individual - an individual entrepreneur has differences.

The legal personality of an entrepreneur is a phenomenon that has not been sufficiently studied in legal science. First, the entrepreneur is a citizen. In this regard, all the provisions of civil legislation regarding his legal capacity and legal capacity should also apply to him, but as a citizen. Secondly, in many countries, an entrepreneur acquires his status from the moment of state registration. Third, the rules of the Civil Code of the Russian Federation governing the activities of commercial organizations apply to the entrepreneurial activity of citizens carried out without the formation of a legal entity, unless otherwise follows from the law and other legal acts or the essence of the legal relationship.

In the domestic literature, the question of the relationship between the legal personality of an entrepreneur and the civil legal personality of an individual is relevant. In this regard, for example, T. A. Batrova notes that the legal personality of participants in the commodity market depends on their civil legal personality. In her opinion, this is confirmed by the fact that: "1) the moment of its occurrence and termination is directly related to the emergence and termination of civil legal personality; 2) the content of civil legal personality, including the restrictions established by the Civil Code of the Russian Federation for certain categories of subjects (including on the basis of belonging to commercial or non-profit organizations for legal entities, by age and health status - for citizens), determines the possibility of their involvement in the sphere of trade turnover" (BATROVA, 2007).

M. D. Shapsugova holds a different position. The scientist claims that the moment of the emergence and termination of the entrepreneurial legal personality of an individual entrepreneur is directly related to the emergence of the civil legal personality of an individual. In her opinion, "the legal personality of an individual entrepreneur arises from the moment of its state registration and is terminated by state registration. The legal personality of an individual in civil law arises from the moment of his birth and ends with death" (SHAPSUGOVA, 2012). Thus, M. D. Shapsugova believes that the legal personality of an individual entrepreneur is not directly related to the civil legal personality of an individual.

The legal literature notes that "the legal personality of an individual entrepreneur is a consistent extension of the general legal personality of a citizen. This is expressed, first of all, in the additional ability to actually carry out entrepreneurial activity, which is deprived of an individual who has not passed state registration, and the imposition on the entrepreneur of the obligation to bear increased civil liability for his obligations" (YAKUNINA, 2009). Only in the case of acquiring the status of an individual entrepreneur, an individual gets the legal opportunity to conclude business contracts, be a party to supply contracts, contracts, trust management of property, commercial concessions, etc.

Therefore, it can be stated that the legal personality of an entrepreneur is under the simultaneous influence of the norms on the legal status of an individual (citizen, foreigner, stateless person) and the norms on the legal status of commercial organizations. Being a natural person and having at the same time the rights inherent to natural persons, an individual entrepreneur acts as a subject of entrepreneurial relations, is endowed with legal capacity, legal capacity, transaction capacity, delict worthiness characteristic of commercial organizations, unless otherwise follows from the law, other legal acts or the essence of the legal relationship.

The legal capacity of an individual entrepreneur continues to be general (universal), but includes the ability to have additional rights and obligations, including increased responsibility, related to the implementation of entrepreneurial activity. Thus, the content of the legal personality of an entrepreneur becomes broader than the legal personality of a human citizen. In the civil status of an individual entrepreneur, there is a unique mixture of elements of the legal status of an ordinary citizen and elements of the legal status of a commercial organization. As a result, the original appearance of the legal position...
It seems interesting to ask about the entrepreneurial legal capacity of foreign citizens who intend to constantly carry out business activities on the territory of another, not their own state.

In accordance with Article 1196 of the Civil Code of the Russian Federation, the civil legal capacity of a person is determined by his personal law. At the same time, foreign citizens and stateless persons in the Russian Federation enjoy civil legal capacity on an equal basis with Russian citizens, except in cases established by law. The above norm, together with the norm of paragraph 1 of Article 1195 of the Civil Code of the Russian Federation, according to which the personal law of an individual is the law of the country whose citizenship he has, allows us to conclude that the scope of the legal capacity of a foreign individual depends on the law of the country of citizenship. Continuing this idea, one can come to the wrong conclusion that a foreigner, while on the territory of the Russian Federation, can enjoy the civil rights that he has by virtue of his personal law. However, they may not be provided for by the legislation of the Russian Federation (for example, the right to freely carry weapons in some US states). We believe that the right granted to foreign citizens on the territory of a non-native state depends on the legislation of that state, and not only on the legislation of the country whose citizenship or domicile (domicile) these persons have.

As a result, it can be concluded that the legal capacity of a foreign entrepreneur in his own state is determined by his personal law. However, the entrepreneurial legal capacity of a foreign citizen on the territory of another state is determined by the legislation of the latter, i.e., in relation to the issue under consideration, the legislation of the country in which the specified person intends to carry out entrepreneurial activity.

Another element of the legal personality of an individual entrepreneur is his entrepreneurial capacity. Legal capacity is the ability of a citizen to exercise his rights by his actions, as well as to bear an obligation. Thus, according to paragraph 1 of Article 21 of the Civil Code of the Russian Federation, the ability of a citizen to acquire and exercise civil rights by his actions, create civil duties for himself and fulfill them arises in full with the onset of adulthood, i.e. upon reaching the age of eighteen. In the case of emancipation, a citizen has the right to engage in entrepreneurial activity until reaching the age of majority.

We believe that the legal capacity of an individual entrepreneur, although it is connected with his civil legal capacity, however, arises at the time of state registration of a person as an entrepreneur. Here, the question may arise about the entrepreneurial capacity of a person who carries out activities as an entrepreneur without fulfilling the requirements of the legislator on mandatory registration. In paragraph 4 of art. 23 The Civil Code of the Russian Federation contains rules that a citizen who carries out entrepreneurial activity without forming a legal entity in violation of the requirements for its registration does not have the right to refer to the fact that he is not an entrepreneur in relation to the transactions concluded by him. The court may apply to such transactions the rules of the Civil Code of the Russian Federation on obligations related to the implementation of entrepreneurial activity. Therefore, the person will be responsible for the fact of carrying out entrepreneurial activity. At the same time, the relations between the pseudo-entrepreneur and state bodies fall out of the framework of civil law. They are subject to regulation by the relevant norms of the Administrative Code (Code of

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As you know, the legal capacity of a citizen arises from birth, and ends with his death. Abstract opportunity for a citizen to engage in entrepreneurial activity is one of the components of his civil legal capacity, which is confirmed in Article 18 of the Civil Code of the Russian Federation. So, according to Article 18 of the Civil Code of the Russian Federation, citizens have the right "...engage in entrepreneurial and any other activity not prohibited by law; create legal entities independently or jointly with other citizens and legal entities; make any transactions that do not contradict the law and participate in obligations... " (Civil Code of the Russian Federation (Electronic resource): parts one, two, three and four, http://www.consultant.ru/).

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the Russian Federation on Administrative Offenses, http://www.consultant.ru/document/cons_doc_LAW_34661/ and the Criminal Code of the Russian Federation (Criminal Code of the Russian Federation, http://www.consultant.ru/document/cons_doc_LAW_10699/). Thus, according to art. 14.1 carrying out entrepreneurial activity without state registration of an individual entrepreneur entails the imposition of an administrative fine in the amount of five hundred to two thousand rubles. Article 171 of the Criminal Code of the Russian Federation provides for criminal sanctions for carrying out entrepreneurial activity without state registration.

Thus, it can be stated that an important feature of the state registration of individual entrepreneurs is the turnout nature. The law does not link the act of state registration of an entrepreneur with the place where the entrepreneurial activity will actually be carried out. Currently, the main factor that allows you to establish the place of residence of a citizen for the purpose of state registration of an individual entrepreneur is a formal sign – registration of a citizen at the place of residence. At the level of the law, no clarifications have been made regarding the registered or actual place of residence of an individual (MASLENNIKOVA, BRANTOVA, 2017).

The process of providing state services for the state registration of these persons includes the following administrative procedures:

- acceptance and registration of documents submitted to the inspection;
- forming and sending an interdepartmental request for the provision of documents required for public services to state bodies and other bodies involved in the provision of public services;
- consideration of the documents submitted to the inspection and making a decision on state registration or a decision on refusal of state registration;
- preparation and execution of documents resulting from the provision of public services;
- issuance (direction) of documents that are the result of the provision of public services.

By virtue of Article 3 of Law No. 129-FZ (Federal Law No. 129-FZ of 08.08.2001 “On State Registration of Legal Entities and Individual Entrepreneurs”, http://www.consultant.ru/document/cons_doc_LAW_32881/) a state fee is paid for state registration, and in accordance with the procedure defined by Chapter 25.3 of the Tax Code of the Russian Federation. The period does not exceed 5 working days from the date of submission of documents for state registration.

If a citizen intends to carry out certain types of entrepreneurial activity in the field of education, upbringing, development of minors, organization of their recreation and health improvement, medical support, social protection and social services, in the field of children’s and youth sports, culture and art with the participation of minors, the list of which is determined by the Government of the Russian Federation, then for state registration as a merchant, he will need a certificate of the presence (absence) of a criminal record and (or) the fact of criminal prosecution or the termination of criminal prosecution on rehabilitating grounds.

On the basis of the documents submitted for state registration, the tax authorities make a decision on the state registration of a citizen as an individual entrepreneur, which serves as the basis for making a corresponding entry in the Unified State Register of Individual Entrepreneurs (EGRIP).

In accordance with the provisions of paragraph 2 of Article 11 of Law No. 129-FZ, a citizen is considered registered as an individual entrepreneur from the date of making the corresponding entry in the EGRIP. No later than 1 working day from the moment of state registration, the tax authorities send the entrepreneur a document confirming this fact.

The procedure for registering a citizen as an entrepreneur without forming a legal entity is completed by issuing him a Certificate of state registration of an individual as an entrepreneur.
in the form No. P61001, as well as a Certificate of making an entry in the Unified State Register of Entrepreneurs in the form No. P60004. The state registration of an individual as an individual entrepreneur is not allowed if:

- its state registration in this capacity has not lost its force;
- a year has not expired since the date of the court’s decision to declare him insolvent (bankrupt) due to the inability to satisfy the creditors’ claims related to the business activities previously carried out by him;
- a year has not expired since the date of the court’s decision to forcibly terminate his activity as an individual entrepreneur;
- the period for which this person is deprived of the right to engage in entrepreneurial activity by a court verdict has not expired.

Individual entrepreneurs have a general legal capacity and can engage in any type of entrepreneurial activity, except those prohibited by law. In cases stipulated by law, an entrepreneur as a legal entity may engage in certain types of activities only on the basis of a special permit (license), membership in a self-regulating organization or a certificate of admission to a certain type of work issued by a self-regulating organization. Domestic legislation provides for some features of legitimization and implementation of activities by an individual entrepreneur:

- there is no start-up capital requirement for registration as an entrepreneur (unlike commercial organizations that form authorized (pooled) capital, authorized (unit) fund);
- fewer documents submitted to the registration authority (there are no constituent documents);
- the absence of the obligation to maintain accounting records, if an individual entrepreneur keeps tax records, reflecting business transactions in the Book of income and expenses registered with the tax authority;
- a simplified transition (in comparison with legal entities) to a simplified tax system. For example, an obstacle to such a transition for legal entities is the presence of fixed assets with a residual value on the balance sheet of more than 100 million rubles (Article 346.12 of the Tax Code of the Russian Federation) (Tax Code of the Russian Federation (Electronic resource): parts one and two, http://www.consultant.ru/);
- the right to switch to the patent system of taxation, if the average number of employees of the entrepreneur does not exceed 15 people for the tax period (in accordance with the rules of Chapter 26.5 of the Tax Code of the Russian Federation). This is possible if they are engaged in the types of activities listed in Article 346.43 of the Tax Code of the Russian Federation. For example, this is the repair and sewing of sewing, fur and leather products, hats and textile haberdashery products; repair, sewing and knitting of knitwear; repair, cleaning, coloring, sewing shoes.

Individual entrepreneurs applying the patent system of taxation are not recognized as taxpayers of value added tax. The document certifying the right to apply the patent system of taxation is a patent for the implementation of one of the types of entrepreneurial activity, in respect of which the law of the subject of the Russian Federation introduced a patent system of taxation. The tax rate is set at 6% of the potential annual income of an individual entrepreneur for the corresponding type of entrepreneurial activity established by the law of the subject of the Russian Federation.

The legal personality of an entrepreneur can be terminated both voluntarily and forcibly. The procedure for state registration upon termination of an individual’s activity as an entrepreneur is commented on in Article 22.3 of Law No. 129-FZ.

The grounds for termination of activity as an individual entrepreneur may be:
• adoption by the merchant of a decision on the termination of entrepreneurial activity;
• death of an entrepreneur;
• adoption by the court of a decision on the recognition of an entrepreneur as insolvent (bankrupt);
• a compulsory court decision on the termination of the activity of an individual as an individual entrepreneur;
• the entry into force of a court verdict, which imposed a penalty on an individual entrepreneur in the form of deprivation of the right to engage in entrepreneurial activity for a certain period of time;
• cancellation of the document confirming the right of an individual to temporarily or permanently reside in the Russian Federation, or the expiration of the specified document.

It should be noted that the prevailing basis for the termination of individual entrepreneurial activity in the Russian Federation is a voluntary form, which is implemented by submitting an application to the authorized body of the Federal Tax Service. At the same time, it is necessary to take into account some features: the status of an individual entrepreneur will remain until the entrepreneur submits to the territorial authority of the FIU information on insurance premiums for mandatory pension insurance and insurance experience.

Having analyzed the domestic legislation and law enforcement practice in the field of bankruptcy, it is possible to identify specific features of the bankruptcy procedure of an individual entrepreneur (RUSTAMOVA, ABDULLAYEVA, 2019).

It should be emphasized that if the debtor has the status of an individual entrepreneur, it is possible to initiate and consider only one bankruptcy case (Resolution of the Plenum of the Supreme Court of the Russian Federation No. 45 of 13.10.2015 “On some issues related to the introduction of procedures used in cases of insolvency (bankruptcy) of citizens”, https://base.garant.ru/71217118/). The general provision applicable to both citizens and individual entrepreneurs is that the initiator of the recognition of an entrepreneur as a bankrupt can be either a citizen himself or a bankruptcy creditor or an authorized body. However, an entrepreneur has an additional requirement for applying to the court: he must publish a notice of his intention to apply for bankruptcy recognition by including it in the Unified Federal Register of Information on the Facts of the Activities of Legal Entities 15 days before the date of applying to the arbitration court.

The basis for the recognition of an individual entrepreneur as insolvent by an arbitration court is the non-payment of mandatory payments or a certain amount of money under a civil transaction to an individual entrepreneur in the amount of at least 500,000 rubles within three months from the date when they should be paid.

In case of bankruptcy of an individual entrepreneur, it does not matter whether the obligations, the non-fulfillment of which is caused by the initiation of a bankruptcy case of an entrepreneur, are related to his entrepreneurial activity or not. The property of individual entrepreneurs—debtors or persons who have ceased entrepreneurial activity, but whose monetary obligations and (or) obligation to pay mandatory payments arose as a result of their entrepreneurial activity, necessary for such citizens to carry out entrepreneurial activity, is subject to sale in accordance with the procedure established by the Bankruptcy Law with respect to the sale of property of legal entities.

In the application for recognition of an individual entrepreneur as a bankrupt, it is necessary to specify not a specific arbitration manager, but the name and address of a self-regulating organization of arbitration managers, from among whose members a financial manager must be approved, without whose participation the entire bankruptcy procedure is illegal. Moreover, it is noteworthy that the applicants in the bankruptcy case of an individual entrepreneur are granted the right to submit additional requirements to the candidacy of an arbitration manager. This is a higher legal or economic education; a certain length of work in
senior positions of organizations in a particular branch of the economy; conducting a certain number of procedures used in a bankruptcy case as a financial manager. However, it should be borne in mind that the debtor is not endowed with such powers (BYKOV, MARKELOVA, CHERNIKOVA, 2018).

The adoption of an individual entrepreneur’s debt restructuring plan, which must be approved by the debtor’s creditors’ meeting, and then, as a general rule, approved by the arbitration court, also has certain specifics.

It is necessary to pay attention to the peculiarities of the consequences of recognizing an individual entrepreneur: a citizen loses his status, and the licenses issued to him for carrying out certain types of entrepreneurial activity are canceled. An entrepreneur who has been declared bankrupt cannot register in this status, hold positions in management bodies or otherwise participate in the management of a legal entity within five years from the completion of bankruptcy proceedings, and in respect of credit institutions – for ten years.

With regard to the legal personality of minor entrepreneurs, the Civil Code of the Russian Federation proceeds from the fact that legal capacity and legal capacity in the field of entrepreneurial activity arise for individuals at the same time at the age of 14. In accordance with Article 27 of the Civil Code of the Russian Federation, a minor who has reached the age of 16 can be declared fully capable if he works under an employment contract, including a contract, or is engaged in entrepreneurial activity with the consent of his parents, adoptive parents or a trustee. This article leaves no doubt that a minor has the right to engage in entrepreneurial activity until he reaches the age of 16, regardless of whether he is recognized as fully capable in accordance with the procedure established by law or not.

The opinion has been expressed in the legal literature, according to which the registration of a minor as an individual entrepreneur can be carried out only on the basis of a decree on the emancipation of a minor issued by the guardianship and guardianship authority (STANKEVICH, 2014). The following arguments are given in support of this position.

Firstly, the entrepreneurial activity of a minor contradicts the principle of systematic nature, since in order to complete each individual transaction, he must obtain the written consent of a legal representative.

Secondly, the entrepreneurial activity of a minor does not contribute to the stability of relations with his participation, since a transaction made by a minor without the consent of legal representatives can be challenged.

Third, subsidiary liability for damage caused by an individual entrepreneur is borne by legal representatives, which contradicts the essence of entrepreneurial activity.

Transactions of minors consisting in the use of property acquired with their own earnings, scholarships or other income do not require the consent of their parents. This does not contradict the principle of independence of entrepreneurial activity. According to Article 175 of the Civil Code of the Russian Federation, a transaction made by a minor aged 14 to 18 years without the consent of parents, adoptive parents or a trustee can be declared invalid by a court only in cases where such consent is required in accordance with Article 26 of the Civil Code of the Russian Federation.

The problem is that in practice it is not always easy to determine with whose funds the property that became the object of the transaction was purchased. Rightly, L. A. Aksenchuk writes: "civil legislation should contain a presumption, according to which the property that has become the object of a transaction concluded by a minor individual entrepreneur should be considered acquired with his personal income (salary, scholarship, income from entrepreneurial activity), if the amount of such a transaction does not significantly exceed them" (AKSENCHUK, 2001).

Another thing is when someone else’s property is used in entrepreneurial activity, including those belonging, for example, to the legal representatives of a minor (with their consent). In this case, the young businessman really should carry out each transaction only with the approval of the property owners. The same applies to the entrepreneurial activity of a minor, consisting in the performance of works or the provision of services. The expression of consent to the transaction does not mean that the legal personality of the minor participant in the legal relationship is being replenished. The latter, despite its limited legal capacity, acts as an
independent subject of law. By making a transaction, he exercises his legal capacity, and the parent (trustee), expressing consent, participates in the formation of his will, controls how the minor exercises his legal capacity. At the same time, the representatives act taking into account the objective interests of the minor ward. When managing a novice entrepreneur, parents or guardians remain outside the subject structure of the legal relationship that arose on the basis of the transaction.

In order to avoid unnecessary misunderstandings, it is necessary to indicate in the registration certificate that the entrepreneur is a minor. The same information should contain the seal of a young entrepreneur. When concluding a contract, information about the minor of an individual entrepreneur should be included in the preamble along with an indication of the organizational and legal form of the legal entity.

Thus, it can be stated that in accordance with the current legislation, a minor who has reached the age of 14 is recognized as having legal capacity in the field of entrepreneurial activity. In practice, this leads to a number of problems. Therefore, it is necessary to determine at the legislative level whether it is possible to engage in entrepreneurial activity at the age of 14 to 16 years.

At the same time, it should be emphasized that the legal capacity of a minor individual entrepreneur in the field of entrepreneurial activity is limited. For example, a minor is not able to become an attorney under a contract of assignment. In addition, in some areas of entrepreneurial activity, requirements are imposed on an entrepreneur that a minor simply cannot meet due to his age (they relate to qualifications, education, seniority, etc.).

In this case, we are dealing with a restriction of the legal capacity of a minor entrepreneur. This allows you to protect it from possible adverse consequences of entrepreneurial activity.

Thus, after analyzing the above material, we can draw the following conclusions. An individual entrepreneur, being a citizen of the Russian Federation or a foreigner, fully retains his civil status as an individual. At the same time, it acquires some additional features concerning the legal personality of commercial organizations as legal entities. Such a peculiar mixture of qualitative characteristics does not indicate a decrease in the volume of the entrepreneur’s civil legal capacity. An individual entrepreneur as a special subject of entrepreneurial activity has a rich range of general civil legal capacity, which manifests itself multilaterally and colorfully in various spheres of economic activity.

The proposal on the special legal capacity of an individual entrepreneur does not comply with the norms of modern domestic legislation. This thesis is explained by the fact that the legal capacity of persons engaged in entrepreneurial activity without the formation of a legal entity is general, i.e. universal.

**DISCUSSION**

Taking into account the specifics of the legal status of an individual entrepreneur, his rights and obligations can be systematized into various groups. These are the rights and obligations inherent in a citizen; a taxpayer; a participant in economic relations; directly related to the status of an entrepreneur. It should be taken into account that the constitutional norms are the basis of the statutory rights and obligations of an individual entrepreneur.

The whole set of civil rights and obligations of an individual entrepreneur can be conditionally divided into two large groups: civil-legal and civil-economic. The application of a specific set of subjective entrepreneurial rights and obligations depends on the type of entrepreneurial legal relations and the specific legal situation.

An important role in the system of civil and economic rights of an entrepreneur is played by the following: the right to free use of their abilities and property for entrepreneurial activity; the right to unhindered exercise of their legitimate entrepreneurial powers; the right of private property, including the rights of the owner; the right to freedom of business contract; the right to fair competition; the right to state (judicial) protection and self-defense. The stated rights are not only legal norms, but also norms-principles that determine the main features and dynamics of the legal status of an individual entrepreneur.
The main characteristics of entrepreneurial activity have a great influence on the list, content and exercise of civil and economic rights of an individual entrepreneur: freedom and independence; achieving an economic effect for the sake of satisfying private and public interests; professionalism; increased property responsibility.

Civil-legal obligations and rights of an individual entrepreneur can be classified into groups: real; non-property; mandatory; hereditary and intellectual.

The property rights of an individual entrepreneur allow the latter to engage in industrial, commercial, financial and other activities not prohibited by law by using his own, borrowed, leased and other property. He has rights and obligations regarding the property used by him in business activities.

According to the Tax Code, property is the types of objects of civil rights (with the exception of property rights) related to property in accordance with the Civil Code of the Russian Federation (part 2 of Article 38 of the Tax Code of the Russian Federation).

In accounting, the civil term "property" most corresponds to the term assets. Since one of the indicators that characterize the real property status of an individual entrepreneur is the indicator of net assets, the value of which allows you to assess the real property status, the ratio of property and obligations of the business entity.

It follows from the content of Article 128 of the Civil Code of the Russian Federation that the property includes things: "cash and documentary securities, other property, including non-cash funds, non-documentary securities, property rights; the results of work and the provision of services; protected results of intellectual activity and equated means of individualization (intellectual property); intangible benefits" (Civil Code of the Russian Federation (Electronic resource): parts one, two, three and four // http://www.consultant.ru/). Therefore, in the civil-legal understanding, property is a material good that has a commodity form, which is a product of labor.

Based on the analysis of domestic legislation, M. D. Shapsugova gave an expanded interpretation of the concept of "property of an individual entrepreneur". She considers: "the property of an individual entrepreneur, in addition to material goods, and intangible goods (business reputation, goodwill), information, protected results of intellectual activity and means of individualization equated to them (intellectual property) and other objects of rights that have a value assessment, are the product of labor (and in the case of intellectual property - the rights to such results and means, as well as material carriers in which the corresponding results or means are expressed)" (SHAPSUGOVA, 2012).

In addition, the scientist notes that property in business law is an object of rights. And in the case of individual entrepreneurs, first of all, property rights.

Based on the etymology of the term "property", it can be concluded that property is any object of civil rights, in respect of which a legal connection can be established between the subject (business company) and the object (property).

In our opinion, the property of an individual entrepreneur includes all types of objects of rights intended for carrying out entrepreneurial activity. The following conditions are met: they have a monetary value; they are separated from other objects of rights; they are quantifiably measurable; they are the product of labor; there is a possibility of fixing the legal connection between the object of rights and the subject in a legal form; they are inherently alienable.

Taking into account the above criteria, the following types of property of an individual entrepreneur can be distinguished: property intended for doing business, including property rights; protected results of intellectual activity and means of individualization equated to them (intellectual property); intangible benefits that have a value assessment (business reputation of a legal entity, goodwill).

At the same time, it should be emphasized that the entrepreneurial property, being the private property of an individual entrepreneur, is not separated from the rest of the entrepreneur’s property. It may be subject to collection by the creditor, except for the cases provided for in the law. In this regard, we propose to separate the property used by an individual for
entrepreneurial purposes from his other personal property. The separation of the entrepreneur’s property is possible by fixing it in the property complex.

A similar position is held by M. D. Shapsugova. She formulated the following sentence. “It is possible to provide for the mandatory presence of separate property for engaging in entrepreneurial activity, and in case of its absence - mandatory insurance of civil liability of individual entrepreneurs” (SHAPSUGOVA, 2012).

It is necessary to separate the property of an individual entrepreneur used in entrepreneurial activity into specialized funds. In the absence of such property, it is advisable to introduce mandatory liability insurance for an individual entrepreneur, setting a non-burdensome amount of the insurance premium for the entrepreneur and working out essential insurance conditions. At the same time, the institute of civil liability insurance must be coordinated with the institute of bankruptcy of an individual entrepreneur. The purpose of liability insurance for an entrepreneur should be compensation for losses arising during the implementation of activities by an individual entrepreneur, as a result of liability for obligations.

Thus, we can draw the following conclusion: the presence of separate property is a qualifying feature of the subject of entrepreneurial law and the economic basis for entering into civil circulation.

The peculiarities of the civil status of an individual entrepreneur affect the hereditary legal relations that arise after his death. But even during the life of an entrepreneur, there are specific hereditary and legal aspects of his civil status, related primarily to the right of will.

As a result of inheritance, the heir acquires not only property rights and other property rights to the property included in the inheritance estate. Both the rights of obligations and civil obligations are transferred, and in some cases - property rights to the results of intellectual activity. In other words, inheritance is possible with respect to most objects of civil rights, regardless of whether their transfer is regulated by property, obligation law or intellectual property law. However, this circumstance is true only for continental legal systems, for the "civil law tradition" that uses the "super-category" of inheritance "(estate)". In modern law, “the entire institution of inheritance law is part of the legal relations regarding real property” (BELOVA, 2014). The institution of inheritance plays an important role precisely in the transfer of property rights, first of all, property rights.

Since the testator, who was an individual entrepreneur, could be a participant in obligations related and unrelated to his entrepreneurial activity, the question arises about the specifics of the transfer of rights and obligations under the entrepreneurial obligation to the heir. The issue of the transfer to the heir of civil-legal obligations, which are liabilities (debts) as part of the hereditary mass of an individual entrepreneur, is difficult.

An entrepreneur can have deposits in banks, settlement and other accounts, having concluded appropriate agreements with banks. It should be emphasized that the regime of inheritance of funds held on the current account of an individual entrepreneur has not yet been regulated at the legislative level.

In our opinion, it seems more correct to speak in this case about the inheritance of not money, but the rights of claim to the bank belonging to the testator. The rights of the testator’s claim to the bank may arise either from the bank deposit agreement (deposit) or from the bank account agreement. An individual entrepreneur can be a participant in both of them. However, the current legislation regulates only the issues of inheritance of the entrepreneur’s property in the form of cash in the deposit.

At the same time, it should be noted that the disposal of funds on a settlement account opened by an individual entrepreneur is possible only by a legal successor-a citizen with the same status.

Having considered the property and inheritance rights of entrepreneurs, it is important to analyze non-property rights as well. The legal features of the entrepreneur’s status in relation to non-property rights are manifested in the following: the entrepreneur is an individual. Therefore, he may have personal non-property rights. At the same time, he may own non-property benefits used by him in entrepreneurial activity.
Personal non-property rights of an entrepreneur are recognized as rights that arise in relation to intangible benefits, are inseparable from the individual, they have no economic content, regardless of their connection with property relations. Such rights include the right to a name, the right of authorship, the right to choose a place of residence, the right to protect honor and dignity.

Such legal relations, if we consider an entrepreneur as a legal entity, can develop about non-property benefits used by entrepreneurs in their activities. This is the right to a trade name, trademark, service mark, name of the place of origin of the goods, trade secret, etc. If the non-property rights of an entrepreneur are violated, a specific obligation to protect them arises. At the same time, a non-property legal relationship is transformed into a property one. The victim, defending his non-property rights, may demand compensation for damages from the violator.

The question of the relationship between non-property and property relations is interesting. The term “personal non-property” itself shows the specifics of the objects and subjects that make up the elements of relations. An entrepreneur is a participant in property legal relations, which, thanks to the activity, are transformed into non-property rights related to property rights.

It follows from this that an entrepreneur has the right to protect his non-property rights only if these rights can be separated from him, transferred to other entities (the right to use a trademark, invention, etc.). As a result, it turns out that the legislator, without taking into account this fact, distinguishes only personal non-property relations. The term “non-property relations” is broader in its content. In Article 128 of the Civil Code, the legislator allocates intangible benefits, without distinguishing them into non-property and personally non-property. However, when analyzing the GC, the following pattern was found. For example, in Article 150 of the Civil Code of the Russian Federation, along with such intangible benefits as health, dignity, honor, life, the legislator puts personal non-property rights on a par: the right to a name, the right of authorship, freedom of movement. It is obvious that the legislator does not share these concepts here. In addition, it does not allocate non-property objects, which by their nature can only belong to entrepreneurs. This combination seems to us unreasonable.

Unlike ordinary citizens, an entrepreneur (as a participant in civil turnover) owns special intangible benefits. They can be grouped into three groups. Let’s present this information in the form of table 1.

### Table 1. Intangible benefits of sole proprietors

| Name of the group of benefits       | Content                                                                 |
|------------------------------------|-------------------------------------------------------------------------|
| benefits of individualization      | brand name, trademark, and business reputation                         |
| benefits that ensure the autonomy  | commercial, official secrets, secret of correspondence and              |
| of the subject                     | telephone conversations                                                 |
| benefits arising from intellectual activity | inventions, industrial designs, patents, industrial designs, etc.      |

Source: Search data.

These types of non-property benefits of entrepreneurs have not found their place in a separate chapter or paragraph of the Civil Code. They are included in Articles 138, 139, 150 of the Civil Code of the Russian Federation (Part I), which leads to doubts about the correctness of such a decision. Firstly, these objects have their own characteristics, since they are non-property rights related to property rights. Secondly, these non-property rights have their own peculiarities of legal regulation and methods of protection.

Let’s focus in more detail on the means of individualization of an individual entrepreneur. For any entrepreneur, it is important that his products, work and services are in demand on the market, in demand. Consumers and contractors of an entrepreneur under transactions have the opportunity to distinguish the products of one individual entrepreneur from the homogeneous products of another with the help of special means that allow it to be individualized. Such means include: trademarks; names of places of origin of goods; commercial designation.

Recently, there has been a sharp jump in activity in the entrepreneurial sphere, associated with business understanding of the importance and commercial value of intellectual property, including trademarks. In this regard, the importance of a trademark in business activity
increases, which itself can generate income when it is used by concluding license agreements. Currently, the most popular way to use a trademark in civil circulation is a franchise: when the copyright holder grants the right to other persons to develop a business under their trademark.

However, the problems in the field of trademark commercialization are still acute and relevant: there is no well-developed unified mechanism for evaluating trademarks that would be recognized not only by subjects of civil legal relations, but also by courts; many entrepreneurs do not think about the possibilities of commercialization of intellectual property and the danger of ignoring this issue.

In accordance with Article 1538 of the Civil Code of the Russian Federation, individual entrepreneurs can use commercial designations that are not firm names and are not subject to mandatory inclusion in the constituent documents and the unified state register of legal entities for the individualization of their commercial, industrial and other enterprises. It can be used by the copyright holder to individualize one or more enterprises. The copyright holder has the exclusive right to use the commercial designation as a means of individualization of the enterprise belonging to him in any way that does not contradict the law (the exclusive right to the commercial designation), including by indicating the commercial designation on signs, letterheads, invoices and other documentation, in ads and advertising, on goods or their packaging, if such a designation has sufficient distinguishing features and its use by the rightholder for the individualization of his enterprise is known within a certain territory.

I would like to say separately about the right of an entrepreneur to a brand. The concept of “brand” is broader than the concepts of “trademark” and “logo”.

In judicial practice, the concept of “brand” is interpreted as a marketing technique. This understanding is broader than the one that is embedded in the concept of “trademark” in Article 1477 of the Civil Code of the Russian Federation. Currently, the analysis of domestic legislation shows that it does not contain any norms defining the legal protection of the brand. Legal regulation is carried out through the protection of the “components” of the brand of a trademark (a series of trademarks), a commercial designation, as well as business reputation.

Along with the protection of a trademark and a service mark, the current Russian legislation provides for the protection of a commercial designation (Article 1538 of the Civil Code of the Russian Federation), which implies the possibility of protecting the exclusive right to a commercial designation as a means of individualization belonging to a legal entity or individual entrepreneur.

The copyright holder may exercise the exclusive right to a commercial designation belonging to him by indicating it on signs, letterheads, invoices and other documentation, in advertisements and advertisements, on goods or their packages, on the Internet (clause 1 of Article 1541 of the Civil Code of the Russian Federation).

Paragraph 2 of Article 1541 of the Civil Code of the Russian Federation provides that a commercial designation or individual elements of this name can be used by the right holder in a trademark belonging to him. A commercial designation included in a trademark is protected independently of the trademark protection. It should be noted that only a trademark is subject to state registration in accordance with Article 1480 of the Civil Code of the Russian Federation.

Thus, it can be stated that the subjects of exclusive rights to trademarks, service marks and appellations of origin of goods, commercial designations can be legal entities, individual entrepreneurs, voluntary associations (for collective marks). When inheriting exclusive rights to trademarks, service marks, names of places of origin of goods, citizens (heirs) also act as subjects. However, it should be noted that, having inherited the exclusive right, a citizen must acquire the status of an individual entrepreneur or renounce this exclusive right by ceding it to another person under an agreement on the alienation of the exclusive right.

A vivid example of violation of the rights of an entrepreneur can serve as the dissemination of information discrediting business reputation; unauthorized use of a trademark (trademark); disclosure of commercial or official secrets.

The right of an entrepreneur to protect his business reputation has recently become increasingly important in Russia, since business reputation is one of the conditions for the
successful activity of an entrepreneur. At the same time, it should be noted that there is no term “business reputation” at the legislative level. In our opinion, under the business reputation of an individual entrepreneur, it is necessary to understand the idea of his business qualities, business behavior in the market, his activities in the field of socio-economic turnover.

In accordance with paragraph 11 of Article 152 of the Civil Code of the Russian Federation, the rules on the protection of a citizen’s business reputation, with the exception of provisions on compensation for moral damage, are accordingly applied to the protection of an entrepreneur’s business reputation. The analysis of Article 152 of the Civil Code of the Russian Federation allows us to identify several ways to protect business reputation: refuting information discrediting business reputation; publishing your answer in the same media that distributed the information; replacing or revoking a document originating from an organization if it contains information discrediting the reputation; deletion of information, prohibition and suppression of further dissemination of information, including by destroying information carriers, compensation for losses caused by the dissemination of defamatory information.

In relation to an individual entrepreneur, we are talking about the possibility of compensation for material and moral damage caused by the dissemination of such information, if the causal relationship between the dissemination of information and the harm is proved.

Consequently, the right to recover moral damage in favor of individual entrepreneurs follows from the right to protect business reputation. In addition, it should be emphasized that the analysis of judicial and arbitration practice shows that there were cases of collecting compensation for moral damage to individual entrepreneurs not only when protecting their business reputation, but also when violating contractual obligations, as well as when causing harm by the actions (inaction) of state authorities, local self-government, officials of these bodies (GAVRIOLOV, 2017).

In the legal literature, the point of view about the possibility of compensation for moral damage of an individual entrepreneur has been substantiated. In his dissertation research, O. A. Kuliush came to the conclusion that “a citizen who has the status of an individual entrepreneur has the right to compensation for moral damage caused to his business reputation, regardless of whether the physical and moral suffering he undergoes is related to entrepreneurial activity or not” (KULIUSH, 2011). According to E. L. “There must be reasonable limits that determine the identification of a legal entity and an individual entrepreneur in matters of applying civil law norms to them. An entrepreneur, unlike a legal entity, is not a legal construct or fiction, but a living person capable of experiencing, like any person, physical and moral suffering, including in the case of discrediting his business reputation...” (NEVZGODINA, 2008). E. V. Samoylenko believes that “moral harm to citizens-entrepreneurs should be compensated. The extension of the norms on legal entities to citizen entrepreneurs does not deprive them of their special features. Being entrepreneurs, they do not cease to be a person, they may well experience both physical and moral suffering” (SAMOYLENKO, 2010).

In accordance with paragraph 3 of Article 23 of the Civil Code of the Russian Federation, the rules of the Civil Code of the Russian Federation that regulate the activities of legal entities that are commercial organizations are applied to entrepreneurial activity, unless otherwise follows from the law. In this case, it is precisely the essence of the legal relationship that requires the extension of the norms on compensation for moral damage to a citizen-entrepreneur, since, being an individual entrepreneur, he does not cease to be a person who may well experience both physical and moral suffering.

Review of the practice of consideration by courts of cases on disputes on the protection of honor, dignity and business reputation, approved by the Presidium of the Supreme Court of the Russian Federation on March 16, 2016 (“Review of the practice of consideration by courts of cases on disputes on the protection of honor, dignity and business reputation” approved on 16.03.2016 By the Presidium of the Supreme Court of the Russian Federation, http://www.consultant.ru/document/cons_doc_LAW_195322/), it follows that an individual entrepreneur has the right to make claims for compensation for moral damage caused to their honor, dignity and business reputation. Based on the results of the consideration of individual cases, the following approach was identified on the issue under study: it does not matter who
violates the right; it is important to establish which rights are violated. If personal non-property rights, intangible benefits (for example, business reputation) are violated, as well as property rights in cases directly provided for by law, then entrepreneurs, as well as ordinary citizens, have the right to compensation for moral damage, even if the damage is caused by public authorities, their officials. In other cases, no.

Currently, the practice of arbitration courts on the issue of the right of an individual entrepreneur to compensation for moral damage is generally uniform. Compensation is excluded if the basis of the dispute is a violation of the property rights of the entrepreneur, in which the law does not directly provide for compensation for moral damage. The actions of the defendant aimed at violating the personal non-property rights of the plaintiff or encroaching on the intangible benefits belonging to him are not indicated by the plaintiff in support of the claim, and the courts have not established.

Thus, individual entrepreneurs, if the general conditions of tort liability are proved, have the right to compensation for moral damage in case of violation of their personal non-property rights, intangible benefits (in particular, business reputation), as well as in cases directly provided for by law-property rights. Compensation for moral damage to individual entrepreneurs is impossible in cases where the basis of the dispute is a violation of their property rights, in which the law does not directly provide for compensation for moral damage. The violation of personal non-property rights, intangible benefits of an individual entrepreneur is not indicated by the courts.

It should be noted that the basic rights of individual entrepreneurs are subject to certain restrictions provided for by the norms of constitutional, civil and business law. Restrictions on the rights of individual entrepreneurs should be necessary and proportionate to the goals proclaimed in the Constitution of the Russian Federation (The Constitution of the Russian Federation, adopted by popular vote on 12.12.1993 with amendments approved during the all-Russian vote on 01.07.2020, http://www.consultant.ru/document/cons_doc_LAW_28399/).

In paragraphs 2 and 3 of art. 1 The Civil Code of the Russian Federation specifies the constitutional provisions on the restriction of rights. Restrictions on the movement of goods and services may be introduced in accordance with federal law, if it is necessary to ensure safety, protect human life and health, protect nature and cultural values.

The types of activities carried out by an individual entrepreneur, in respect of which certain restrictions have been established by the domestic legislator, can be differentiated into several groups.

First, an activity that requires a permit. It cannot be conducted without the approval of regulatory authorities or inspection organizations. For example, to open a cafe or a store, as well as to provide some household services to the population, you will have to get a permit from Rospotrebnadzor, and to perform certain construction works, you will need a permit from a self-regulatory organization.

Secondly, activities that require a license (Federal Law" On licensing of certain types of activities", http://www.consultant.ru/document/cons_doc_LAW_113658/). An entrepreneur can obtain a license for private detective activities and passenger transportation of 8 or more people. If an entrepreneur has a specialized education and work experience, he also has licenses for the provision of services in medicine, pharmacy and education.

Third, activities that are prohibited for individual entrepreneurs. Among them are the production and sale of alcoholic beverages (entrepreneurs can only sell beer), the production of medicines, the organization of pawnshops, the issuance of microloans to the population. Activities related to military affairs, harmful and dangerous substances, air, sea and rail transportation, banking and financial services (including insurance, investment) and some others are also prohibited.

Thus, taking into account the complex nature of the legal status of an individual entrepreneur, in the course of the study we came to the conclusion that the whole set of civil rights and obligations of entrepreneurs can be divided into two groups: civil-legal and civil-economic. At the same time, it should be taken into account that the constitutional norms form the foundation of the status rights and obligations of an entrepreneur. Considering such types of
civil rights as real, non-property, obligatory, hereditary and intellectual, their closest relationship with the peculiarities of the legal status and the specifics of the activity carried out was established. In addition, the entrepreneur has special intangible benefits, and, consequently, non-property rights, which have their own peculiarities of legal regulation and methods of protection.

Along with the existing civil rights, an entrepreneur also has obligations that represent a set of necessary actions for society, the state and other participants in economic activity. The list of these responsibilities is quite wide and its nature is very fragmented. As part of our research, we will attempt to systematize the civil duties of entrepreneurs. Let’s combine them into the following groups:

1) organizational and legal obligations – those that relate to the organizational issues of entrepreneurs’ activities. For example, in order to provide medical services, an entrepreneur must obtain a permit for this type of activity;
2) entrepreneurial duties are a set of duties provided for all subjects engaged in entrepreneurial activity. For example, the obligation to pay taxes and submit tax reports in a timely manner.
3) contractual obligations – the entrepreneur is obliged to fulfill the terms of contracts concluded with suppliers, customers, and so on.
4) labor duties – complex obligations imposed on an entrepreneur as an employer. For example, ensuring safe working conditions, timely remuneration of employees, and so on.

CONCLUSIONS
Based on the analysis of the norms of Russian civil legislation, scientific concepts and law enforcement practice, having comprehensively studied the problems of the legal status of an individual entrepreneur in modern Russia, the authors came to the following conclusions.

Firstly, the opinion was substantiated that the legal personality of an individual entrepreneur is under the simultaneous influence of the norms on the legal status of an individual and a commercial organization. Being an individual, having the rights inherent in them, an entrepreneur acts as a subject of entrepreneurial relations. He is endowed with the legal capacity and legal capacity characteristic of commercial organizations for this purpose, unless otherwise provided for by domestic legislation.

Secondly, given the complex nature of the legal status of an entrepreneur, in the course of the study, the authors argued their position that the entire set of civil rights and obligations of entrepreneurs can be divided into two groups: civil-legal and civil-economic. At the same time, it should be considered that the constitutional norms form the foundation of the status rights and obligations of entrepreneurs.

Considering such types of civil rights as real, non-property, obligatory, hereditary and intellectual, their closest relationship with the peculiarities of the legal status and the specifics of the activity carried out was established. In addition, the entrepreneur has special intangible benefits, and, consequently, non-property rights, which have their own peculiarities of legal regulation and methods of protection.

Along with the existing civil rights, an entrepreneur also has obligations that represent a set of necessary actions for society, the state and other participants in economic activity. The list of these responsibilities is quite wide and its nature is very fragmented. Within the framework of this study, the authors tried to systematize the civil duties of entrepreneurs by combining them into the following groups: organizational and legal; entrepreneurial; contractual, labor.

Third, having identified and analyzed the problems of the legal status of an entrepreneur in Russia, the authors formulated the following proposals for improving domestic legislation in this area:

- It is necessary at the federal level to separate the property used by an individual for entrepreneurial purposes from other personal property by separating it and fixing it in
a special property complex of the entrepreneur, and there may be several such complexes.

- If an entrepreneur does not have a separate property, it is advisable to introduce the principle of mandatory civil liability insurance. The purpose of such insurance is to compensate for losses arising during the implementation of entrepreneurial activities, as a result of bringing them to responsibility for contractual obligations. At the same time, it is necessary to develop essential insurance conditions, establish a non-burdensome amount of the insurance premium, coordinate the norms of the institute of civil liability insurance with the institute of bankruptcy of an individual entrepreneur.

The solution to these problems is seen in the streamlining of the norms regulating various aspects of the legal status of an entrepreneur in our country. In this regard, the authors justified the need to develop a draft law “On the legal status of an individual entrepreneur in the Russian Federation”, which will eliminate the existing gaps in legal regulation on the legal status of an entrepreneur in modern Russia.

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Problems of realization of the civil status of an individual entrepreneur in the Russian Federation

Resumo

Neste artigo, os autores examinaram com mais detalhes os elementos e identificaram as especificidades da personalidade jurídica civil de um empreendedor individual; analisou seus direitos e obrigações estatutárias, sistematizados em dois grandes grupos: civil-econômico e civil-legal, e também formularam propostas e justificaram as mudanças necessárias na legislação interna vigente no campo da implementação do estatuto civil-legal de um empreendedor individual. Os problemas identificados e o sistema de visões científicas proposto ampliam significativamente os ensinamentos teóricos previamente obtidos sobre o status jurídico de um empreendedor, levando em conta a política moderna e as tendências no desenvolvimento da Federação Russa. Os resultados desta pesquisa podem ser aplicados na esfera da legislação e da aplicação da lei, bem como ser de interesse para as atividades científicas e pedagógicas. No decorrer desta pesquisa, foram estudadas as normas da legislação russa, materiais de prática judicial, bem como fontes doutrinárias sobre o tema do trabalho.

Palavras-chave: Empreendedor individual. Status jurídico. Status civil. Personalidade jurídica civil. Direitos e obrigações estatutárias.

Keywords: Individual entrepreneur. Legal status. Civil status. Civil legal personality. Statutory rights and obligations.

Abstract

In this article, the authors examined in more detail the elements and identified the specifics of the civil legal personality of an individual entrepreneur; analyzed their statutory rights and obligations, which were systematized into two large groups: civil-economic and civil-legal, and also formulated proposals and justified the necessary changes in the current domestic legislation in the field of implementing the civil-legal status of an individual entrepreneur. The identified problems and the proposed system of scientific views significantly expand the previously obtained theoretical teachings on the legal status of an entrepreneur, taking into account modern politics and trends in the development of the Russian Federation. The results of this research can be applied in the law-making and law enforcement sphere, as well as be of interest for scientific and teaching activities. In the course of this research, the norms of Russian legislation, materials of judicial practice were studied, as well as doctrinal sources on the topic of the work were analyzed.

Keywords: Individual entrepreneur. Legal status. Civil status. Civil legal personality. Statutory rights and obligations.

Resumen

En este artículo, los autores examinaron con más detalle los elementos e identificaron los detalles de la personalidad jurídica civil de un empresario individual; analizaron sus derechos y obligaciones estatutarias, que se sistematizaron en dos grandes grupos: civil-económico y civil-legal, y también formularon propuestas y justificaron los cambios necesarios en la legislación interna vigente en materia de implementación del estatus civil-jurídico de un empresario individual. Los problemas identificados y el sistema propuesto de puntos de vista científicos amplían significativamente las enseñanzas teóricas obtenidas anteriormente sobre el estatus legal de un empresario, teniendo en cuenta la política moderna y las tendencias en el desarrollo de la Federación rusa. Los resultados de esta investigación pueden aplicarse en el ámbito de la legislación y la aplicación de la ley, así como ser de interés para las actividades científicas y docentes. En el curso de esta investigación, se estudiaron las normas de la legislación rusa, los materiales de la práctica judicial, así como las fuentes doctrinales sobre el tema del trabajo.

Palabras-clave: Empresario individual. Estado legal. Estado civil. Personalidad jurídica civil. Derechos y obligaciones legales.