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### INTERNATIONAL ORGANIZATIONAL AND LEGAL PROBLEMS OF SHARED ECONOMY

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#### *Abstract*

Sharing economy is a relatively new global economic model that is actively developing, which is greatly facilitated by the digitalization of society. With the development of Sharing Economy, its organizational and economic problems are expanding and deepening, which are largely global in nature, and which require urgent solutions. Based on a systematic study of the materials of international organizations and the experience of many countries, the article formulates the most important, in the opinion of the authors, organizational and economic problems of Sharing Economy that are international in nature. Recommendations are given to improve some problems. The composition of Sharing Economy participants, the legal status of aggregators, the procedure for their registration including registration in different countries, interaction with business and the state, their responsibility is determined. Main attention is paid to the problems and international experience of taxation of aggregators and individuals, labor relations and social problems in Sharing Economy. The digital economy and Sharing Economy are developing so rapidly that, despite the emergence of relevant international and state programs and regulations, further development of effective Sharing Economy regulation mechanisms and their improvement is required.

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**Keywords:** Sharing economy, globalization, digitalization, organizational and economic problems.



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## 1. Introduction

On January 6, 2020, the “Beijing Summit of the International Forum on the Shared Economy” was held on the territory of the China National Conference Center under the thematic title “Big Exchange, New Economy”. During this summit, it was noted that the ESP model involves a gradual reduction in global consumption of new resources and the number of man-hours by 50% (by 2030) through tools for sharing and efficient use of resources (the so-called “double reduction” concept).

The implementation of the “double reduction” concept will contribute to the mutual exchange of necessary resources between business, markets and countries, which will provide an additional incentive to increase the efficiency of resources and innovations in the next decade. Being a titanic breakthrough and an important milestone in the economy of shared economy, this initiative is considered one of the driving forces for the recovery of the global economy. Thus, the growing role of Sharing Economy throughout the world is once again emphasized. Thanks to the Internet and other means of digitalization, Sharing Economy has become so widespread that they started talking about it as an alternative to the traditional economy (Vaughan & Daverio, 2016). Particularly actively, ESP is used in transport, tourism, housing, finance, education, energy, logistics, etc.

The essence of Sharing Economy: share what you have in excess with those who need it (Cheng, 2016; Edelman et al., 2017; Puschmann & Alt, 2016). This form is in demand especially for those consumers who are looking for lower prices for various services of everyday or frequent use, offer new forms of independent work with the possibility of generating additional income, help reduce unemployment and poverty.

Practice shows that with the development of Sharing Economy, its organizational and economic problems expand and deepen in the first place. There are problems in the field of labor relations, social protection of the population, taxation and many others. It is required to give an official definition of Sharing Economy, create its legislative base, study the main directions of Sharing Economy development, and carry out a deeper and more systematic study of other countries' experience. One of the most important problems that need to be addressed is the legal regulation of the operation of aggregators / platforms, their interaction with business and the state, and their responsibility (Shvab, 2016; Schor, 2016; Slee, 2017).

Sharing Economy faces many barriers because of its contradiction with the laws of different countries and with the opposition of many traditional sectors of the economy, for example, due to a decrease in the market share of traditional sectors, such as hospitality, transportation, banking, etc. On the other hand, companies consider ESP as an innovation and adapt to the changes associated with it. Many states are developing new rules for the development of a new era of shared economy (Nunez, 2019).

## 2. Problem Statement

International problems of Sharing Economy and ways to solve them.

- One of the most important problems that need to be addressed is problems in the field of labor relations, social protection of the population, taxation and many others.
- The existence of organizational and legal problems regarding aggregators / platforms that go to the intergovernmental level. There is concern that signs of monopolization and cartel conspiracy

are appearing all over the world Large aggregators combine. In Russia, such an example is the merger of Uber and Yandex.Taxi in February 2018, which combined online taxi ordering in Russia, Belarus, Kazakhstan and other neighboring countries, which, as practice has shown, leads to higher prices on the market.

### **3. Research Questions**

- What are the features of applying Sharing Economy in different countries?
- To consider the areas, organizational forms of Sharing Economy.
- To study emerging problems, especially those of a global nature, and propose their solution considering international experience.

### **4. Purpose of the Study**

To consider a range of issues (primarily organizational, economic, social, labor) that arise during the implementation of Sharing Economy in various countries, the solution of which should increase the effectiveness of Sharing Economy. To put forward proposals for improving performance in Sharing Economy conditions, not only now, but also in the future. Based on international experience, systematize the possible advantages and disadvantages for the national Sharing Economy sector.

### **5. Research Methods**

One of the most important problems of Sharing Economy is the concept and functions of the aggregator, its interaction with business and the state.

#### **5.1. The concept and functions of the aggregator**

In many information resources and regulations, there is no difference between the activities of the aggregator and the marketplace / electronic trading platform. At first glance, these electronic services may seem identical. However, having analyzed the bills of various countries and publications on this issue, it can be argued that there is a significant difference in their positioning. Aggregator sells goods, provides services under one specific brand. Marketplace is an online platform that collects many different, competing brands, collects, organizes information about the goods and services of various persons registered in the system, and provides such information at the request of the buyer in a structured form suitable for comparison, selection and purchase of the selected product (services).

Aggregators are equipped with appropriate computing and software tools and have a website on the Internet when acts most often as an intermediary between consumers and performers. The main function of the aggregator is to create favorable conditions for the provision and consumption of services in the relevant market. The limits of liability of an aggregator depend on whether he is an information intermediary or a direct executor. Aggregators, being information intermediaries, as a general rule, are not responsible to customers for the quality and conditions of the provision of the goods and services offered on their platform.

Aggregators - suppliers of goods, being as service providers are responsible for their implementation and quality, etc. Aggregator selects counterparties for consumers and performers. Often, the aggregator does not have geographical restrictions, such as Airbnb. There are two main types of aggregators:

- 1) aggregators (such as Yandex - an aggregator in the taxi market) that independently select a specific contractor for the customer, set prices for the services of performers;
- 2) aggregators provide a service for searching for a performer, the customer chooses a performer himself (for example, Airbnb).

### **5.2. Types of aggregator services**

The debatable question is what constitutes an aggregator: a provider of information services or, such as Uber, Yandex, transport services. In the first case, the aggregator has an international status and can be registered in any state, for example, where there are less taxes, in the second case - only in the country of activity.

In the Eurozone, most aggregators are considered digital service providers in accordance with the EU Electronic Commerce Directive (E-Commerce Directive 2000/31 / EC). However, on December 20, 2017, the European Court of Justice ruled that the Uber service should be considered as a transport service, not an information one. The court based its decision on the fact that Uber provides not only information mediation services, but also urban transport services, which it usually organizes using online computer software. In the Russian Federation, the legislator currently considers the activities of aggregators primarily as the provision of informational services (clauses 1.2, 1.3, article 9, paragraph 2.1 of article 12 of the Federal Law "On the Protection of Consumer Rights").

### **5.3. Organizational and legal forms of aggregators**

The debatable and discussed issues during the creation of aggregators are the legal forms of aggregators and their activities, registration, contractual relations of aggregators with other Sharing Economy participants. In our opinion, it is advisable to normatively consolidate the possibility of creating owners of aggregators both in the form of commercial and non-commercial organizations. Aggregators can be registered as legal entities of various organizational and legal forms (both commercial and non-commercial), as well as individual entrepreneurs. The choice of legal form depends on the type of activity of the aggregator. If this activity is commercial in nature, then it should be carried out by a legal entity that is a commercial organization of any legal form or an individual entrepreneur. It is also possible the activity of the aggregator in the legal form of a non-profit organization.

It should be borne in mind that non-profit organizations in accordance with paragraph 4 of Art. 50 of the Civil Code of the Russian Federation can carry out income-generating activities only if it is provided for by the charter, serves to achieve the goals for which the organization was created, and is consistent with such goals. In this case, a non-profit organization should have assets that exceed the minimum authorized capital of a limited liability company, and income-generating activities should not be the main or sole. In the Russian Federation, aggregators, as a rule, are registered in the legal form of business companies, mainly as a limited liability company, since their activities are commercial in nature and are aimed at systematic profit making. The analysis of the data of the Unified State Register of Legal Entities (USRLE) in the Russian Federation showed that almost all aggregators have the main type of activity (OKVED code): 63.1.

"Data processing activities, the provision of information placement services and related activities." Additional activities are also associated with the use of information resources. The authorized capital of aggregators is basically minimal - 10 thousand rubles.

#### **5.4. State registration of aggregators**

Domestic aggregators and platforms must be registered with the Federal Tax Service and other state bodies of Russia in a general manner. Foreign legal entities - aggregators engaged in entrepreneurial activities in Russia, must register a subsidiary legal entity or representative office, a branch in the Russian Federation. In international practice, if an aggregator is recognized as an information service provider, it has an international status in accordance with the EU electronic commerce directive (E-Commerce Directive 2000/31 / EC) and can be registered in any state, for example, where there are less taxes, without obtaining permit documents. It is enough for such an aggregator to register with the tax authorities in the country where the activity is carried out, while opening branches, representative offices or other organizations, including subsidiaries, representing the interests of the company in a given territory is not mandatory.

However, in New York, Sydney, the Balearic Islands, and throughout Japan, Airbnb is, by law, equated to hotels with relevant accommodation, licensing, security, and operating requirements, as well as an identical taxation and registration system. Other places impose special restrictions or duties on the activities of aggregators: in Barcelona, special licenses have been introduced with an annual payment, in Paris, Amsterdam and San Francisco, property owners can only rent out their premises for a limited number of days per year. Thus, at the moment there is no single international regulatory document in the field of registration of aggregators / platforms and all restrictions are situational and national. The analysis confirms the existence of organizational and legal problems regarding aggregators / platforms that go to the interstate level.

The most stringent rules are introduced usually in places based on tourism activities. This is logical, since hotels pay several different taxes and duties at once for the implementation of their activities, which forms the budget of one or another administrative unit. At the moment, in the Russian Federation, Airbnb is considered a supplier of information resources and products, which means that this company does not need to create a physical presence in the country. However, from 01.01.2019, all foreign companies providing certain services on the Internet, including Airbnb, need to register with the federal tax service and pay VAT.

If the aggregator is one of the transport companies, then its activity is under the control of national authorities and may even be prohibited. That is, for example, Uber can be considered as a regular transport company, whose activity must comply with national legislation in the field of transport. Uber, in accordance with the EU directive, must obey the same rules as other transport companies: licensed drivers, taxes in the country of activity, certified cars and others. This was one of the reasons for the fall in the company's share price on the world stock exchange and a decrease in profits.

Thus, at the moment there is no single international regulatory document in the field of registration of aggregators and all restrictions are situational and national. The analysis confirms the existence of organizational and legal problems regarding aggregators / platforms that go to the intergovernmental level.

There is concern that signs of monopolization and cartel conspiracy are appearing all over the world in Sharing Economy. Large aggregators combine. In Russia, such an example is the merger of Uber and Yandex.Taxi in February 2018, which combined online taxi ordering in Russia, Belarus, Kazakhstan and other neighboring countries, which, as practice has shown, leads to higher prices on the market.

### **5.5. Contractual designs in Sharing Economy**

Studies of the authors of economic models and the design of agreements on the interaction of aggregators with consumers and performers have shown that no additional legal structures are required for aggregators, only the actual actions of the parties in accordance with existing structures using the Internet, computer programs and mobile devices are needed. However, the widespread use of agency agreements with citizens who are neither registered as self-employed nor self-employed and often do not pay taxes, reduces tax collection, increases the number of self-employed who are not socially protected as workers. The need for special legal regulation of civil turnover with the participation of aggregators is revealed.

### **5.6. Entrepreneurship and Sharing Economy**

Currently, the activities of aggregators, in our opinion, are not in line with the original promise of the Sharing Economy: "share what you have in excess with those who need it." The line between ordinary business relationships and Sharing Economy relationships is blurred. Performers in most forms of Sharing Economy using aggregators carry out systematic profit-making, that is, they engage, like the aggregators themselves, in entrepreneurial activity, often without any socially significant goal. In Yandex.Taxi, in most cases, the executors are legal entities and individual entrepreneurs who have their own or rented cars, sometimes in large numbers (fleets), or citizens (self-employed, both registered and unregistered), for which this is the only activity. Hotels, hostels, citizens - owners or tenants of several apartments work with the Airbnb aggregator, that is, as we see, not only owners of their own housing.

In the car-sharing market, some companies have a fleet of thousands of cars. Aggregators of ridesharing and carpooling services create the conditions for placing information by professional drivers in order to find customers, not travel companions. Activities for organizing joint trips meets the signs of entrepreneurship, if it is carried out on a regular basis and is aimed at the systematic profit. Often the BlaBlaCar service is used by unscrupulous performers who provide services in fact as entrepreneurs, but do not register in this capacity. Coworking centers are entrepreneurial structures representing short-term jobs for a fee. As a result, we share the opinion that the economy of joint consumption is an ephemeral concept that is not associated with any fundamentally new form of ownership or use of goods or services. The main thing in it is the more intensive use of a resource or time with the help of new digital technologies. Therefore, we agree with the conclusions that the concept of SE (sharing economy) is likely to withdraw from circulation.

### **5.7. Taxation of aggregators**

With the development of Internet technologies, the market has expanded significantly for most companies, they have the opportunity to offer goods and services to consumers around the world. This radically redistributed cash flows in the world: now the place of income generation and the place of actual activity may not coincide, which has become a serious problem of tax collection. Only if tax legislation

will consider all the mechanisms for trading goods and services via the Internet and understand the payment procedure and location of the consumer, it will be able to fairly withhold tax and eliminate conflicts of jurisdiction over taxation of entrepreneurs, as well as double taxation (Armando & Dubolazov, 2019).

Currently, most aggregators are considered suppliers of information resources, which makes it possible to conduct business in any country without a physical presence. As a result of this form of business, there are many advantages: lower taxes, more loyal business rules, the absence of the need to open branches and representative offices in other countries, and much more, which poses a threat to the national tax base. Therefore, there is a struggle around the world that companies that provide information services must pay taxes in countries where they make a profit, and not just at the place of their registration.

The introduction of new taxes for the largest companies operating in the field of information services is a global trend. For example, France introduced a 3% tax on the local revenue of such companies. The UK government has introduced a “digital services tax” of 2% on income, not profit. In Italy, a category for taxation was introduced - “income from joint unprofessional economic activity” for income received by users who work through digital platforms: the French government introduced a norm that provided for the collection of applicable tourist taxes and other municipal taxes from the aggregators on which they are offered (Frenken & Schor, 2019).

The same rule applies in San Francisco and Amsterdam, which established it in their rules for accommodating tourists with individuals. Belgium has established since March 2017 that income provided by users of aggregators such as Airbnb or Uber will be taxed at 10% of the total accrued amount that is accrued on each income paid to the aggregator. Amsterdam has reached a partnership agreement with the Airbnb aggregator to coordinate tourist tax collection applicable to its users. Since 2020, a tax was introduced from the Airbnb aggregator in the amount of 10% of the amount for tourists using hostel services in the city.

The OECD (Organization for Economic Co-operation and Development) suggested that companies providing information services should pay taxes in countries where they make a profit, and not just at the place of their registration. It remains a question, according to what principles should this profit be calculated so that taxation is fair. According to the information indicated on the website of the European Commission [[https://ec.europa.eu/taxation\\_customs/individuals/buying-goods-services-online-personal-use/buying-services/electronically-supplied-services\\_en](https://ec.europa.eu/taxation_customs/individuals/buying-goods-services-online-personal-use/buying-services/electronically-supplied-services_en)] electronic, including information services provided to citizens of European Union countries are subject to VAT. If an electronic service is provided by a foreign organization registered in a non-EU country, the foreign organization must pay VAT at the rate of the country of registration of the buyer.

The Russian Federation dealt with the taxation of information services of foreign companies in 2017 by introducing a tax on Google, which is VAT on the sale of electronic services. According to Federal Law dated 03.07.2016 No. 244-FZ in the Russian Federation from January 1, 2017, foreign companies providing electronic services to Russian individuals, the place of sale of which is recognized as the territory of the Russian Federation (with the exception of foreign organizations providing these services through a separate unit located on the territory of the Russian Federation), and performing settlements directly with the buyers of these services (b2c - deliveries), must be registered with the Russian Federal Tax Service as a VAT payer

From January 1, 2019, the new rules were extended to cases of electronic services to Russian organizations (b2b deliveries). In the press, this tax was called the “Google tax”, due to the fact that the name of this company is traditionally associated with advanced technologies in the provision of services via the Internet. The tax on Google was borrowed by Russia from European legislation, therefore, in general, our legislation is similar to the EU. At the same time, however, unlike the EU, Russia also extended this tax to the provision of services to organizations, which is not recommended by the OECD and was not accepted in the EU.

The Ministry of Finance plans to introduce a tax on profits from activities to provide electronic services. After all, now these companies are registered with the tax authority, and, therefore, must pay all relevant taxes. According to the participants of the expert session “The Main Directions of the Tax Policy of the Russian Federation 2020-2022”, organized by the TSSR together with the Russian branch of the International Tax Association, Russia is currently faced with a choice: introduce in the near future its own direct tax on the income of digital companies or wait for an international harmonized OECD approach and join its implementation (Miller, 2016).

Thus, states need to continue to simplify and clarify the application of tax rules in sharing economy. On the other hand, aggregators / platforms should ensure full cooperation with state authorities in facilitating tax collection. And if everything is more or less clear with the activities of aggregators and the majority of information service providers: in most cases they pay VAT, then with the income that remains with users - and this is a large part of all surplus value - things are more complicated.

Active work is being done in this direction throughout the world. Thus, on March 21, 2018, the European Commission approved a package of measures to tax the digital economy: a proposal for a Directive on a digital permanent establishment; recommendation on a permanent digital institution; Digital Service Tax Offer - "Google Tax." In a message entitled “Time to Establish Modern, Fair, and Effective Standard Taxation for the Digital Economy,” the Commission highlights the challenges of adapting existing corporate tax standards to the current scenario and recognizes the need for a new fiscal structure with digital business models (Hamari et al., 2016). The Commission concludes that an international solution to the problems of taxation of the digital economy is important, a solution that is a difficult task, given the complex nature of the problem and the wide range of participants and problems that need to be addressed. The proposal for the Permanent Digital Institution Directive will apply to all taxpayers who are subject to corporate tax in one or more-member states, and to enterprises outside the EU. The proposal for the Digital Services Tax Directive aims to establish a temporary tax applicable to digital services at a rate of 3% of the gross income (sales) received in the EU from a series of activities that are of general importance for interaction users online. Therefore, profits earned for such companies are not taxed, but sales.

### **5.8. Taxation of citizens - performers in sharing economy**

As a rule, more than 85% of the turnover of Sharing Economy aggregators is the funds received by the direct service providers. Aggregators in most cases receive income in the form of a commission for connecting the consumer and the service provider.

The problem of taxing service providers in Sharing Economy, registering participants in joint consumption as individual entrepreneurs (IPs) or self-employed, calculating taxes and their collection is especially acute. Establishing clear tax rules could help eliminate these problems. The lack of adequate tax

collection rules for sharing activities of performers does not provide guarantees to participants of aggregators / platforms during accidents, disabilities or retirement pensions.

Sharing Economy participants (taxi drivers, freelancers, landlords, etc.), who often do not pay taxes, gain a competitive advantage over companies operating officially, which leads to a decrease in tax collection. They constitute a significant part of the self-employed (Allen, 2015).

In international practice, there are many examples where states determine the conditions that are binding on international platforms, for example, on rental housing (Airbnb, etc.). Regulatory measures usually associated with issues of national tax legislation, consumer safety, protection of national service providers; are valid on the territory of the whole state or a certain region. For example, in Portugal, homeowners are required to inform their municipality of their activities, which is possible by filling out an online declaration on the website of Turismo de Portugal or the local municipality. Otherwise, this will lead to fines of up to 35,000 euros and a two-year ban on the provision of housing services.

## 6. Findings

Thus, on the basis of the research, the authors propose the following solutions to this problem: establishing a limit on income below which the performers are not taxed; patent system when all taxes are replaced by fixed amount payment; registration of performers by self-employed or registration by individual entrepreneurs when this limit is exceeded. For example, in Belgium, for citizens who provide services using aggregators, the border for receiving tax-free income is set at 5 thousand euros, in Italy - 10 thousand euros, in England - 1000 pounds. If the amount of income is higher, then the citizen automatically receives the status of individual entrepreneurs and pays the appropriate taxes.

A possible solution is the introduction for citizens working directly with aggregators or through intermediaries of a tax on professional income for self-employed and individual entrepreneurs who does not have employees and income from the use of property (Sundararajan, 2016).

The authors propose a model according to which aggregators allow the consumer not only to get acquainted with the list of services provided, their executors and reviews about them, but also enter into agreements for the provision of services between them, insure goods and services, make settlements between participants, make taxes and pay taxes, carry out banking operations, etc., which positively affects the completeness and accuracy of tax calculation.

### 6.1. Labor relations in Sharing Economy

There are few elements in Sharing Economy that allow us to conclude that there are appropriate formal labor relations. Often, employees of joint consumption companies work without an employment contract under a contract, agency agreement, service provision, are formalized by individual entrepreneurs, and often work simply without registration, replenishing the ranks of the self-employed. This means that there is a problem with the informal employment of workers who often do not have an employment contract, but they received money for the work done, taxes and insurance contributions are not paid. Over time, this issue has attracted more and more attention.

Currently, labor protection of workers in all countries is approximately the same: through the legislatively fixed minimum wage, the availability of social security, the right to paid leave and a regulated

work schedule. However, the above provisions are not related to self-employed, working without any contractual relationship.

The problem is also that performers through aggregators (platforms) cannot set their own price for the provided service, since they have to follow the rules of the aggregator, including the price set by them. Payment must be made for an already fixed amount. The choice of the number of consumers (customers) is organized in such a way that the service provider or the shared consumption participant can accept or reject the request for the provision of the service, however, the aggregator has the right to disable access to his account if he considers that too many requests were rejected, which can be interpreted as dismissal. That is, in many cases, it is the aggregator who makes the choice of consumers, therefore, employees are not completely independent in their decisions regarding the acceptance or rejection of a particular work offered by them through the aggregator.

Aggregators Uber, Yandex Taxi can change the tariff, their commission, lobby for the benefit of individual performers, have the right to disable access or cancel the account of the performer, terminate cooperation with him. The opinion is often expressed that the state should recognize taxi drivers as employees of aggregators. Such a decision was legislatively adopted in February 2020 in France. Thus, it can be argued that at present in the Sharing Economy there is a great deal of uncertainty in the work and related concerns among its participants. For employees, clear rules and laws have not yet been defined, which means that its representatives are faced with new levels of risks when working without legal protection specifically designed for them.

## **6.2. Social security of workers in Sharing Economy**

An alarming situation with the social security of workers in Sharing Economy (medical care, insurance, unemployment protection, pension provision, etc.), especially in cases where activities within the framework of virtual platforms are the only way to generate income for employees. The system of regulation of social security of workers in Sharing Economy by the state is not yet perfect. The absence of adequate tax collection rules in Sharing Economy among states does not allow providing guarantees to employees who have not entered into labor relations with aggregators in case of accidents, disability or old-age pension. That is why it is vital to create and develop an international organization of Sharing Economy, the activity of which is aimed at developing recommendations.

## **7. Conclusion**

State bodies, lawyers, economists and other specialists face big tasks in solving theoretical and practical issues of organizing sharing economy, the legal status of participants, taxation, labor and social online payments, licensing, insurance, security, quality of services, etc. An international system is in demand that can uniformize laws throughout the territory where cooperation platforms are used. Therefore, it is important to create and develop international organizations specializing in Sharing Economy (SE), the activity of which is aimed at developing recommendations to states and companies.

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