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**FEATURES OF PUBLIC CORPORATIONS' PROPERTY RIGHT
IN RUSSIAN FEDERATION**

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Abstract

The present article analyzes the aspects of the current national legislation dealing with state corporations. The issues of creating and implementing the state corporations' proprietary rights remain the subject of numerous discussions in academic literature. The studies indicate a lack of uniform rules which enable to refer to the existence of a single legal regulation of proprietary rights within one legal form of a legal entity being a state corporation. In some cases significant deviations from the rules established for the subjects of civil law by civil legislation are indicated as well. We have substantiated the fact that the goals of creating a state corporation are one of the main and key factors determining the proprietary rights scope and the property rights implementing limits. The new regulatory legal acts adopted in the Russian Federation require detailed analysis and reflection. In this regard, there is a need to conduct a comprehensive scientific analysis of property relations arising from public corporations to develop new provisions of the current legislation on state corporations and improve the existing ones. We have substantiated the need to single out a new type of state corporation property, namely, target property. The legal treatment of state corporation target property is characterized by: 1) emergence by transferring the state property to state corporation ownership; 2) proprietary right, use and disposal of target property are possible only with the purposes established during state corporation establishment; 3) maintaining the ability of the state to impact a state corporation's decision-making; etc.

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1. Introduction

The term state corporation denoting the organizational and legal forms of a non-commercial legal entity was first incorporated into national legislation in 1999 (“On Non-Commercial Organizations”: Federal Law).

However, the issues of creation and activities of state corporations in Russia thus far remain the subject of numerous and even fierce disputes in both private law and administrative law (Adarchenko, 2012; Albegova, 2011; Volkov & Dugenets, 2012; Kuzminov, 2009; Pepeliaeva, 2011; Salfetnikov, 2009; Tselovalnikov, 2009).

The first Russian state corporation being an organizational-legal form of a non-profit legal entity whose activity is not associated with profit extraction was established in modern Russia in 1999. The scope of the Agency for Restructuring Credit Organizations activity comprised the measures to reorganize the banking system by restructuring credit institutions administered by this state corporation (Federal Law, № 144-FZ, 1999).

Since the entry into force of the Federal Law N 99-FZ of May 5th, 2014 “On Introducing Alterations to Chapter 4 of Part One of the Civil Code of the Russian Federation and on recognizing certain provisions of legislative acts of the Russian Federation null and void” (Federal Law, RF № 99-FZ, 2014) scientists began talking about the termination of the existence of such legal form as state corporation. However, establishment of a new state corporation Roskosmos and the latest changes in the current legislation (“On Amendments to Certain Legislative Acts of the Russian Federation” (Federal Law, RF № 216-FZ, 2015a) in connection with the adoption of the Federal Law “On the State Corporation on Space Activity Roscosmos” (Federal Law, RF № 356-FZ, 2015b); Federal Law; “On Amendments to the Federal Law”, “On the State Corporation for the Promotion of the Development, Production and Export of High-Tech Industrial Products Rostec” and Article 3 of the Federal Law “On Amendments to Chapter 4 of the first part of the Civil Code of the Russian Federation and on recognizing certain provisions of legislative acts of the Russian Federation null and void”: Federal Law; “On Amendments to Chapter 4 of Part One of the Civil Code of the Russian Federation and on recognizing certain provisions of legislative acts of the Russian Federation null and void”: Federal Law) concerning the possibility of creating a legal entity in the organizational and legal form of a state corporation on the basis of federal law enables to conclude that not only this form of organization of a legal entity will be maintained but also the development and improvement of the legal status of public corporations will have great future prospects.

According to modern Russian legislation, which contains the definition of public corporation, a state corporation is a non-membership non-profit organization recognized by the Russian Federation on the basis of a property contribution and created to perform social, managerial or other socially useful functions (Federal Law, № 7-FZ, 1996).

Despite the fact that this form of a non-profit organization is not included in the list of legal entities established by article 50 of the Civil Code of the Russian Federation, we can define the indicators characterizing a state corporation as a legal entity. State corporations are characterized by indiscriminately all signs of a legal entity, including the internal structure of the organization, legal ownership of separate property, which is a guarantee of property liability for obligations, engagement in economic turnover on behalf of itself. The above characteristics are sufficient for the organization to have the status of an

independent participant in civil turnover. Thus, the state corporation as a legal entity is an independent, autonomous subject of law. At the same time, analysis of the legislative provision defining the legal status of state corporations makes it possible to identify some of the characteristic features that are unique to the organizational and legal form of non-profit legal entities under consideration. Consequently, the presence of a special legal capacity of a state corporation is due to the very organizational and legal form of the establishment of such legal entities. By virtue of the direct and unambiguous prescription of the current Russian legislation being a form of non-profit organizations, the state corporation in modern Russia is a priori entitled to carry out entrepreneurial activity only within those strictly defined boundaries and the framework in which this activity serves to achieve the goals it was created for and the conduct of this activity is consistent with the above objectives.

As a matter of course, this fact does not mean that the state corporation is becoming a commercial legal entity. The fact is that commercial legal entities are created for profit while public corporations are created for socially significant purposes and fulfill social, managerial and other socially useful functions. This means that goals are a key factor in determining whether a company is commercial or non-commercial. In this case, the state corporation certainly refers to non-profit legal entities.

The goals of creating a state corporation are among the main and key factors determining the scope of its legal personality. And the very goals of state corporations are strategically important for the state.

According to the provisions of Article 7.1 FZ “On Non-Profit Organizations” the sole founder of state corporations may be exclusively the state. This means that the right to establish such legal entities belongs exclusively to the Russian Federation, on whose behalf certain state executive bodies act on a legal basis exercising the authority to manage and control the activities of the state corporation.

Based on the analysis, it can be argued that a “state corporation” and a “corporation” differ in the degree of state participation in the establishment and management of a corporation. Modern Russian legislation accounts for the formation of state corporations based solely on state property, moreover, acquiring the right of ownership of this property. Unlike corporations the state corporation does not have a membership since the sole founder of state corporations is the state.

It has to be noted that the modern Russian state corporation in its specific characteristics does not apply to corporations in the generally accepted global legal meaning since this organization has broad powers to overcome large-scale socio-economic, financial and scientific and technical problems.

State corporations in Russia have a peculiar, privileged status in relation to other participants in the economic turnover. This conclusion is brought about by the fact that these forms of non-profit organizations are not subject to generally binding norms and rules applicable to other legal entities.

An independent basis for acquiring the ownership of the property of a state corporation will be a special federal law on the creation of a state corporation. At the same time, the list and composition of the property to be transferred must be determined in the deed of transfer signed by the parties (the Russian Federation and the state corporation) and approved by the executive authority.

All the above suggests that the exclusive status of a state corporation is predetermined by the socio-economic essence of the organization, which is determined by the content of the tasks assigned to it. The achievement of national social and strategic goals, in our opinion, is impossible without administrative authority in conjunction with commercial activities.

2. Problem Statement

The study of the characteristics of the emergence and implementation of such an ambiguous phenomenon as state corporations in the Russian economy is beyond doubt because even now the issues of their emergence and activities in the Russian Federation are causing disputes in Russian science. The lack of the necessary legal regulation, and in some cases the inconsistency of legal acts including the unresolved number of theoretical problems in terms of the ambiguity of law-enforcement practice predetermined the need for a theoretical consideration of existing problems inherent to legal regulation of public property rights of public corporations, the particularities of their occurrence (Ashtaeva, 2018).

Thus, the current legislation does not contain a clear solution to the problem of attributing the property of a state corporation to any form (either state or private). The issue of the types of property of state corporations, the legal regime of property is not resolved as well. The property transferred to state corporations in the process of creating them does not lose its intended purpose being meeting public interests due to the fact that the property is actually returned to the founder (RF) and can be further used in the interests of the state and society by other legal entities in case of termination of corporations.

The analysis of the current legislation enables to draw the following conclusion: the right of ownership arises since the establishment of the state corporation on the property transferred to it by the state in the form of a property contribution. Ownership is private in this case. After the state transfers property to the state corporation in the form of a property contribution it is the state corporation that exercises all the rights of the owner. The Corporation owns, uses, disposes property at its own convenience without the consent of the state authorities of the Russian Federation within the limits established by law. Notably, the state corporation has the right to perform any powers in relation to the property it possesses (Ashtaeva, Rubeko, Lidzheeva, Ivanenko, & Osadchenko, 2016). A state corporation is not liable for the obligations of the state and the state is not liable for the obligations of the state corporation unless the law establishing the corporation specifies otherwise. It follows from the above that the property transferred by the state to the corporation ceases to be state property. Property fixed with the state corporation on the right of ownership can only be used to fulfill the targets set for this corporation when it is established unlike other legal entities that are entitled to dispose property freely at their discretion (Ashtaeva, 2018).

Moreover, a state corporation unlike other legal entities may lose its ownership rights on the basis of federal law. Thus, one of the ways to terminate the ownership of a state corporation can be a federal law publication.

The property is withdrawn from a state corporation by the will of a person (the Russian Federation) who is formally not the owner of any other right to property. Consequently, the owner does not determine the fate of the thing in the case of a state corporation.

However, the state corporation itself has the right to dispose property in order to achieve the goals for which it was created.

Consequently, we have a split order authority.

In our opinion, it is necessary to talk about a new type of the rights to a state corporation property. It is not a case of either shared ownership or joint ownership (which differ from the ownership of a corporation by the authority to own, use and dispose property belonging to several persons). It seems that in this case it should be considered that a new type of property which should be called “target property”

arises. Such a term is proposed in view of the fact that the exercise of the proprietary rights, use and disposal is possible only for the purposes established during the state corporation establishment.

The legal treatment of target property is characterized by the following features:

- 1) it is created by transferring the property of the Russian Federation to the ownership of a state corporation;
- 2) the exercise of the right of possession, use and disposal is possible only for the purposes produced during a state corporation establishment;
- 3) the state retains the ability to influence the decision-making of a state corporation in the exercise of the proprietary rights;
- 4) the state affects the disposal of property by imposing restrictions in the law on the creation of a state corporation;
- 5) the state retains the right to seize property from a state corporation;
- 6) target property may include property that is solely state property (Ashtaeva, 2018).

3. Research Questions

The subject of the study is a set of problems associated with the emergence and implementation of the public corporations proprietary rights.

4. Purpose of the Study

The objective of the study is to develop a theoretical and legal framework for the state corporation's proprietary rights, its origin and implementation, with the subsequent development of recommendations aimed at improving the legal regulation of these relations.

5. Research Methods

The methodological basis of the study is presented by the following: a historical-legal method, which involves analyzing the formation and development of the institute of a state corporation; comparative law method, implying the comparison of various regulations, theoretical sources; a logical method for the application of induction, deduction, analysis and synthesis; technical and legal method, which implies interpreting legal norms and legal modeling. A systematic approach was used for analyzing individual legal relations.

6. Findings

The scientific novelty of the research lies in the developed new approach justifying the necessity to introduce a new type of property, namely, the target property of a state corporation. A special legal treatment of target ownership has been developed, the necessity of introducing new methods for the emergence and termination of ownership of the property of a state corporation has been proved.

The limits of the implementation of property rights mediated by the purpose of creating a state corporation, its functions as well as the presence of authority with the ability to conduct business (Ashtaeva, 2018) have been developed.

7. Conclusion

The conclusions and proposals formulated in the work deepen the theory of Russian civil law in terms of the provisions relating to the property rights of a state corporation, methods of its emergence and termination and the exercise of property rights can be used in further scientific development of the subject matter as well as in conducting research on the legal status of state corporations. The practical significance of the study is presented in its results which will be used in the educational process when reading civil law courses as well as the special course on property rights and other legal disciplines; in the development of teaching aids and complexes; to improve the Russian legislation governing the activities of a state corporation; in judicial practice that will allow to develop a uniform practice of application; in the state corporations functioning.

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