



CRITERIA FOR THE CLASSIFICATION OF CIVIL ORGANIZATIONAL AND LEGAL COMMUNICATIONS

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ABSTRACT

In this article, the author expresses his attitude towards the criteria and classification proposed by the lawyer scientists in relation to the classification of organizational and legal relations, concludes that it is necessary to introduce special norms in civil law for civil organizational and legal relations, in case of analyzing the expediency of defining the purpose of the appointment of these relations. He also put forward proposals and recommendations that organizational and legal relations can be divided into relations (initial), relations of carrying out activities of Legal Entities (corporate), relations related to property management (management of civil legal activities), which constitute legal relations and provide a legal basis for carrying out certain activities.

Keywords: Organizational and legal relations; civil-legal relations; property rights; civil law; corporate law; organizational-control and organizational-information; organizational-initial; organizational-representation.

INTRODUCTION

Organizational and legal relations, which are considered a separate type of civil-legal relations, are also classified as other types of civil-legal relations, and such a classification is distinguished by its wide coverage and diversity. Article 2 of the civil code of the Republic of Uzbekistan does not specify a specific commonality and strict criteria for the division of relations into types regulated by civil law. According to it, Civil legislation establishes the legal status of participants in civil circulation, the basis for the formation of property rights and other property rights, the rights to the results of legal activity, as well as the procedure for their implementation, regulates contractual obligations and other obligations, other property and personal non-financial relations associated with it.

As in the textbooks of civil law, the types of civil legal relations are divided into types in general order. However, not every species of them is tried to classify. For Example, I.B.Zakirov proposes to establish the basis of legal relations in the division of civil-legal relations into types, the scope of powers of subjects of legal relations, the origin of material and intangible blessings from the state of civil circulation.

Although in the civil code it is not established that organizational and legal relations are regulated by civil legislation, it is worth noting that organizational and legal relations are also regulated by civil law, taking into account the fact that the main place in civil law regulation is the organization of dispositive



norms. The current civil legislation regulates organizational and legal relations both through its general norms and in separate special norms.

In its essence, the list of organizational relations, which is not considered a property and personal non-existent relationship, is aimed at the organization, formation and maintenance of other relations, is considered quite extensive today. This situation makes it difficult to legally regulate organizational relations by legislation, and here defines separate norms in civil law for civil organizational and legal relations in the regulation of the complexity and development of multifaceted social relations.

MATERIALS AND METHODS

Civil organizational-legal relations as mentioned above, represent social relations between entities that are legally equal and have property independent, autonomous will and subjective organizational rights provided by the state and undertake subjective organizational responsibilities.

These legal relations have a certain commonality, and within the framework of this commonality they can be divided into separate groups.

The division of civil organizational and legal relations into types, classification of it originally proposed by O.A.Krasavchikov. In his opinion, these legal relations can be classified according to a number of signs for scientific purposes (according to the stability of these legal relations, according to their subspecies, according to their social content). According to this criterion, civil organizational and legal relations can be divided into the following types:

- 1) organizational-initial (causative) relations;
- 2) organizational-representative relations;
- 3) organizational-control relations;
- 4) organizational-information relations.

Of course, such a differentiation of civil organizational and legal relations arises from the types of non-proprietary legal relations. However, it will also be possible to divide organizational and legal relations that are part of the subject of civil law into types according to other criteria. For example, civil organizational and legal relations can be divided into pure civil organizational and legal relations, which are not related to corporate legal relations and corporate relations. At the same time, it is also possible to divide organizational-legal relations into organizational relations, arising from the activities of legal entities, at the time of conclusion of contracts and arising from contracts. The organizational and legal relations arising from the activities of legal entities, including the relations associated with the registration and management of the legal entity, the stages of establishing contractual relations and the contractual arrangements for the organization of transportation (the offer and the contract). acceptances and methods (auctions, tenders), and also the power of attorney on relations arising from contracts, trust management of property, and such the organizational and legal relations that arise from them. It is also recognized in the literature that there are other types of civil organizational-legal relations.

However, in the deep analysis of civil-legal relations it is important to study the differentiation proposed by O.A.Krasavchikov and to give a scientific-theoretical evaluation.



Organizational-initial relations recognition of citizenship as an independent type of organizational-legal relations O.A.Krasavchikov notes that these relations arise on the basis of attachment to the formation and implementation, and in some cases on the basis of the development of basic (property or personal non-property) relations. O.A.Krasavchikov introduces a lot of legal ties into organizational-initial relations, but in many places it is limited to bringing some examples to them. In his opinion, the following can be an example of an organizational-initial relations:

- a) Product delivery, capital construction contract, project and search works contractual obligations;;
- b) Obligations arising from transport agreements between contractors in the field of organization of transport activities;
- c) Other agreements establishing organizational-legal relations.

Organizational representative relations are a special type of civil-law relations, and as a result of their implementation, the right to carry out a specific property or non-property act is transferred from one person to another. Organizational-representative relations include:

- a) Relationship that implies issuance and recall of power of attorney;
- b) Relations with the election of the governing body of a legal entity;
- c) Relations with the election of a representative for participation in the work of a high-ranking body of corporate or social organizations.

Organizational-control and organizational-information relations are seen as a separate independent type of civil organizational-legal relations. O.A.Krasavchikov connects their implementation with the creation of the necessary conditions for the adequate development of the main “organizational” relations, legal relations and ensuring the stability of these relations.

The scope of organizational-control and organizational-information relations is broad enough. O.A.Krasavchikov believes that the following legal relations can be included in the organizational-supervisory relations:

- a) Competence of project organizations on authorship control;
- b) The right to demand the fulfillment of the task from the intermediary set by the committee;
- c) The right of the customer under the contract of capital construction to carry out control and technical inspection from the contractor for the volume, cost and quality of performance of work.

As for the organizational-information relationship, O.A.Krasavchikov introduces the following legal relations:

- a) the obligation of the contractor to timely warn the customer of the circumstances of the suitability and durability of the work performed, the obligation of the buyer to warn the buyer about the rights of third parties in relation to the goods;
- B) the obligation of the assignee to inform the debtor of the fulfillment of the obligation and other messages; the obligation to exchange information between the committee and the intermediary.

Of course, these analyzes and the criteria and types of differentiation of civil organizational-legal relations into types have a specific logical and legal basis, as well as consistency. However, in terms of content and in essence, the examples given to all types of civil organizational and legal relations, and the civil-legal structures cited for their justification, are more closely related to proprietary legal



relations. It is reasonable to admit that the types of civil organizational-legal relations proposed by O.A.Krasavchikov, emphasizing that their naming is specific, the examples presented to them are controversial in today's modern civil legislation. Consequently, in today's civil legislation, organizational-initial, organizational-representation, organizational-control and organizational-information relations have gained new meaning and meaning with the improvement of corporate legislation and relations. Now there is an opportunity to come up with a lot of legal relations, which are inherent in each type of civil organizational-legal relations and have a pure organizational-legal character. For this reason, it is possible to bring not only new and absolutely pure organizational attitudes that relate to the justification of the types of civil organizational and legal relations, but also it is possible to offer new types of civil organizational and legal relations, which O.A.Krasavchikov proposed. This situation is primarily due to the fact that the methods of civil-legal regulation are well established, the state participation in the activities of legal entities and subjects of entrepreneurial activity is significantly reduced, as well as the definition of new bases of civil legislation specific to the market economy.

In our opinion, the transition of corporate relations and their types as a new type of civil organizational-legal relations is of paramount importance. In the legal literature, it is recognized that corporate relations are a new kind of legal relationship. In Particular, according to O.A.Zakirov, in the system of market relations, a new type of civil-legal relations-corporate legal relations-also arose, which led to the fact that the circle of the subject of civil law is connected with organizational-legal relations. Organizational-legal structures of subjects with signs of a legal entity are legal relations that arise on the basis of membership (participation) in corporations. The content of such legal relations is corporate law. But without a purely private legal attitude to corporate legal attitude, it covers also elements of some public-legal attitude (tax, administrative management).

According H.R.Rahmonkulov and S.S.Gulyamov's opinion, corporate law is considered a branch of civil law. First of all, this is explained by the similarity of regulated relations with the fact that in this or that case it acquires a property character and has the property of forming an alternative remuneration. According to P.V.Stepanov, corporate relations have a property nature and, consequently, on their basis, the economic relations of the property lie.

A.M.Erdelevsky notes that participation in management and the right to information is a personal non – exclusive right, since they do not have property content and, by their nature, are inextricably linked with the individual, are not separated from it.

Exactly such point of view S.N.Bratus also indicates, and according to his rule, the rights arising from membership in the organization belong to personal non-exclusive rights, which are the rights that are not alienated, separated from the member of the organization, until they leave the membership, belong to this member.

According to V.A.Rakhmilovich's confession, internal organizational relations of the corporate type express a mixed combination of property and personal non-property relations, and at the same time it is impossible to come to a firm decision on the property nature of organizational relations.



In our opinion, here B.A.Rakhmilovich's thoughts are quite relevant. Because membership relations, that is, the membership of a subject in a certain organizational-legal structure of legal entities, express a combination of specific material and intangible interests, and therefore, in most cases, these rights and freedoms, and in the absence of them, give the opportunity to interpret the relations associated with them as civil organizational-legal relations. Also, the legal relations between membership and its rights and organizational-legal structures constitute create such a system of social and legal relations, as well as the organizational-legal structures, constitute such a system of socio-legal relations that in the system of civil legal relations constitute a separate category, system and society, these relations can be called corporate relations, and by defining common and mixed property.

The right of membership, which expresses a specific synthesis of property and personal non-property rights, is considered significant with indivisible and non-separable. For example, in this combination, the following property rights can be seen:

- The right to receive income;
- The right to receive the termination quota;

Personal property rights in this synthesis include the following:

- The right to participate in management (the right to call the general meeting of members, the right to participate in the general meeting, the right to be elected to the bodies of a legal entity);
- The right to receive information;
- The right to control.

Participants will be able to transfer from one person to another, in other words, these rights are rights that can be alienated from the owner, in contrast to the traditional non-traditional rights of the legal nature of non-nominal rights. Therefore, these rights and the relations arising from them can be considered as civil organizational-legal relations.

In the theory of civil law the differentiation of civil organizational-legal relations, cited by O.A.Krasavchikov, is not only deeply studied, but also in some places critical relations are expressed in such a classification. Such classification is based on the content of those or those links. However, the first group (organizational-initial relations-V.T.) another common criterion is separated from the role of organizational-legal relations.

As noted above, the relations of the first group, separated by O.A.Krasavchikov, include organizational-initial and organizational-representative relations. According to T.I.Illarionova, this group includes the relations of the offerent and the acceptor before the contract, representative relations, relations that create the conditions for the existence of an absolute right of ownership, relations that make up some non-legal relations (for example, relations between persons who applied with the same formula of the invention) and some other relations.

As recognized above, the second group of organizational relations by O.A.Krasavchikov includes control, information and other relations. T.I.Illarionova noted that apart from these relations, this group includes the legal relationship between the author and the publisher, which is based on the procedure for expressing respect when the legal relationship and contractual obligations arising before the publication of the work are violated.



It can be concluded that in these views expressed in relation to the classification of civil organizational-legal relations, the state of certain generality and justification for a single criterion are not considered. In other words, the differentiation (division) proposed by O.A.Krasavchikov tries to group all the relations existing in civil law and practice, proceeding from this or that point of view, and does not intend to classify them. Also O.A.Krasavchikov conditionally divided the elements of a certain legal relations into groups of organizational-legal character, and also called their nomenclature by a single criterion.

The differentiation of civil organizational-legal relations by T.I.Illarionova is different from O.A.Krasavchikov's current reality differentiation, it is based on other criteria. T.I.Illarionova not only distinguishes them, but also classifies organizational-legal relations by dividing them into two independent groups. According to it, the first group of organizational-legal relations is not considered the initial (initial and representative), the second group is the initial relationship (but rather the supply relationship-control, information relations).

K.A.Kirsanov believes that the differentiation of civil organizational-legal relations proposed by O.A.Krasavchikov, and the differentiation of T.I.Illarionova are not a differentiation of civil organizational-legal relations, but a differentiation of organizational-relations, which is distinguished in the subject of civil law. Here criterion of social content proposed by O.A.Krasavchikov and the criteria for the functional task expressed by illarionova are not intended for the classification of organizational-legal relations, but for the classification of organizational-relations.

In our opinion, the proposed criteria for the classification of organizational-legal relations in this place are considered important in the classification of these relations, in the identification and legal regulation of their system. Therefore, the criteria for dividing them into species should be based not only on the criteria of social (sociological content and functional significance), but also only on legal criteria, and in this they should be considered the basis of the classification of organizational-relations as social relations within the scope of the subject of civil law.

In the legal literature, it is proposed to classify civil organizational-legal relations according to the criteria for their normative designation, and in this case it is proposed to divide them into independent organizational and legal relations ("organizational and legal relations in pure form") and "relatively independent" organizational-legal relations, that is, legal relations in civil legislation, recognized as an element.

In our opinion, the criteria proposed for the division of civil organizational-legal relations into types, as well as such types of organizational-legal relations, are also controversial and respectful. After all, organizational-legal relations in this way can be divided into two, in general, and dividing them into pure organizational-legal relations and non-pure, relatively independent and auxiliary organizational-legal relations can contradict the content and essence of these relations and lead to incorrect legal assessment of them. For example, organizational-legal relations, such as the creation of a legal entity, the formation of a statutory fund, the conclusion of constituent contracts, can not be resolved strictly on the issue of belonging to exactly independent organizational and legal relations or "relatively independent" organizational-legal relations. At the same time it can not be considered that in the



legislation of this or that organizational-legal relations is a pure organizational-legal relationship, elements of such property and personal non-political relations are not foreseen.

Therefore, it is desirable to establish the purpose of the appointment of these relations as a legal criterion for the classification of civil organizational relations. Here can be divided into organizational-legal relations (initial), relations of legal entities (corporate), relations related to property management (management of civil legal activities, but not representative) and other similar relations, which constitute legal relations and form a legal basis for the implementation of certain activities.

As recognized above, critical relations were expressed in the types of civil organizational and legal relations proposed by O.A.Krasavchikov and the criteria for their classification. One such critical approach is as reported by O.S.Ioffe, it would be possible to assume that the provisions of many other civil-legal norms are also inherent in this type of relations, in his opinion, because of such reasoning on organizational relations. As a result, numerous civil organizational-legal relations, recognized by O.A.Krasavchikov can arise which in turn do not fit into the four types of circles proposed by the author.

It is ranked O.S.Ioffe's thoughts can not be joined. O.A.Krasavchikov noted that according to the social content there are many types of civil organizational-legal relations, and since he left the list open, he did not put in this place the separation of all types of civil organizational-legal relations, as his first priority task, as well as the determination of the location of each of them.

On the classification of organizational relations T.V.Kashanina's point of view is of particular interest. T.V.Kashanina distinguishes and analyzes various types of organizational relations through the prism of organizational contract.

1. Pure organizational agreements: constituent agreements (on the establishment of corporates and corporate associations); agreements on reorganization; agreements on the termination of activities.
2. Agreements on joint activities (ordinary company contracts), management contracts for them (for example, on granting to the management of another corporation); contracts between executive bodies and legal entities; contracts for the exchange of information (information contracts); mutual control and some other agreements;
3. Preliminary agreements: simple preliminary agreements (for example, agreements on the organization of transportation) and agreements on the establishment of long-term economic relations;
4. Mandatory contracts (in particular, the state contract);
5. Investment agreements;
6. Agreements on the order of the enterprise;
7. Contracts for participation in profits.

T.V.Kashanina noted that the "list of the types of organizational contracts indicated is not complete, although large"

According to H.R.Rahmonkulov and S.S.Gulyamov, in the practice of entrepreneurial activity of corporate organizations, several organizational and legal contracts are known. Among these, the following can be included:

- on the establishment of legal entities in the form of constituent contracts (full economic associations, a company, including a corporation);



- agreements on reorganization (addition, subtraction, modification, division, addition, subtraction);
- agreements on cooperation;
- preliminary contracts (basic contracts for the performance of work or for the provision of services find property on the conditions specified in the initial contract);
- корпорация тузлишининг ўзидаги ташкилий-ҳуқуқий муносабатлар;
- Organizational-legal relations of the corporation itself;
- contracts for establishing long-term economic relations;
- other agreements that fall under the subject of civil law, which can be used in the activities of corporate organizations.

In our opinion, although the differentiation of organizational contracts presented by T.V.Kashanina has a specific scientific value, it has certain shortcomings also.

In particular, T.V.Kashanina remains open to the fact that on the basis of what criteria the organizational contracts divided. The fact that there is no single criterion for classification, in its essence the fact that T.V.Kashanina has types of organizational contracts and the list presented by her indicates that she does not have a final tone. At the same time, it seems that the division of organizational contracts into types within separate groups does not have a clear and logical sequence in some places. For Example, the division of preliminary contracts by T.V.Kashanina into simple preliminary contracts (the contract of the organization of transportation) and contracts aimed at establishing long-term economic relations. Because according to Article 722 of the civil code, the carrier and the shipper can also conclude a long-term contract for the organization of transportation, depending on the necessity. This means that the legislator gives the parties the opportunity to conclude a contract for the organization of long-term and permanent, systematic long-term transportation, which implies the establishment of a long-term organizational relationship between them.

In our opinion, although T.V.Kashanina's citation of the types of organizational contracts acquires a specific science, she does not take into account the cases when organizational-legal relations are formed on the basis of other legal facts, and therefore have a one-sided character.

It is also worth paying special attention to the division of organizational and legal relations by A.M.Martemyanova into types from the point of view of their connection with property and legal relations of obligations. The location A.M.Martemyanova explained that civil organizational-legal relations are inextricably linked with the legal relations of obligations, that “the organizational-legal relations are divided into two large groups, proceeding from each of these links,” the first group creates (changes, ends) the legal relations of obligations, and the second group of legal relations ensures their development, validity and is part of them.

In our opinion, A.M.Martemyanova will also be able to talk about the connection of civil organizational-legal relations with compulsory legal relations, and about the two groups of this legal relations on the basis of their presence in the two groups with property and non-legal relations. In this, legal relations in the first group will focus on the emergence of “organizational” legal relations, while legal relations in the second group will focus on the regulation, development of existing organizational-legal relations. For this reason, organizational relations in the first group can be called organizational-legal relations,



in which the right is established, and the legal relations in the second group are organizational-legal relations that provide the right.

CONCLUSIONS

Proceeding from the situation in modern civil law, the civil organizational-legal relations arising from the law can be attributed to the following: representative legal relations (Article 129 of the Civil Code); legal relations arising from the initial agreements (Article 361 of the Civil Code); relations arising from the agreements for the organization of transportation (article 722 of the Civil Code); legal relations for the organization); legal relations in the process of concluding a contract (articles 364-381 of the Civil Code); legal relations arising from the legal regulation of the emission of securities (Article 96 of the Civil Code, article 35-46 of the law “on the rights of the joint-stock companies and shareholders”); the organizer of the lottery and the participant of the lottery-the legal relations between the owner of the lottery ticket (article 984 of the Civil Code); the legal relations with the acquisition of property rights to found or neglected domestic animals (articles 192, 195 of the Civil Code) and other legal relations.

On the basis of the analysis of the current civil law, the following legal relations can be entered into the organizational-legal relations that provide the right: the legal relations whose content constitutes the right of the shareholder to receive information about the activities of the joint-stock company (article 27 of the law “On the rights of the joint-stock companies”); warning the customer about the circumstances of the contractor's performance of the contract and the relevant right of the customer (article 393 of the Civil Code); obligation of the contractor to provide information to the customer and the relevant right of the contractor (article 643 of the Civil Code); the obligation of the contractor to provide information to the customer and the corresponding right of the contractor (article 643 of the Civil Code); the representative must provide him with information on how the assignment is performed in accordance with the request of the assignment operator and the relevant right of the assignment operator (article 820 of the Civil Code), etc.

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