JOINT-STOCK COMPANIES IN RUSSIA AS THE MOST IMPORTANT FORM OF CORPORATE ORGANIZATIONS: THE LEGAL BASIS OF ORGANIZATION AND FUNCTIONING

INTRODUCTION
This article is devoted to the analysis of the concept and legal status of joint-stock companies in the Russian Federation.

LITERATURE REVIEW / STATE-OF-ARTS / RESEARCH BACKGROUND
The organization and activities of corporate organizations in the Russian Federation have been widely studied in the works of such legal scholars as: Popondopulo V.F. (POPONDOPULO, 2015), Zalesny J. (ZALESNY, GONCHAROV, 2020, p. 1-6; ZALESNY et al., 2019, p. 51-61), Mogilevsky S.D. (MOGILEVSKY, 2004, p. 327), Shitkina I.S. (SHITKINA, 2019), Kurbanov R.A. (CORPORATE, 2021), Gabov A.V. (CORPORATE, 2018), Ruchkina G.F. (CORPORATE, 2020) However, the research of such an important type of corporate organizations as joint-stock companies is a promising area of scientific research in Russian corporate law. In this regard, the legal analysis of the legal foundations of the organization and activity of joint-stock companies in Russia will create a basis for a comprehensive study of not only this type of legal entities, but also will identify the main directions of development of commercial corporate organizations in the Russian Federation in the coming years.

METHOD ALSO CALLED MATERIALS AND METHODS OR EXPERIMENTAL METHODS
This article in the process of cognition of state-legal phenomena were used: a) General scientific methods (formal-logical, systemic, structural-functional, concrete-historical); b) General logical methods of theoretical analysis (analysis, synthesis, generalization, comparison, abstraction, analogy, modeling, etc.); c) private scientific methods (technical and legal analysis, specification, interpretation, etc.) (GONCHAROV et al. 2021a, p.362-366; GONCHAROV et al. 2021b, p.367-373; GONCHAROV et al. 2021c, p.374-382; GONCHAROV; CHIMITOVA 2020, p. 86-95).

MAIN PART
Joint-stock companies against the background of many other types of organizational and legal forms of legal entities and types of business companies are among the most ancient. At the same time, the legislation on joint-stock companies in the Russian Federation and abroad is the most detailed developed. The history of the creation and development of joint-stock companies dates back a long time before its actual consolidation in the legislation. It is generally believed that the first analogues of joint-stock companies originated at the turn of the 12-13 centuries, which was dictated by the development of commodity-money relations.

Around this time, the first analogues of joint-stock companies in Russia were created for the first time. According to scientists, this was due to the fact that the government circles had a certain interest in carrying out business activities abroad, for which it was necessary to establish
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an appropriate trade organization, which would include people with a certain level of capital. (ON, 1830) So it was decided to create organizations, the attraction of capital investments in which took place by placing an open subscription. The first such public legal entity was the first Constantinople Trading company in Russia, and then the Persian Trading Company and other organizations whose activities were aimed at carrying out trading activities abroad. = Thus, already in the fifteenth century of the last millennium, the state pursued a certain kind of paternalistic management policy by creating trading companies, in which the state played a major role. The historian Tarasov I. T. says that during that period the transition from state administration to joint-stock companies was gradually carried out. (TARASOV, 1878, p. 19)

One of the very first normative legal acts that regulated the creation of public companies in Russia was the provision "On partnerships in land plots or companies in shares" from 1836, the norms of which were applied until 1917. (ON, 2020) A special feature was the fact that it was possible to establish exclusively public societies, the activities of which were based on open subscription. It is worth noting that the first such organization was the Tula company for the production of sugar from beetroot, (CHARTER, 1829, p. 1659-1660) established in 1829, that is, even before the actual adoption of a normative legal act, which would provide for the creation of such legal entities. The shares of this company, despite their open nature, were distributed exclusively among a certain circle of persons who were part of one of three estates: the first-class merchants, the nobility and the clergy. The society of the Narovsk Manufactory, the Tsarevskoe Manufactory Share Society, (ON, 1837, p. 650) a private society for the dissemination of sericulture (ON, 1836, p. 562) and a number of others.

By 1911, the "Practical Manual for Merchants" for the first time featured a new form of legal entities called "unit partnership", the main difference of which, against the background of public companies, was represented in the form of the fact that the capital of the partnership consisted of large shares of participants, which de facto limited the number of partners (shareholders) who were part of this type of company. (GORBACHEV, 1911, p. 37). Considering that the relations in these companies were fiduciary and were based solely on the mutual trust of the participants, the legislator gave them the opportunity to independently determine the procedure for acquiring and alienating the shares owned by the participants, as well as independently determine the procedure for managing the company, which in practice often led to a violation of the current legislation. The closed nature of such companies was clearly traced in the texts of the charters of these organizations, which provided for the condition of the preemptive purchase of shares, as well as the restriction of the right to sell these shares to third parties, by introducing a limiting condition in the form of submitting a mandatory application to the board of the company about the desire to sell the existing share: "so as not to turn this private enterprise into a public one". (ON, 1836, p. 562-563)

As noted by Pisemsky P.F. in his scientific work on joint stock companies: "The doctrine distinguishes between a blown foundation and a complete one. Under the blow, the founders parse the shares among themselves, avoiding public subscription, and then sell the enterprise to other persons". (PISEMSKY, 1876, p. 120). Thus, we can say that in pre-revolutionary Russia there was the possibility of creating both public and non-public organizations, in essence very similar to modern public and non-public joint stock companies. The main feature of non-public ones was that until recently they were not included in the regulatory framework in the form of a full-fledged and separately existing form of a legal entity.

Nevertheless, until 1911, such societies were artificially distinguished from the public societies that existed at that time, in practice this was manifested in the fact that shares were placed only among the founders and their close "friends". As a result of the political reforms of 1917, entrepreneurial activity in Russia was liquidated, and joint-stock companies were nationalized, which was a serious obstacle to the further natural development of joint-stock companies as a type of legal entity. But already 5 years later - by 1922 - in the process of pursuing a new economic policy, joint-stock companies reappear and are already officially enshrined in the text of the Civil Code of the RSFSR of 1922. (ON, 2021a) According to chapter five of this regulatory legal act, it was possible to create two types of subscriptions in companies: open and closed (private). At the same time, it provided for the creation of state-owned joint-stock companies, whose shares were distributed exclusively among state-owned enterprises, which was spelled out in the text of the action itself.
After 1927, societies began to gradually liquidate and their revival began only at the end of 1988, when enterprises began to issue shares of the labor collective and shares of organizations. (ON, 2021b) and in the early 1990s, due to the transition to a market economy, a complete reformation was carried out institute of joint stock companies, which led to the adoption in 1990 of the Regulation "On joint - stock companies". (ON, 2021c) Now the creation of public and non-public companies was allowed in the country. In the first article of this resolution, it was said that a joint-stock company is a type of organization whose formation is based on the principle of voluntariness and is an agreement between individuals and legal entities. At the same time, the fact that a foreign element can act as a participant in a joint-stock company was separately allowed.

The main goal of the activities of the joint-stock company, the legislator, was the joint activity of the members of the company, aimed at meeting the needs not only in the form of profit by the members of the legal entity itself, but also in meeting public interests. Today, the concept of joint-stock companies, as well as the status and other features of this type of commercial organizations, is contained in a number of regulatory legal acts. The full definition of a joint-stock company is given in the first article of the Federal Law "On Joint-Stock Companies", which develops the definition given in the Civil Code of the Russian Federation.

Let’s consider this concept from the perspective of various legal sources. According to article 96 of the Civil Code of the Russian Federation, a joint-stock company is a company whose authorized capital is divided into a certain number of shares, the participants of the joint-stock company are not liable for its obligations and bear the risk of losses associated with the company’s activities, within the value of the shares they own. Shareholders who have not fully paid for the shares are jointly and severally liable for the obligations of the joint-stock company within the unpaid part of the value of their shares.

A practically similar definition is contained in the norms of the second article of the Federal Law "On Joint - Stock Companies". It says that a joint-stock company is a commercial organization, the authorized capital of which is divided into a certain number of shares, certifying the obligations of the company’s participants in relation to the company. The shareholders are not liable for the company’s obligations and bear the risk of losses associated to its activities, within the limits of the value of their shares. Shareholders who have not fully paid for the shares are jointly and severally liable for the company’s obligations within the unpaid part of the value of their shares. Shareholders have the right to alienate their shares without the consent of other shareholders and the company.

A number of authors give their own concept of a joint stock company: “This is a business company, the authorized capital of which is divided into a certain number of shares ... is responsible for all its obligations. The owners (shareholders) are not liable for the company’s obligations. They can only suffer losses from the fall in the value of their shares. That is, the participants of the joint-stock company are not liable for its obligations and bear the risk of losses related to the company's activities, within the value of their shares". (CIVIL, 2018, p. 108)

V.F. Popondopulo believes that a joint-stock company: "It is a company created by agreement of legal entities and citizens by combining enterprises into a single legal entity. The partners of the joint-stock company participate by contributions in the authorized capital divided into shares. Shareholders are not responsible for the obligations of a joint - stock company. Shareholders risk only their own contribution". (POPONDOPULO, 2015, p. 191)

In turn, Pavlova E.A., in her scientific work, says that, in his opinion, a joint-stock company is: "The organizational and legal form of existence and functioning of enterprises that form their capital through money issue and sale of shares. The joint-stock company is created on the basis of a voluntary agreement of legal and physical persons. The joint-stock company has as its goal joint economic activities aimed at making a profit in the interests of shareholders. Joint-stock company, joint-stock society". (CORPORATE, 2019, p. 82)

If we turn to international practice, then in different countries there is a very interesting and not similar to our domestic formulation, approach to the concept of a joint-stock company. Thus, in the countries of the Romano-German legal system, a joint-stock company is considered a type of partnership, the capital of which is divided into shares and the participants of which are
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Liable for the company's obligations only within the limits of their contributions. In England, the concept of a joint stock company is very laconic and at the same time no less precise. According to the text of the Companies Act 1985, a joint stock company in England is a company with a liability limited to the nominal amount of shares, and the name itself sounds like "Public Limited Company".

If we combine the concepts from the above sources, then we can say that a joint-stock company, in essence, are commercial organizations, that is, legal entities whose activities are aimed at systematically making a profit in the form of their main activity. To carry out their main function - making a profit - joint-stock companies need a stable property base or, in other words, authorized capital, which in turn can be divided into separate parts in the form of securities (shares), while the participants (shareholders) themselves are responsible for the activity of a joint stock company exclusively within the framework of the par value of the shares held by them on the right of ownership. Shareholders have the right to alienate their shares without the consent of other shareholders and the company.

CONCLUSIONS AND FURTHER RESEARCH

Analyzing the existing approaches to the concept of a joint-stock company in Russian and foreign legislation, as well as the point of view of modern legal scientists, we can say that the existing approach to the nature of a joint-stock company in the Russian doctrine of law is the most profound and accurate. The position of the legislator, which he demonstrates in the provisions of the current edition of the Civil Code of the Russian Federation, as well as the Federal Law "On Joint-Stock Companies", regarding the concept of a joint stock company, is successful. Considering the long history of the development of this institution both in Russia and abroad, the legislator took into account all previously existing concepts regarding the concept and legal nature of a joint stock company.

The legislator focuses on the special basic characteristics of a joint-stock company and its special legal status in the Russian Federation in order to distinguish it from the background of other organizational and legal forms. So, being a legal entity, a joint-stock company should have on its balance sheet separate property, which is fully responsible for its obligations, while the liability of the participants themselves is limited, which in practice favorably distinguishes the joint-stock company against the background of other organizational and legal forms. It should be understood that the relationship between the shareholder and the company is of an exclusively binding nature. A person who invests in the capital of a company acquires rights of obligation in relation to the company, which manifests itself in the right to receive part of the dividends from the company's activities, as well as to participate in the management of the company.

Cash and other property values transferred by a shareholder as payment for shares become the property of the company, and the shareholder has no right to demand their return, just as he cannot return the acquired shares back to the company with the aim of further withdrawal from it. A shareholder is only entitled to: sell, donate or bequeath these securities. In addition, based on the above features of the legal status of a member of the company, we can talk about the operation of the principle of independent responsibility, because as the company is not responsible for the obligations of shareholders, and the member of the company bears no responsibility for the activities of the company. The legal entity itself can own separate property, recorded on its independent balance sheet, can, on its own behalf, acquire and exercise property and personal non-property rights, bear obligations necessary for the implementation of any activities not prohibited by federal laws, be a plaintiff and defendant in court ... All the features of the work and the internal organization of the company are spelled out in its constituent document.

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Joint-stock companies in Russia as the most important form of corporate organizations: the legal basis of organization and functioning

Sociedades anônimas na Rússia como a forma mais importante de organizações corporativas: os fundamentos legais da organização e funcionamento

Las sociedades anónimas en Rusia como la forma más importante de las organizaciones corporativas: los fundamentos jurídicos de la organización y el funcionamiento

Resumo
Este artigo é dedicado à análise do conceito e do estatuto jurídico das sociedades anônimas na Federação Russa. Os autores analisam a dinâmica do desenvolvimento do Instituto de sociedades por ações na Rússia desde o momento de sua aparição até o presente.


Abstract
This article is devoted to the analysis of the concept and legal status of joint-stock companies in the Russian Federation. The authors analyze the dynamics of the development of the institute of joint stock companies in Russia from the moment of its appearance to the present.

Keywords: Joint-stock company. Corporate control. Commercial organization. General meeting. Civil law mechanisms.

Resumen
Este artículo está dedicado al análisis del concepto y la condición jurídica de las sociedades anónimas en la Federación de Rusia. Los autores analizan la dinámica del desarrollo del instituto de sociedades anónimas en Rusia desde el momento de su aparición hasta la actualidad.