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MUTUAL RELATIONS BETWEEN THE PHYSICAL PERSONS WHO HAVE UNITED IN CORPORATION

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Abstract. In article are analyzed a complex of problems by definition of the status of corporations and shareholders and practice of its realization.

Keywords: corporations, business, profit maximization, corporate activity, shareholders, funds.

The essence of corporation as legal subject was and remains disputable in a legal and economic science. Such argument from time to time was put forward that the corporation is the subject separate of the participants, and thus disagreements arose concerning what subject is the corporation. Recently there was debate on the basis of aggregate theories of the corporate person, with refusal of understanding of corporation as real person. There are more many questions at issue, in particular - whether the corporation really separate being or only aggregation or association is. Not clearly and what should be attributes for a recognition of corporation the person. Meanwhile there is a common opinion only how to understand mutual relations between the physical persons who have united in corporation. Considered problems, from our point of view, demand still the further deep studying taking into account all pro and contra. The given problem, is more true a complex of problems, demands deep and all-round studying taking into account achievements of a world legal science, domestic and foreign legislative definition of the status of corporations and shareholders and practice of its realization, especially in economy of the most developed countries.

Thus it is necessary to take into consideration following [1]:

1. It is impossible to be limited to corporation consideration simply as "legal fiction" [2]. Corporations really exist in the world and actively participate not only in business sphere, but also in the decision of very important social and economic problems, including in formation of a class of proprietors (especially their center), in satisfaction of inquiries of a society in any material and intellectual values, in the decision of acute problems of employment of manpower reserves etc.

2. Corporations are real-life legal bodies whom, as well as physical persons, participate on corresponding legal base in business and in general in market, commodity-money relations that is why are required accurate definition of their legal status (the rights and duties) and maintenance of appropriate legal protection that by no means it is impossible to oppose to the rights of shareholders creating these organizations and their protection.

3. Profit maximization, certainly, is an overall objective of those persons which form corporations (shareholders), and also other participants of corporate activity (the director, managers, investors, workers of joint-stock company, etc.). Such purpose cannot, should not in originally lawful state and a mature civil society to justify any means of its achievement [3]. It is necessary to create and actively to apply corresponding legal barriers for any offences and abusing of all groups of participants of corporations, whether it is shareholders, directors, managers, etc. They are obliged to operate only within the limits of laws, the rights and powers which should be fixed accurately in charters and other documents already at creation of each corporation. Effectively operating mechanism of control over observance of these norms of laws, charters, etc. as in corporations, and from the outside, with indispensable maintenance of appropriate protection of the rights and legitimate interests of all participants of corporate activity should be created.

4. Shareholders have the right to the property, the means enclosed by them, but it should not contradict doubtless presence of the property rights of corporation as a whole [4]. Here the general laws of a parity whole as systems and it gel-forming elements are obviously shown. It is necessary to consider that any subjects, entering any leagues, the unions, communities, should combine dialectically the rights, interests and duties with the rights, interests and duties of the associations created by them - legal bodies. Thus an unbiased fact is that at any voluntary association of people each of them volens- nolens renounces any part of the rights (it occurs even in marriage, to a family), i.e. necessarily considers (time it is association - voluntary) the rights and interests of other participants of these relations. Any community exists only because to it the certain part of the rights of persons (physical or legal), its formed [5] is delegated. And it means that shareholders allocate with certain circle of the specific rights (and duties) directors, managers and other participants of corporate

activity. But it does not mean that the last have the right to operate to the detriment of interests of shareholders, their aiming at reception of a maximum of profits on the investments in joint-stock company. Abusing's mercenary acts of directors, managers should be strictly punishable, including norms not only civil, administrative, but also criminal law. Founders and proprietors of joint-stock companies all the same are, in spite of on any arguments, – shareholders. The corporation certainly belongs to them (with all its property, the purposes, the rights, etc.), and their status cannot be reduced and to position of simple investors [6]. Otherwise their participation in creation and corporation activity loses any meaning.

5. Corporations are created and operate on the basis of corresponding with the state of institution norms of laws and subordinate regulatory act certificates and in this sense undoubtedly depend on will of the state. And the state regulation role in this business is very great, about what tells all international experience of designing of corporations.

In Uzbekistan, before finding of independence no corporations existing and the pluralism of patterns of ownership and, accordingly, creation of any corporations have appeared on the post-Soviet territory only thanks to acceptance of the Constitution and many legislative and subordinate regulatory act certificates, i.e. they are authorized by the state, and their creation, the status, activity by the state certificates are regulated. So corporations are free to carry out all activity, but is strict within the limits of the law, i.e. their freedom is relative, and to speak about any absolute independence of corporations of the state simply senselessly. It is not necessary to confuse will of the state to an arbitrariness of its separate bodies or their officials [7]. Their attempts to break the right and legitimate interests of corporations and their participants - are illegal.

6. Have under itself no real objective base and the statement that corporations basically have no socially directed purposes, do not depend on a society as a whole and consequently should not solve any social problems is a business supposedly of the state, its bodies well-to-do, maintenance, public organizations, etc. to live in a society and to be free from a society it is impossible. Corporations in practice solve many social problems (growth of material security of citizens; care of economic safety; the social help to workers of corporations; the decision of problems of labor employment of the population, etc.). Foreign corporations through any funds are engaged in sponsorship, patronage of arts, allocate means for the humanitarian help, for needs of youth, is weak the well-to-do, on nurseries and medical institutions, on development of sports, a science, cultures, etc. And their voluntary activity is stimulated with the state (we will tell, by the preferential taxation) and highly estimated by a society [8]. But all becomes it them voluntary and according to their real is material-financial possibilities, and the main task of corporations - multiplication of incomes of shareholders, etc. - at all does not resist to execution of the public debt by them, i.e. to the decision of social problems.

7. Taking into account all positive moments in different concepts of concept "corporation", to our experts - to lawyers, economists - it is necessary joint efforts to develop the most adequate to an essence and problems of corporations the point of view concerning essence of these legal subjects of the corporate organizations, their legal status, principles of activity and intra corporate relations, and also relations with other social phenomena, the state and a society as a whole.

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