

NON-PROFIT ORGANIZATIONS: GOALS, LEGAL STATUS AND LEGAL BASIS

BEZPEĻŅAS ORGANIZĀCIJA: MĒRĶIS, JURIDISKAIS UN TIESISKAIS STATUSS

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***Abstract.** The authors of the article define a non-commercial organization according to the Russian legislation. They focus their attention on goals and legal status of non-profit organizations. Forms of non-profit organizations are given. Also Russian legislative acts regulating non-profit organizations are given. The authors of the article study the Russian legislation on non-commercial organizations, analyze and summarize it.*

***Keywords:** basis, goals, non-profit, organizations, status.*

Introduction

The legal entities may be either the organizations, which see deriving profits as the chief goal of their activity (the commercial organizations), or those organizations, which do not see deriving profits as such a goal and which do not distribute the derived profit among their participants (the non-profit organizations). In the article goals and legal status of non-profit organizations are considered and Russian legislative acts regulating non-profit organizations are studied through analyzing, comparing and summarizing. The aim of this paper is to answer the question what a non-commercial organization according to the Russian law is. The tasks are to give a definition of a non-profit organization, name goals of a non-profit organization, reveal its legal status as well as study its legal basis.

In accordance with Russian Federal Law No.7-FZ of January 12, 1996 on non-commercial organizations a non-commercial organization is one not having profit-making as the main objective of its activity and not distributing the earned profit among the participants.

Non-commercial organizations may be created for achieving social, charitable, cultural, educational, scientific and managerial goals, for the purposes of protecting the health of citizens, developing the physical culture and sports, satisfying the spiritual and other nonmaterial requirements of citizens, protecting the rights and legitimate interests of citizens and organizations, settling disputes and conflicts, rendering legal aid, and also for any other purposes directed towards the achievement of public weal.

As socially oriented non-commercial organizations are to be deemed non-commercial organizations established in the forms provided for by this Federal Law (except for state corporations, state companies and public associations which are political parties) and exercising activities aimed at solving social problems, development of civil society in the Russian Federation, as well as other kinds of activities provided for by the constituent documents thereof: social service, social support and protection of citizens, preparing the population for overcoming the aftermath of natural calamities, ecological, man-caused or other disasters, for prevention of accidents, rendering aid to victims of natural calamities, ecological, man-made or other disasters, of social national and religious conflicts, to refugees and forced migrants, environmental and wildlife protection; protection and maintenance in compliance with the established requirements of facilities (in particular buildings, structures) and territories of historical, hieratic, cultural or ecological importance and of burial places; rendering legal aid on a gratuitous basis or on easy terms to citizens and non-commercial organizations, as well as legal education of the population and activities aimed at the protection of human and civil rights and freedoms; prevention of citizens' socially dangerous behavior; charitable activities, as well

as activities promoting charity and volunteering; activities in the area of education, enlightenment, science, culture, arts, public medical care, prophylaxis and citizens' health protection, health lifestyle promotion, improvement of citizens' morals, physical training and sports and assistance to the cited kinds of activities, as well as assistance to the spiritual development of people; forming in the society intolerance with respect of corrupt behavior; developing interethnic cooperation, preservation and protection of the originality, culture, languages and traditions of peoples of the Russian Federation; activities involved in patriotic upbringing of the citizens of the Russian Federation, including military-patriotic education; carrying out search operations aimed at identifying unknown military graves and unburied remains of the defenders of the Fatherland, the establishment of the names of the dead and missing in the defense of the Fatherland; participation in prevention and (or) suppression of fires and carrying out rescue operations; social and cultural adaptation and integration of migrants; activities related to medical rehabilitation and social rehabilitation, social and labor reintegration of persons engaged in illegal use of narcotic drugs or psychotropic substances; promotion of mobility of resources.

According to Article 24 of this Federal Law a non-commercial organization may carry out one type of activity or several types of activity which are not prohibited by the legislation of the Russian Federation and which correspond to the objectives of the activity of the non-commercial organization stipulated by its constituent documents. The legislation of the Russian Federation may impose restrictions as to the kinds of activities which non-commercial organizations of certain kinds are entitled to exercise and, as regards institutions, also of certain types thereof. Some kinds of activities may be only exercised by non-commercial organizations on the basis of special permits (licenses). A list of such activities is defined by law.

A non-commercial organization may conduct business and other profitable activities so far as this serves the achievement of the objectives for the sake of which it has been created and corresponds to the cited objectives, provided that such activities are cited in the constituent documents thereof. Such activity is deemed to be a profitable production of goods and services corresponding to the objectives of the creation of the non-profit organization, and also the acquisition and realization of securities, property rights and nonproperty rights, the participation in economic societies and the participation in limited partnerships in the capacity of an investor. The legislation of the Russian Federation may establish certain restrictions on the business and other profitable activities of non-commercial organizations of certain kinds and, as regards institutions, also of certain types. A non-commercial organization is to keep the records of the proceeds and expenses in the business and other profitable activities.

In accordance with Article 14 of this Federal Law the constituent documents of non-commercial organizations are: the charter endorsed by the founders (participants, the property's owner) for a public organization (association), fund, non-commercial partnership, autonomous noncommercial organization, private or budget-financed institution; the charter or, where it is established by law, regulatory legal acts of the President of the Russian Federation or the Government of the Russian Federation, regulations endorsed by the appropriate body exercising the functions and authority of the founder, for a government institution; the constituent agreement concluded by their members and the charter approved by them, for an association or union. The founders (participants) of non-commercial partnerships, and also of autonomous non-commercial organizations may conclude a constituent agreement. In the cases stipulated by the law a non-commercial organization may act on the basis of the general regulations on the organizations of a given type and kind.

In accordance with item 3 of Article 14 of the Federal Law the constituent documents of a non-commercial organization must determine the non-commercial organization's designation containing an indication of the character of its activity and the legal organizational form, the location of the noncommercial organization, the procedure for the management of the activity, the object and objectives of the activity, the data on the branches and representative offices, the rights and duties of the members, the conditions and procedure for joining the noncommercial organization and withdrawing therefrom (if the non-commercial organization has membership),

the sources of the formation of the property of the noncommercial organization, the procedure for amending the constituent documents of the non-commercial organization, the procedure for using the property in case of liquidation of the non-commercial organization, and any other provisions stipulated by the present Federal Law and by any other federal laws.

Non-commercial organizations may be created in the form of social or religious organizations (combinations), communities of the aboriginal small peoples of the Russian Federation, Cossack communities, non-commercial partnerships, institutions, autonomous non-commercial organizations, social, charitable and any other funds, associations and unions, and also in any other forms stipulated by the federal laws.

Article 3 of the mentioned Federal Law reveals legal status of non-commercial organizations. According to this Article a non-commercial organization is deemed to have been created as a juridical person from the moment of its state registration in the statutory procedure, it has separate property in ownership or in operating management, it (except as provided for by law) is liable with that property for its obligations, may in its name acquire and exercise property and nonproperty rights, perform duties, sue and be sued in court.

A non-commercial organization must have an independent balance and/or estimate.

A non-commercial organization is created without limitation of the period of activity, unless otherwise laid down by the constituent documents of the non-commercial organization.

A non-commercial organization may in the established procedure open accounts at banks on and outside the territory of the Russian Federation, except as established by federal law.

A non-commercial organization has a seal with the full designation of the said non-commercial organization in the Russian language.

A non-commercial organization may have stamps and forms with its designation.

The non-commercial organizations have the right to have symbols-emblems, coats of arms and other heraldic signs, flags and anthems, the description of which should be contained in the founding documents.

According to Article 4 of this Federal Law a non-commercial organization is to have a name containing a reference to its organizational legal form and the character of activities. The name of a non-commercial organization formed as a state or municipal institution may include a reference to the type thereof. A non-commercial organization whose name has been registered in the established procedure has the exclusive right of using it. The location of a non-commercial organization is to be determined by the place of its State registration. The destination and the location of a non-commercial organization are to be indicated in its constituent documents.

Also a non-commercial organization may create affiliate offices and open representative offices on the territory of the Russian Federation in accordance with the legislation of the Russian Federation. An affiliate office of a non-commercial organization is to be deemed to be its isolated unit situated outside the location of the non-commercial organization and performing all its functions or a part thereof, including the functions of a representative office.

A representative office of a non-commercial organization is to be deemed to be an isolated unit situated outside the location of the non-commercial organization which represents the interests of the non-commercial organization and carries out its protection.

An affiliate and a representative office of a non-commercial organization are juridical persons, they are vested with the property of the non-commercial organization which has created them and act on the basis of the Regulations approved by the said organization. The property of the affiliate or representative office are to be recorded on a separate balance sheet and on the balance sheet of the non-commercial organization which has created them. The heads of an affiliate and a representative office are appointed by the non-commercial organization and act on the basis of a proxy issued by the noncommercial organization. An affiliate and a representative office carry out activity in the name of the non-commercial organization which has created them. The responsibility for the activity of its affiliate and representative office is to be borne by the non-commercial organization which has created them.

There are the following legislative acts regulating non-profit organizations in the Russian Federation:

- The Constitution of the Russian Federation (was Adopted at National Voting on December 12, 1993)
- The Civil Code of the Russian Federation No. 51-FZ of November 30, 1994
- Federal Law No. 7-FZ of January 12, 1996 on Non-profit Organizations,
- Federal Law No. 135-FZ of August 11, 1995 on the Charitable Activity and Charitable Organizations
- Federal law No. 3085-1-FZ of June 19, 1992 on Consumer Cooperation (consumer societies, their alliances) in the Russian Federation
- Federal law No.193-FZ of December 8, 1995 on Agricultural Cooperation
- Federal Law No.190-FZ of July 18, 2009 on Credit Cooperation
- Federal Law No.82-FZ of May 19, 1995 on Public Associations
- Federal law No.95-FZ of July 11, 2001 on Political Parties
- Federal law No.315-FZ of December 1, 2007 on a Self-regulatory Organization
- Federal law No.154-FZ of December 5, 2005 on State Service of the Russian Cossacks
- Federal law No.82-FZ of April 30, 1999 on Guarantees of Rights of Aboriginal Small Peoples of the Russian Federation
- Federal law No.104-FZ of July 20, 2000 on General Principles of Organization of Communities of Aboriginal Small Peoples of the North, Siberia and the Far East of the Russian Federation.
- Federal law No.174-FZ of November 3, 2006 on Autonomous Institutions
- Federal law No.223-FZ of July 18, 2011 on Procurements of Goods, Works, Services by Some Forms of Legal Entities
- Federal law No.44-FZ of April 5, 2013 on the Contract System of the Federal and Municipal Procurement of Goods, Works and Services
- Federal law No.135-FZ of July 26, 2006 on the Protection of Competition
- Federal law No.273-FZ of December 29, 2012 on Education
- Federal law No.125-FZ of September 26, 1997 on Freedom of Conscience and Religious Associations

Conclusions and suggestions

A non-commercial organization is one not having profit-making as the main objective of its activity and not distributing the earned profit among the participants.

Non-commercial organizations may be created for achieving social, charitable, cultural, educational, scientific and managerial goals, for the purposes of protecting the health of citizens, developing the physical culture and sports, satisfying the spiritual and other nonmaterial requirements of citizens, protecting the rights and legitimate interests of citizens and organizations, settling disputes and conflicts, rendering legal aid, and also for any other purposes directed towards the achievement of public weal.

A non-commercial organization may conduct business and other profitable activities so far as this serves the achievement of the objectives for the sake of which it has been created and corresponds to the cited objectives, provided that such activities are cited in the constituent documents thereof.

Non-commercial organizations may be created in the form of social or religious organizations (combinations), communities of the aboriginal small peoples of the Russian Federation, Cossack communities, non-commercial partnerships, institutions, autonomous non-commercial organizations, social, charitable and any other funds, associations and unions, and also in any other forms stipulated by the federal laws.

As for a legal status of a non-commercial organization, a non-commercial organization is deemed to have been created as a juridical person from the moment of its state registration in

the statutory procedure, it has separate property in ownership or in operating management, it (except as provided for by law) is liable with that property for its obligations, may in its name acquire and exercise property and nonproperty rights, perform duties, sue and be sued in court.

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Summary

The legal entities may be either the organizations, which see deriving profits as the chief goal of their activity (the commercial organizations), or those organizations, which do not see deriving profits as such a goal and which do not distribute the derived profit among their participants (the non-profit organizations).

The legal entities that are non-profit organizations may be set up in the form of the consumer cooperatives, of the public or religious organizations (associations), of the institutions, of the charity and other funds, and also in the other law-stipulated forms.

The non-profit organizations shall engage in the business activity only so far as it helps them to achieve the goals, in the name of which they have been established, and of the kind that corresponds to these goals.