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ВЛИЯНИЕ ПУБЛИЧНОГО ИНТЕРЕСА НА ЭКОНОМИЧЕСКИЕ И ГРАЖДАНСКИЕ ОТНОШЕНИЯ

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Аннотация

В статье рассматривается влияние публичного интереса на экономические и гражданско-правовые отношения, возможность установления ограничений прав физических и юридических лиц для достижения общего блага, удовлетворения общественных интересов, обеспечения обороноспособности страны и безопасности государства. Цель исследования – изучить проблемы столкновения частных и публичных интересов в различных экономических отношениях, предложить пути их решения. В ходе исследования было установлено, что правовое регулирование действий в публичном интересе является фрагментарным, отсутствуют четкие критерии отнесения тех или иных действий к общественным (публичным) интересам, что приводит к негативным последствиям для российской экономики, а также может повлечь нарушение прав хозяйствующих субъектов.

Ключевые слова: публичный интерес, инновационная деятельность, интеллектуальная собственность, экономические отношения.

INFLUENCE OF PUBLIC INTEREST ON ECONOMIC AND CIVIL RELATIONS

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Abstract

The article examines the impact of public interest on economic and civil law relations, the possibility of establishing restrictions on the rights of individuals and legal entities to achieve the common good, satisfy public interests, ensure the country's defense capability and state security. The purpose of the research is to study the problems of the collision of private and public interests in various economic relations, to propose ways to solve them. It was found that the legal regulation of actions in the public interest is fragmented, there is no clear criteria for classifying certain actions as actions in public interests. All these leads to negative consequences for the Russian economy, and may also entail violation of the rights of business entities

Keywords: public interest, innovation, intellectual property, economic relations

Public interest is aimed at protecting social security, social safety, state independence. Practically each individual is interested in wellbeing, security, sustainable development of the society.

Public interest can be defined as «common good which is shared by members of society as a whole» [4]. Acting in public interest provides benefit of the majority of the society. Public interest demands the disclosure of some types of confidential information or installing limitations of some social relations [10].

Individual rights can be limited in public interests to provide social wellbeing defense capability, and the security of the state.

There is no any legal definition of the term «public interest».

At the same time that the term «public interest» is widely used in the practice of common law in Great Britain. Indeed judges there create legal precedents, that can be used as a rule to solve similar cases. Some of the most known precedents concerning public interests refer to the disclosure of information about the ingredients of medicine,

that were dangerous for the health and could be harmful for the patients. Though the composition of the substance referred to commercial secrets (know how) and the employee had to respect the confidential status of the information according to the employment contract, the court did not find him guilty. The judge came to the conclusion that the disclosure was made in public interest in order to avoid bad consequences for the health because of that medicine. In that case the court stated that public health and any actions aimed at protecting health of the population refer to public interest.

The disclosure of know how is a breach of contract and causes damages for the legal owner as it influences upon his economic rights and making profits [3]. Violation of intellectual property rights is illegal and must be punished. The guilty (culprit) must compensate the losses. But if violation of intellectual property rights is done in public interest, it excludes any compensation of losses [9]. Thus public interests has the priority in civil and economic relations. The protection of public interest is of paramount importance.

One can say, that innovation activities are valuable for the social (public) interest because the state and the society can benefit from implementation of innovations. Innovation activities stimulate economic growth, provide economic security and in such a way serve social interests. Innovations provide realization of national state interests in economic growth, creative development, implementing know-how., etc.

On the other hand, innovation activities give economic agents advantages in competition. Social responsibility of economic agents is of main importance for providing social and economic development in public interest [5].

The society is interested in economic development, strengthening of scientific and educational potential [6].

That is why the state must support innovative enterprises, including small ones, in order to stimulate creative activities, solve employment problems and develop competition [8].

All mentioned above becomes very important in the conditions of globalization, free movement of employees in economic field. Any state tries to attract talented well educated employees, able to improve innovation potential of the country, to provide favorable conditions for creative work [9].

In fact protecting of public interest is one of the main aims of the state as any state can be regarded as a tool (instrument) that provide common social interests.

The functions of the state are the main directions of its activities. The most important are political, economic and social functions of the state.

Political functions include regulation of political relations, i.e. legal regulation of political rights and duties of citizens, political parties and political movements.

By means of social functions any state tries to solve social problems, provide social security, state support of different social groups, provides free medical help, emergency help, kindergartens, pensions, etc.

Economic relations are regulated by the state by providing economic policy, protecting different kinds of property, installing the rules of economic circulation, protecting rights of economic agents.

Economic relations are based on the principles of independence, equality, non-interference in private relations, right to earn income from economic activities, property rights.

Property right include the right to own, to use, the right of disposal.

The owner can use the property in any legal way that does not contradict rules and laws. Owners have exclusive right to profit from use of property.

The state's forced protection of its interests and public interests by bringing those responsible for harming individuals to civil liability means the right to full and fair compensation for damage caused by the actions of others. Another interpretation of the law can be harmful, because guilty persons must be punished to prevent law violation. "The use of human and civil rights and freedoms should not violate the rights and freedoms of others" [2].

One of the basic principles of civil legislation states, that "no one has the right to take advantage of their illegal or unfair behavior." That means that in case of lack of legal norms, gaps in law civil relations must be regulated by use of analogy of law or analogy of norms. Application of analogy of law means the direct use of legal principles for solving the case.

Russian law traces the principle of the special status of actions committed in the public interest (in order to protect the foundations of the constitutional order, morality, health, rights and legitimate interests of others, to ensure the defense of the country and the security of the state:

- Human and civil rights and freedoms can be limited to protect the foundations of the constitutional order, morality, health, rights and legitimate interests of other persons, ensuring the defense of the country and the security of the state [1,2];

- It is allowed to collect, store, distribute and use information about a citizen's private life in the state, public or other public interests [1];

- The confidential regime cannot be used to protect information that can be dangerous and harmful for the foundations of the constitutional order, morality, health, rights and legitimate interests of other persons, ensuring national defense and state security [11].

The problem is that there is no clear criteria to define several actions as actions in public interest. It is a rather serious gap of law, that can cause problems in economic relations [7]. The lack of legal regulation of actions in public interest can lead to violation of economic rights of citizens and legal entities or cause misunderstanding, as there is no clear understanding what can and cannot be done in public interest. These proves the necessity to create the legal act containing the definition of public interest, list of allowed actions in public interest and limitation of interference in private and economic relations in public interests. This legal act could fill the gap in legal regulation and help to avoid problems and conflicts in identifying behavior as actions in public interest.

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