

Legal Bases of Sole Proprietorship as an Electronic Commerce Law Subject, National and Foreign Experience

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ABSTRACT

In this article, the concept of sole proprietorship, its legal status and activities in the field of e-commerce are studied. In the current era of globalization, a number of new revolutionary changes are taking place in the field of law. Disputes arising in the organization of individual business activities and business activities are also gaining a new appearance. The legal basis of sole proprietorship is strengthened by a number of legal documents. The purpose of this research work is to study the legal features of individual business activity, to make a comparative analysis with the legislation of foreign countries, and to analyze the corporate conflicts that may arise from this activity.

Enter

The legal basis of business activity in the Republic of Uzbekistan is strengthened by a number of legal documents. As stipulated in Article 53 of the Constitution of the Republic of Uzbekistan, the state guarantees the freedom of economic activity, entrepreneurship and labor, equality of all forms of property and legal protection, taking into account the primacy of the rights of consumers¹. In addition, according to the law² "On guarantees of freedom of business activity", free participation of citizens in business activity and interest in it, their work activity, as well as protection of the rights and legal interests of subjects of business activity³ reinforced by this law. In this law, the concept of entrepreneurship, specific features of sole proprietorship activity, as well as ordinary partnership agreements concluded by individual entrepreneurs are reflected.

The current task is to study and analyze the rights and obligations of sole proprietorship, legal status in the field of e-commerce⁴, corporate disputes arising from sole proprietorship on the basis of national and foreign legislation.

¹ Constitution of the Republic of Uzbekistan, National Database of Legal Documents, 09.02.2021, No. 03/21/671/0093

² Abdusaidovich K. A. Investigation of theatricalities of thefts and robberies on motor vehicles //Asian Journal of Multidimensional Research (AJMR). – 2019. – T. 8. – №. 11. – C. 109-114.

³ Of the Republic of Uzbekistan "On Guarantees of Entrepreneurial Activity Freedoms" , the National Database of Legal Documents, 06/30/2022, No. 03/22/782/0576

⁴ Khakberdiev A. The concepts of criminal staging, its elements, methods of Detection and investigation N //Review of law sciences. – 2020. – T. 4. – №. 1. – C. 1.

Material and methods.

In the article, using the methods of analysis and synthesis, the legal bases of individual business activities are analyzed on the basis of the legislation of the Republic of Uzbekistan, as well as examples from the legislation of foreign countries. In addition, the legal status of individual entrepreneurs in the Republic of Uzbekistan was researched using comparison, analysis, specific sociological methods.

Research results.

According to Article 24 of the Civil Code of the Republic of Uzbekistan, citizens can engage in business activities even without establishing a legal entity, and in the legislation such business activity is called sole proprietorship⁵. According to the law, "a citizen has the right to engage in business activities from the moment of state registration as an individual entrepreneur"⁶. Individual business activity, in turn, is a part of civil legal relations and is regulated by the Civil Code.

According to the legislation of the Republic of Uzbekistan, not only legal entities, but also citizens who have not established a legal entity can carry out entrepreneurial activities in electronic commerce⁷. Sole proprietorship is also a form of such activity. It should not be forgotten that a citizen who does business without establishing a legal entity, without passing the state register as an individual entrepreneur, in violation of legal requirements, does not have the right to pretend that he is not an entrepreneur in the transactions concluded.

According to the Law of the Republic of Uzbekistan "On Guarantees of Freedom of Entrepreneurial Activity", "entrepreneurial activity (entrepreneurship) is carried out by the subjects of entrepreneurial activity in accordance with the law, at their own risk and under their own property responsibility."⁸ is an initiative activity aimed at obtaining". Individual entrepreneurs are also listed as small business entities in this law. This form of business is carried out without establishing a legal entity. According to Article 6 of the above law, "Individual entrepreneurship shall be established by an individual entrepreneur on the basis of property owned by him on the basis of independent property rights, as well as ownership of property and (or) permission to use it"⁹. "It is carried out on the basis of the other tangible right". In addition, according to the decision of the Cabinet of Ministers of the Republic of Uzbekistan¹⁰ dated 22.11.2021 No. 707, "Individual entrepreneurs:

- individual entrepreneurs are given the right to hire up to five employees according to the types of activities specified in the legislation;

⁵ Abdusaidovich K. A. The theoretical basis for the classification of criminal dramatization, methods for their identification and investigation //International Journal of Psychosocial Rehabilitation. – 2020. – T. 24. – №. 8. – C. 1930-1945.

⁶ REGULATION on the procedure for registering employees hired by individual entrepreneurs in the state tax service bodies, approved by the decision of the Cabinet of Ministers of the Republic of Uzbekistan No. 707 dated 22.11.2021, National Legislative Information Database, 23.11.2021 ., No. 09/21/707/1088.

⁷ Rozinazarov.Sh, Askarov.J, Tursunov. A Legal regulation of electronic commerce. - T., TDYU, 2021.

⁸ Xakberdiev A. A. ARBITRATION COURT: SOME ISSUES OF LAW PROTECTION //World Bulletin of Management and Law. – 2021. – T. 4. – C. 9-12.

⁹ Khakberdiev A. A. PROSPECTS OF IMPROVING ARBITRATION COURTS AS ONE OF THE METHODS OF ALTERNATIVE DISPUTE RESOLUTION IN UZBEKISTAN //Web of Scientist: International Scientific Research Journal. – 2023. – T. 4. – №. 1. – C. 77-88.

¹⁰ Khakberdiev A. A. WAYS OF IMPROVING ARBITRATION COURTS IN UZBEKISTAN //INTELLECTUAL EDUCATION TECHNOLOGICAL SOLUTIONS AND INNOVATIVE DIGITAL TOOLS. – 2023. – T. 2. – №. 14. – C. 75-81.

- employees hired by an individual entrepreneur are electronically registered with the state tax authorities through a personal cabinet or mobile application;
- the individual entrepreneur does not keep a work book;
- natural persons entering into labor relations with an individual entrepreneur are not considered as individual entrepreneurs and they do not have the right to sign legal documents on behalf of the individual entrepreneur;
- by individual entrepreneurs, who carry out business activities by hiring employees, the activity is carried out only in a branch at one address;
- accounting of taxable income and deductible expenses by individual entrepreneurs is not applicable to individual entrepreneurs who have chosen the simplified procedure for calculating the tax base"¹¹.

Business entities are divided into the following categories depending on the average annual number of employees: small business entities; medium-sized business entities; large business entities. Small business entities are individual entrepreneurs without establishing a legal entity and micro-firms and small enterprises without establishing a legal entity. The categories of small business entities include: individual entrepreneurs; The average annual number of employees and the average annual turnover on the sale of goods (work, services) established or not established by a legal entity, the amount of the base calculation, business entities established by the law. The category of medium-sized business entities includes business entities that do not belong to the category of small and large business entities in accordance with the norms established by the law. The category of large business entities includes business entities whose average annual number of employees and (or) average annual turnover for the sale of goods (work, services) is the basic calculation amount an entrepreneur assumes rights and obligations as a natural person, is personally responsible for the rights and obligations arising from his entrepreneurial activity¹². The conclusion of transactions with other business entities on behalf of an individual entrepreneur does not exempt an individual from responsibility for the obligations arising from the transactions¹³.

An individual acting on behalf of an individual entrepreneur assumes property responsibility. An individual entrepreneur has the right to use personal work document forms, seals, and stamps while performing his activities, the text of which should indicate that the person in question is an individual entrepreneur. It should also not be forgotten that "in cases where one of the spouses uses the joint property of the spouses for the implementation of an individual business, unless otherwise provided by law, marriage contract or separate agreement between the spouses, the husband's (wife's) consent is required"¹⁴.

Conducting e-commerce activities as an individual entrepreneur relies on the main principles of legislation. Since e-commerce has not yet entered the Republic of Uzbekistan, studying the legislation of foreign countries and their experience will help to further develop our legislation.

A sole proprietorship is a business with a single owner with unlimited liability. Thus, an individual entrepreneur is a small organization, the size of which makes it difficult to convince customers of its advantages¹⁵. The number of individual entrepreneurs in the e-commerce

¹¹ Rozinazarov.Sh, Askarov.J, Tursunov.A Legal regulation of electronic commerce. - T., TDYU, 2021.

¹² Хакбердиев А. А. Ўғирлик ва талончиликка таълуқли бўлган инсценировкакани тергов қилиш //журнал правовых исследований. – 2020. – Т. 5. – №. 1.

¹³ Economic Procedural Code of the Republic of Uzbekistan, National Database of Legal Documents 04.08.2022, No. 03/22/786/0705

¹⁴ Sole Proprietorships. Retrieved July 29, 2014, from <http://www.irs.gov/Businesses/SmallBusinesses-&-Self>

¹⁵ Abdumurad K. Ensuring Confidentiality in the Detection and Investigation of the Crimes of Money Laundering

business is increasing very quickly, and such enterprises have many opportunities for advertising and business development through the Internet. According to the Law "On Guarantees of Entrepreneurial Activity Freedoms", only individual entrepreneurs can be parties to an ordinary partnership agreement. In this case, without establishing a legal entity, a partnership agreement is concluded in order to expand and develop business activities. According to Article 962 of the Civil Code, "two or more persons, called partners (participants) under an ordinary partnership agreement (agreement on joint activities) for the purpose of obtaining profit or achieving another goal that is not contrary to the law undertake to contribute and work together without forming a legal entity". On the basis of this rule, we can conclude that if individual entrepreneurs have entered into an ordinary partnership agreement with their contributions, and later, if mutual disputes arise in their activities, these disputes will be resolved by economic courts as corporate disputes. Basically, according to Article 25 of the Economic Procedural Code, "legal entities in the field of economy and citizens who carry out business activities without establishing a legal entity and who have received the status of an individual entrepreneur in accordance with the procedure established by law, as well as parties in the case of corporate disputes "cases related to disputes arising from civil, administrative and other legal relations between citizens (hereinafter referred to as citizens)"¹⁶ are defined to be applicable to economic courts.

In addition, under English and American law, companies are also the subject of corporate legal relations, and the contribution relations between them are treated as corporate disputes¹⁷. A sole proprietor is a person who owns and manages his own business alone¹⁸. A sole trader is a person who runs his own business and is personally liable for his debts. This form of entrepreneurship (business) is popular because it is easy to set up and has a low price for the first investment.

However, sole proprietorship has another definition. For example, a sole proprietorship is a one-person legal entity that does not need state registration to exist¹⁹.

Analysis of research results.

For a small business in the sole proprietorship form, it is possible to apply management methods such as direct control of electronic production and marketing. Based on Thai legislation, he described the strengths of sole proprietorships as follows:

- 1) Registration with the Department of Commerce and Department of Revenue is sufficient to enter into business transactions;
- 2) The business owner has the right to make decisions on business planning and business management;
- 3) It is easy to cancel a business deal if there are no funds or insufficient investment to make the deal;
- 4) No need to share profits;
- 5) There are no clearly defined cases of laws and taxes;
- 6) Tax expenses are paid by entrepreneurs as a separate private tax, not as a tax on business income.

//Rechtsidee. – 2019. – Т. 5. – №. 2. – С. 10.21070/jihr. 2019.5. 65-10.21070/jihr. 2019.5. 65.

¹⁶ *How to Start a Sole Proprietorship*. Retrieved July 29, 2014, from <http://www.inc.com/guides/2010/10/how-to-start-a-sole-proprietorship>

¹⁷ Хакбердиев А. Выдвижение версий по преступным инсценировкам при осмотре места происшествия, их проверка и распознавание //Review of law sciences. – 2020. – Т. 1. – №. Спецвыпуск. – С. 171-182.

¹⁸ Export SMEs increasing by E-commerce. Export-Import Bank of Thailand. Retrieved July 10, 2014, from <http://www.exim.go.th/doc/newsCenter/40894.pdf>Export SMEs increasing by E-commerce.

¹⁹ Хакбердиев А. А. ЖИНОЙЙ ИНСЦЕНИРОВКАДАГИ САЛБИЙ ҲОЛАТЛАР //ЖУРНАЛ ПРАВОВЫХ ИССЛЕДОВАНИЙ. – 2020. – №. SPECIAL 4.

Business Research Sector (2012) reported the advantages of e-commerce for small and medium business entrepreneurs and the main ones were:

- 1) the possibility to increase the marketing channel to trade anytime and worldwide;
- 2) low costs in contracts with customers;
- 3) widespread customer groups. [9]

E-commerce seems convenient for starting a sole proprietorship and managing a business, but in reality, customer management is difficult because the customer and the entrepreneur do not meet face-to-face. Many small businesses face difficulties in establishing e-commerce activities because e-commerce requires efficient use of technology and high cost. He explained the weaknesses of individual entrepreneurship in Thailand as follows:

- 1) many business entities do not have an organized system, and in many cases, the business owner considers the knowledge of business management unnecessary;
- 2) the situation implies the increase of partnerships and investments, which differ from the form of individual entrepreneurship.
- 3) there is a high risk of liability if the business has only one owner;
- 4) the management system is weak;
- 5) limited opportunities to expand the scope of business.

Sole proprietorship is the most widely used form of business organization by the public due to its flexibility and small business activity. [10]

According to the legislation of the Republic of Uzbekistan, legal entities and individuals using information systems in electronic commerce can be buyers of goods (works, services). The information system must provide mandatory registration and identification of electronic commerce participants. From this point of view, YTTs participate in e-commerce mainly according to B2B, B2C, B2G type (business model). Individual entrepreneurship is the implementation of entrepreneurship by a natural person (individual entrepreneur) without establishing a legal entity. Self-employment is carried out by an individual entrepreneur independently, on the basis of property owned by him on the basis of property rights, as well as on the basis of other material rights that allow ownership and (or) use of property.

The e-commerce legislation does not distinguish between the rights and obligations of individuals operating as a private enterprise and business entities operating as a legal entity. E-commerce entities exercise and acquire rights and fulfill obligations in accordance with the requirements of the concluded contract. In e-commerce law, in addition to the seller's rights, in the sale of goods (performance of work, provision of services) in e-commerce, including the provision of necessary and reliable information about goods (work, services) to the buyer, compliance with the requirements of legislation on competition and consumer rights protection; such as ensuring the storage of electronic documents and electronic messages in the prescribed manner. Also, the seller can provide other e-commerce participants with reliable information about him electronically in the state language and, if necessary, in other languages. For a legal entity, such information includes the full name of the business entity, indicating its organizational and legal form; for an individual carrying out business activities without establishing a legal entity - surname, first name, patronymic; information on state registration, taxpayer identification number of the business entity; location (postal address), email address, contact phone number; in the cases provided for by law, information on the existence of a license or a document with the nature of permission and other documents must be provided. YTTs can carry out the types of activities that can be carried out as YTTs in the form of e-commerce according to the law, if there are no legal prohibitions on the implementation of these

activities in e-commerce. Such cases indicate that YTTs operate as an independent subject-participant of electronic commerce. Individual entrepreneurs, who are considered as subjects of e-commerce law, can also legally conduct their activities by registering through the e-commerce.uz platform.

Summary

From the research results, we can conclude that sole proprietorship is a form of business conducted by an individual. In the implementation of this activity, it is not required to establish a legal entity, even in cases where a simple partnership agreement is concluded, they can expand their activities as individual entrepreneurs. The legal status of individual entrepreneurs in the field of e-commerce comes into being after being registered as an e-commerce participant on the e-tijorat.uz platform. In the conditions of digital reality, the provision of active participation of individual business entities in e-commerce by type (business model), in turn, creates the possibility of further acceleration of electronic-online trade relations of goods (works, services)

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