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ERRORS IN THE INFORMATION (DATA) CONTAINED IN THE UNIFIED STATE REGISTER OF LEGAL ENTITIES: TYPES AND METHODS OF ELIMINATION

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The subject of research. The issue of reliability (unreliability) of information (data) included in the Unified State Register of Legal Entities has increased after the amendments made to the Russian Civil Code in 2013 and to the Russian legislation on state registration of legal entities in 2015. The legislation, introducing the principle of public reliability of information included in the Unified State Register of Legal Entities does not clearly define what is meant by such reliability. Accordingly, the question arises about what is meant by "unreliability" of information. Although legal norms contain the concept of "error"; the legislation does not contain a single legal regime of "error". This is expressed in the presence of several independent cases described in the legislation, including, among other things, an independent procedure for correcting an error. It is also not clear how the presence of an "error" correlates with the requirements for the reliability of the data of the Unified State Register of Legal Entities. The author shows the evolution of the concepts of "error" and "technical error" in the legislation on state registration of legal entities, as well as ways to eliminate it for the first time in the Russian doctrine.
The purpose of the article is to: (a) analyze the current regulation and qualify various cases of "errors" in the information included in the Unified State Register of Legal Entities; (b) specify the objectives of regulation in each identified case of "errors"; (c) identify the main contradictions in the regulation; (d) form a new model of the reliability of the information included in the Unified State Register of Legal Entities and specific legal decisions based on the goals of the legislator to "whitewash" the Russian economy, strengthen the principle of good faith, and ensure the certainty of legal norms. The scientific hypothesis is that the "error" in the information included in the Unified State Register of Legal Entities, whatever its cause, is a special case of unreliability of information. Accordingly, all cases of "error" should be settled within the framework of the general model of reliability of information included in the Unified State Register of Legal Entities. The current regulation does not provide real public reliability of the information; in fact, such public reliability today is nothing more than an illusion. Approaches to determining the reliability (unreliability) of information included in the Unified State Register of Legal Entities do not provide such reliability.
Description of research methods and methodology. The research is based on a systematic and teleological interpretation of normative material (legal norms, explanations of a normative nature, judicial legal positions). Information about the main scientific results. Conclusions. The conducted research fully confirmed the correctness of the proposed scientific hypothesis. Systematic proposals for changing existing approaches to regulation and specific legal solutions are formulated. Conclusions. It is noted that the current regulation regarding the criteria for the reliability/unreliability of information (data) of the Unified State Register of Legal Entities is confusing and creates uncertainty in the legal regulation. The necessity of changing the norms of the Civil Code of the Russian Federation and other federal laws, the abolition of the most odious explanations of a regulatory nature, the foundations of a new regulatory model and proposals for reforming the existing regulatory framework are formulated.

1. Introduction.

The Unified State Register of Legal Entities is the information resource. According to the Civil Code of the Russian Federation (Articles 51, 52, 57, 63), Federal Law No. 129-FZ of August 8, 2001 "On State Registration of Legal Entities and Individual Entrepreneurs" (hereinafter referred to as the Law on State Registration of Legal Entities and Individual Entrepreneurs) and some other federal laws, the Unified State Register of Legal Entities and Individual

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Entrepreneurs has two meanings:

- on the one hand, the law and order links the emergence and termination of a legal entity, as well as the acquisition for third parties of the force of changes made to its constituent documents (as a general rule) with the relevant records (on the creation and termination and on the introduction of amendments) made from it);

- on the other hand, - both due to the content of the entered records, and due to the requirements of the legislation on the need for other information and documents, the Unified State Register of Legal Entities is a significant amount of certain structured information (information) available for public inspection.

At the same time, such data of the Civil Code of the Russian Federation (Article 51) requires compliance with actual circumstances, which forms the basis of the so-called "principle of public reliability of the information of the Unified State Register of Legal Entities": a person who faithfully relies on the information (data) of the Unified State Register of Legal Entities has the right to assume that they correspond to actual circumstances. To ensure the principle of public reliability, the Law on State Registration of Legal Entities and Individual Entrepreneurs, as well as by-laws, provide for mechanisms for verifying the accuracy of information entered and entered in the Unified State Register of Legal Entities.

Based on these provisions of the Civil Code of the Russian Federation, it can be assumed that the "reliability" itself is the correspondence of the information about a legal entity contained in the Unified State Register of Legal Entities to the actual circumstances. However, such a definition hardly clarifies anything in the question of reliability, since neither the Civil Code of the Russian Federation, nor the Law on State Registration of Legal Entities and Individual Entrepreneurs, nor the legal positions of the Constitutional Court of the Russian Federation, the Supreme Court of the Russian Federation and other courts of the judicial system, nor any by-law or clarification of a normative nature, do not disclose what is meant by "compliance with actual circumstances". Therefore, strictly speaking, it is not an exaggeration to say that, thus, the concept of "reliability" remains undisclosed.

Accordingly, all the information contained in the Unified State Register of Legal Entities that is not brought into line with the changed actual (actual) circumstances after the expiration of these terms is unreliable. Such a rigid approach is even more toughened when government agencies try to expand the boundaries of unreliability through the legalization of such concepts as "one-day firm", "mass founder", "mass director", "mass registration address", etc. (for more information, see: [1, p. 390-406; 11, p. 108 – 117; 13, p. 112-113]), which do not have a legal basis, are not related to the actual provision of reliable information, and through which, in essence, the implementation of other goals and objectives takes place.

In addition to the requirements imposed by the Civil Code of the Russian Federation to the information contained in the Unified State Register, it is necessary to take into account the specifics of the legal regime of the Unified State Register as a state register, defined by the Law on State Registration of Legal Entities and Individual Entrepreneurs (Articles 4, 5). The analysis of these articles shows that the Unified State Register is a set of information about the creation, reorganization, liquidation, as well as other information about legal entities, as well as documents provided for by this law, submitted during state registration.

According to Article 4 of the Law on State Registration of Legal Entities and Individual Entrepreneurs, this set of information and documents is recognized as a "federal information resource". That is, based on Article 14 of Federal Law No. 149-FZ of July 27, 2006 "On Information, Information Technologies and Information Protection" (hereinafter-the Law on Information) - a type of state information resources containing official information. At the same time, the Unified State Register of Legal Entities is also qualified by the Law on Information as an information system. To the information contained in such systems, art. 14 of this law imposes special requirements (formulated through the duties of state bodies): reliability and relevance. Consequently, these requirements apply fully to the information that makes up the Unified State Register of Legal Entities (i.e., information): such information must be reliable and up-to-date

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[14, p .460; 15].

The Law on Information does not disclose the concepts of "reliability" and "relevance". Since there is no definition of either in this law, it is impossible to understand the intention and goals of the legislator, which he pursued when using each of these words separately or together.

In the Russian language, the word "reliable" is explained as true (in the sense of "corresponding to the truth, correct accurate"), which does not cause doubts; this meaning is emphasized by the complex structure of the word, where the first part of it "dosto", has a meaning in dictionaries as "high", "very" [16, p. 74, 177]. Thus, in terms of the "reliability" of the information as a whole, it can be taken as a hypothesis that this is what Article 51 of the Civil Code of the Russian Federation says-compliance with actual circumstances.

"Relevance" in the dictionaries of the Russian language is explained as important, essential for this moment [16, p. 21]. It should be noted that in some documents, "reliability" and "relevance" are used interchangeably. This suggests that "relevance" is "absorbed" by "credibility".

Thus, the main requirement for information about a legal entity (information) that is in the Unified State Register of Legal Entities (records entered in the Unified State Register of Legal Entities) is reliability in the above-mentioned sense. Consequently, otherwise-unreliability-is recognized by the law and order as unacceptable, and is subject to correction (exclusion).

After the adoption of Federal Law No. 67-FZ of March 30, 2015 "On Amendments to Certain Legislative Acts of the Russian Federation in Terms of Ensuring the Reliability of Information Submitted during the State Registration of Legal Entities and Individual Entrepreneurs" (hereinafter - Federal Law No. 67-FZ of March 30, 2015), as well as some other regulatory acts, provisions appeared in Russian law (both at the level of law and by-laws) aimed at ensuring the reliability of information in the Unified State Register of Legal Entities, in the form of:

- the possibility of refusal of state registration in the case of submission of documents containing false information;

- the possibility of making a record by the registration authority about the unreliability of the information contained in the Unified State Register of Legal Entities on the basis of an individual's application (form No. P34001). Moreover, if we analyze paragraph 5 of Article 11 of the Law on State Registration of Legal Entities and Individual Entrepreneurs and paragraph 5 of the Grounds, conditions and Methods of conducting the activities specified in paragraph 4.2 of Article 9 of the Federal Law "On State Registration of Legal Entities and Individual Entrepreneurs", the procedure for using the results of these activities, then such an entry is made without any additional verification ;

- The institute for verifying the accuracy of information included in the Unified State Register of Legal Entities (clause 4.2 of Article 9, clause 6 of Article 11 of the Law on State Registration of Legal Entities and Individual Entrepreneurs, Order of the Federal Tax Service of Russia dated February 11, 2016). This check can be initiated either at the initiative of an authorized state body or at the request of an interested person. The Law on State Registration of Legal Entities and Individual Entrepreneurs defines the results of this check ambiguously:

1) if the unreliability of part of the information included in the Unified State Register of Legal Entities and Individual Entrepreneurs is established from among those specified in Article 5 of the Law on State Registration of Legal Entities and Individual Entrepreneurs, namely:

- addresses of the legal entity (subclause "b" of clause 1 of Article 5);

- information about the founders (subclause "d" of clause 1 of Article 5);

- information about the sole executive body (subclause " l " of clause 1 of Article 5),

then the procedure for ensuring the accuracy of the specified information in the Unified State Register of Legal Entities begins. Its result may be either the introduction of updated ("reliable") information in the Unified State Register of Legal Entities (positive scenario), or the entry in the Unified State Register of the unreliability of the information contained therein, up to (if such a record is kept for more than six months from the date of its entry) the launch of the procedure for excluding a legal entity from the Unified State

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Register of Legal Entities as invalid (clause 5 of Article 21.1 of the Law on State Registration of Legal Entities and Individual Entrepreneurs) (negative scenario);

2) if the inaccuracy of other than the above three types of information of the Unified State Register of Legal Entities is established, then there are no special consequences (neither negative in the form of prosecution, nor procedural in the form of any procedure) The Law on State registration of Legal Entities and Individual Entrepreneurs does not provide for.

In addition to the actual possibility to question a number of data of the Unified State Register of Legal Entities without checking, as well as checking the reliability of the information of the Unified State Register of Legal Entities, the legislation on state registration of legal entities (in a broad sense) mentions the following cases::

- inconsistency of the information included in the records of the Unified State Register of Legal Entities on electronic media with the information contained in the documents on the basis of which such records were made ("technical error»);

- inconsistency of the information included in the Unified State Register of Legal Entities with the information contained in the documents available to the registering authority, caused by an error made by the applicant when processing the application submitted during state registration;

- the presence of typos and errors in the documents issued as a result of the provision of public services ("typos and errors").

There is no system in regulating these cases.

The version of a certain independence of all these cases is confirmed not only by the difference in the procedures for correcting "technical errors", "errors", "typos and errors", but also by the fact that these procedures are even regulated by different acts:

- in the first case ("technical error") - this is the procedure provided for by the order of the Ministry of Finance of the Russian Federation of October 30, 2017. No. 165n " On Approval of the Procedure for Maintaining the Unified State Register of Legal Entities and the Unified State Register of Individual Entrepreneurs, Making Corrections to the Information Included in the Records of the Unified State Register of Legal Entities and the Unified State Register of Individual Entrepreneurs on Electronic Media that do not Correspond to the Information Contained in the Documents on the Basis of which such Records were Made (Correction of a Technical error), and on Invalidation of the Order of the Ministry of Finance of the Russian Federation of February 18, 2015. No. 25n" (hereinafter referred to as Order No. 165n of the Ministry of Finance of the Russian Federation dated October 30, 2017);

- in the second case ("error")-through its description in the framework of the corresponding form (No. R13014), approved by Order of the Federal Tax Service of Russia dated August 31, 2020 No. ED-7-14/617@ - this is the general procedure for considering an application for changing the information of the Unified State Register of Legal Entities described in Article 17 of the Law on State Registration of Legal Entities and Individual Entrepreneurs;

- in the third case ("typos and errors") - this is the procedure provided for by the administrative regulations: the Administrative Regulations of the State Registration of the Ministry of Justice of the Russian Federation in 2011 and the Administrative Regulations of the State Registration of the Federal Tax Service of Russia in 2020.

It is extremely interesting that both the procedure for verifying the accuracy of information included in the Unified State Register of Legal Entities and the procedure for correcting "technical errors"," errors"," typos and errors " are all administrative procedures. In none of these cases is there any provision for judicial participation. And this is despite the fact that Article 51 of the Civil Code of the Russian Federation (in which in 2013 an attempt was made to systematically regulate the institution of public reliability of the Unified State Register of Legal Entities) explicitly states that the inclusion in the Unified State Register of Legal Entities can be challenged in court if such data is unreliable. In essence, it turns out that this norm is not fully implemented within the framework of special legislation and partly "hangs in the air".

Let's take a closer look at the regulation of all three of these cases.

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2. "Technical errors".

In the original version of the Law on State Registration of Legal Entities and Individual Entrepreneurs, the word "error" was not used, although there were situations when the Unified State Register of Legal Entities (in some parts of it) had incorrect information.

The State Register is maintained on paper and electronic media. If there is a discrepancy between the records on paper and electronic media, the records on paper have priority, unless a different procedure for maintaining the state register is established. If the information specified in paragraph 1 of this Article does not correspond to the information contained in the documents submitted for state registration, the information specified in paragraph 1 of this Article is considered reliable until appropriate corrections are made to it.

Article 4 of the Law on State Registration of Legal Entities and Individual Entrepreneurs (in its original version) recognized the possibility of" inconsistency of records " on paper and electronic media.

The reasons for its (discrepancy) occurrence were not specified; in fact, the law ignored such reasons; the law did not provide for a special correction of this discrepancy; as a way to overcome it, the priority of writing on paper was specified, unless a different procedure for maintaining the state register was established.

Taking into account the location of this provision in the law (article 4 of the Law on State Registration of Legal Entities and Individual Entrepreneurs defines the principles of maintaining state registers by its name (and most of its content)), we can assume (we emphasize this) that we have a legal means of eliminating the negative consequences of erroneous actions of the state registration authority.

Article 5 of the Law on State Registration of Legal Entities and Individual Entrepreneurs had a slightly different meaning.

She pointed out the possibility of inconsistency of the information that makes up the Unified State Register of Legal Entities with the information that was specified in the documents submitted for state registration. How well you can see:

- this rule was designed to ensure the "reliability" of the information contained in the Unified State Register of Legal Entities. The concept of "reliability" was not specifically disclosed. However, taking into account the presumption introduced by this rule, according to which the information entered was considered reliable before making the appropriate corrections, it could be assumed that the presence of information in the Unified State Register of Legal Entities is a sign of their reliability; in other words, what is included in the Unified State Register of Legal Entities is reliable until other information is entered;

- at the same time, the law was indifferent to the extent to which the information in the documents submitted for registration corresponded to the actual (real) circumstances (facts);

- based on the content of the norm and its objectives, it can be assumed that whatever the reason for the "inconsistency of information" - the error of the registering authority in the person of its employees, the error of the applicant himself (the applicant's representative), or the possible intent of such persons-all these grounds were covered by one category - "inconsistency of information" - and could be " corrected»;

- the Law on State Registration of Legal Entities and Individual Entrepreneurs did not directly regulate the subject and circumstances of the correction.

In part, the problems associated with this approach of the legislator began to be corrected through the provisions of by-laws. Thus, the Rules for Maintaining the Unified State Register of Legal Entities and Providing the Information Contained therein, approved by Government Decree No. 438 of June 19, 2002, stated that "corrections of the information contained in a specific entry in the state register are made by making a new entry with a reference to the corrected entry". However, there was no detailed correction procedure.

The first significant changes to this model of regulation were made by Federal Law No. 227-FZ of July 27, 2010 "On Amendments to Certain Legislative Acts of the Russian Federation in Connection with the adoption of the Federal Law "On the Organization of the Provision of State and Municipal

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Services" (hereinafter – Federal Law No. 227-FZ of July 27, 2010).

This law described in a new way the case regulated by Article 4 of the Law on State Registration of Legal Entities and Individual Entrepreneurs.

The method of correcting the "discrepancy", established by Federal Law No. 227-FZ of July 27, 2010, remained somewhat similar to the previous version – recognition of priority, only now-the priority of information contained in documents submitted for state registration.

At the same time, Article 4 of the Law on State Registration of Legal Entities and Individual Entrepreneurs was supplemented with a new paragraph, according to which the bylaw should have established the procedure for making changes to the information included in the records of the Unified State Register of Legal Entities on electronic media that do not correspond to the information contained in the documents submitted during state registration . Thus, the priority rule fulfilled the temporary nature of "removing" the nonconformity problem until the changes were made.

In general, we note that the analyzed rule has become completely different: now the norm has implicitly covered both cases of erroneous actions of the registering authority, as well as those persons who submitted documents for state registration.

The provisions of Article 5 of the Law on State Registration of Legal Entities and Individual Entrepreneurs were not amended by Federal Law No. 227-FZ of July 27, 2010.

Even more significant changes are related to Federal Law No. 169-FZ of July 1, 2011 "On Amendments to Certain Legislative Acts of the Russian Federation" (hereinafter also referred to as Federal Law No. 169 – FZ of July 1, 2011).

In addition to some legal and technical changes in the definition of "inconsistency" in Article 4 of the Law on State Registration of Legal Entities and Individual Entrepreneurs (now it was pointed out that there was a discrepancy between the information included in the records of the Unified State Register of Legal Entities on electronic media and the information contained in the documents on the basis of which such records were made), the concept of "technical error" appeared. No definition of this type of error was given, although from the content of the new rule on correcting such an error, it could be concluded that a "technical error" is a discrepancy between the information included in the records of the Unified State Register of Legal Entities on electronic media and the information contained in the documents on the basis of which such records were made.

Federal Law No. 169-FZ of July 1, 2011 introduced the concept of "correction of a technical error", which meant making corrections to information on electronic media.

The procedure for correction was not defined directly by the law; it was indicated that it should have been established by an executive body authorized by the Government of the Russian Federation.

Thus, after the amendments made by Federal Law No. 227-FZ of July 27, 2010 and Federal Law No. 169-FZ of July 1, 2011:

1) the Law on State Registration of Legal Entities and Individual Entrepreneurs introduces the concept of "technical error" and provides for the creation of a special by-law regulation of the procedure for its correction. The law did not specify the reason for the technical error; accordingly, such reasons may be the applicants ' errors in the documents sent for registration, and the erroneous actions of the registering authority;

2) the definition of a technical error did not allow for meaningful changes to the record that eliminate its constitutive nature, affect rights and obligations, and so on. ;

3) the new regulation was concentrated in Article 4 of the Law on State Registration of Legal Entities and Individual Entrepreneurs, the subject of which is the definition of the principles of maintaining registers. Thus, the provisions of this article relate to the activities of the registering authority, i.e., strictly speaking, this regulation is not completely " in place»; strictly speaking, if anything should be regulated in this article – it is the requirements for the registering authority to ensure the accuracy of information in state registers, and the rest of the regulation should be placed in other articles of the law (either existing or new);

4) in the absence of substantive changes in

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Article 5 of the Law on State Registration of Legal Entities and Individual Entrepreneurs, the new regulation meant that the information entered as a result of a technical error in the Unified State Register of Legal Entities is recognized as reliable until new information is entered in the procedure for correcting a technical error established by the by-law.

It is interesting that the norm is still valid today, and after the approaches to understanding the reliability of the information constituting the Unified State Register of Legal Entities have completely changed in the light of the provisions of Article 51 of the Civil Code of the Russian Federation (compliance of the information about a legal entity contained in the Unified State Register of Legal Entities and Individual Entrepreneurs), as well as Articles 9 and 11 of the Law on State Registration of Legal Entities and Individual Entrepreneurs after the changes made by Federal Law No. 67-FZ of March 30, 2015.

The first bylaw aimed at determining the procedure for correcting a technical error, in the development of Article 4 of the Law on State Registration of Legal Entities and Individual Entrepreneurs, was approved by Order of the Ministry of Finance of the Russian Federation No. 25n of February 18, 2015.

The relevant issues in this order were dealt with in a separate section of five points (paragraphs 8-12), which defined the grounds, and the procedure and consequences of the correction, namely:

1) the correction was carried out directly by the territorial registration authority;

2) one basis for correction was introduced: the decision of the registration authority to correct a technical error in the data of the Unified State Register of Legal Entities. The procedure for making a decision, the possibility (necessity) of communication with a legal entity in respect of which a correction is made in the entries in the Unified State Register of Legal Entities, was not established by the document;

3) in turn, there were two reasons for making such a decision:

- detection of a technical error by the registration authority itself;

- receiving a statement about the presence of a technical error in the data of the Unified State Register of Legal Entities from any interested person. Who could be such a person-it was not specified, in fact, it could be the legal entity itself, and its participant, and the head. The form of such an application was not established; in fact, the document allowed for the possibility of submitting such an application in any form (most often, the relevant explanations can be found on various resources, up to the official resources of the registering authority). It was envisaged to inform in writing the interested person who sent the application, no later than 3 working days following the day of the expiration of the 5-day (in working days) period after the receipt of the application, either about the correction of the error, or about its absence;

4) the technical error was corrected by making a new entry in the Unified State Register of Legal Entities with a reference to the entry containing the information in which the technical error was made»;

5) the body that corrected the technical error was obliged to inform the legal entity in respect of which the error was corrected about its correction, indicating certain information about the details of the correction.

This procedure causes a lot of complaints, the main one of which is that any applicant could find and demand to correct the error, but the legal entity in respect of which the error exists, learned about it in fact; no preliminary procedure for interaction with such a person was not provided. Perhaps the developers of the relevant regulations proceeded from the fact that since the error is technical and does not affect the essence of the entries in the Unified State Register of Legal Entities, then only the decision of the registering authority is sufficient for such a correction. In some works, it is noted that "the correction of technical errors (typos, etc.) can be carried out independently by the person who keeps the register" [7, p.88]. It is difficult to argue with this, and, nevertheless, we note that if corrections are made to the information about a person that is in the official information resource, then such a person must be notified about this in advance.

Another observation is that, despite the

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technological nature of the state registration process (the use of standard forms), a special form for the application of the interested person has not been defined.

The absence of such a form meant that there was no legal list of grounds for refusing to accept and satisfy such an application; strictly speaking, it turned out that the issue of its acceptance/refusal could be decided at the discretion of the territorial registration authority itself.

A new bylaw regulating the correction of a technical error (which is still in force) was adopted in 2017 (Order No. 165n of the Ministry of Finance of the Russian Federation of October 30, 2017).

There is no special section dedicated to the procedure for correcting a technical error; the corresponding procedure is defined in four paragraphs (paragraphs 10-13).

However, this procedure does not differ in content from the order that was defined earlier (in 2015) by Order of the Ministry of Finance of the Russian Federation No. 25n of February 18, 2015.

Accordingly, all the comments that were noted above with respect to the 2015 order can be made to the existing order.

3. The applicant's errors.

In 2004, a new version of the "Application for Making Changes to the Information about a Legal Entity in the Unified State Register of Legal Entities that are not related to making changes to the constituent documents" (form P14001) was approved. In the updated form of this application, among the reasons for sending it, the following was also indicated: "Change of information about the legal entity in case of errors made by the applicant in the previously submitted documents for the state registration of the legal entity (with the exception of the constituent documents)".

Resolution of the Government of the Russian Federation No. 212 of April 15, 2006 "On measures to implement certain Provisions of Federal Laws Regulating the activities of Non - Profit Organizations" (hereinafter referred to as Resolution of the Government of the Russian Federation No. 212 of April 15, 2006) approved the List and forms of documents required for making changes to information about a non-profit organization that are not related to making changes to the constituent documents.

Among such forms is the "Application for making changes to the information about a non-profit organization in the Unified State Register of Legal Entities that are not related to making changes to the constituent documents" (form No.RN0004). In this form, among the reasons for making changes, the following was also indicated: "Change of information about a non-profit organization in case of errors made by the applicant in the previously submitted documents for the state registration of a non-profit organization (with the exception of the constituent documents)".

So, since the mid-2000s, the normative acts regulating the procedural issues of state registration (maintaining the Unified State Register of Legal Entities, establishing the forms of documents), both in relation to commercial and non-profit organizations, began to operate with the concept of "error", in relation to the information entered in the Unified State Register of Legal Entities; at the same time, the regulation for both commercial and non-profit organizations was unified. Describing the created model, we note the following:

- the case of "error" was not specified either in the Law on State Registration of Legal Entities and Individual Entrepreneurs, or in other federal laws; the relevant regulation was not related to the provisions of Articles 4 and 5 of the Law on State Registration of Legal Entities and Individual Entrepreneurs;

- the description of the "error" and, in part, the procedure for its correction was regulated directly in the typed forms, as well as in the methodological explanations for filling them out (all regulation is concentrated in the bylaws);

- "error" in all the documents listed above referred to the actions of the applicant himself, committed by him when filling out earlier applications sent to the registration authority;

- there was no precise definition of "error". Only in one document-Methodological explanations on the procedure for filling out the forms of documents used in the state registration of a legal entity, approved by the order of the Federal Tax Service of the Russian Federation of November 1, 2004. No. SAE-3-09/16@ (in fact, not even a

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normative legal act in the strict sense of this concept) through the use of the construction "for example", it was indicated about "incorrect indication of the name of the legal entity, the amount of the authorized capital, the data of the permanent acting executive body of the legal entity, information about registration when creating for legal entities registered before July 1, 2002". Thus, there was a real risk that corrections could be made through this mechanism, which would affect the rights of both the legal entity and third parties.;

- the initiative for the change was entirely attributed to the applicant (it was required to send a special form); the initiative of the registering authority was not provided for;

- the period of time when the correction could have been made was not specified, although it is clear that the "error" could lead to further refusals of state registration ;

- correction of the "error" was carried out by sending an application to the registration authority in accordance with the established standard form and with a standard description of what and in what form (with what signs, etc.) should be filled in (with filling in those parts of the application on which the error was made), which provided for a specific form of correction.

The order of the Federal Tax Service of Russia of January 25, 2012 No. MMV-7-6/25@ "On Approval of forms and requirements for the registration of documents submitted to the Registration Authority for the State Registration of Legal Entities, individual entrepreneurs and peasant (Farmer) farms" retained such a form of application for state registration as "Application for amendments to the information about a legal entity contained in the Unified State Register of Legal Entities" (form P14001), although in a slightly modified form.

In the specified form, one of the grounds for its submission was indicated as "correction of errors made in the previously submitted application". However, there was a significant difference: in the Requirements for the registration of documents submitted to the registration authority, approved by the order of the Federal Tax Service of Russia dated January 25, 2012. no. MMV-7-6/25@, the definition of "error" was given in relation to the grounds on which the specified application could be filed: "a typo, typo, arithmetic error, or other similar error made by the applicant when making an application (notification, message) submitted earlier during the state registration of a legal entity and leading to a discrepancy between the information included in the records of the Unified State Register of Legal Entities on electronic media and the information contained in the documents submitted simultaneously with such an application (notification, message)".

The analysis of the specified regulation gives grounds for the following conclusions:

- an obvious attempt to "link" the case regulated by the form P14001 with the provisions of Article 4 of the Law on State Registration of Legal Entities and Individual Entrepreneurs ("...which led to a discrepancy in the information..."). This attempt cannot be considered successful;

- the explanation of what is meant by "error" is very close in meaning to what can (based on the semantics of the word "technical") be understood as a "technical error" in Article 4 of the Law on State Registration of Legal Entities and Individual Entrepreneurs . However, if we were talking about the same phenomenon, then the conceptual apparatus could be shared;

- the concept of "errors" significantly narrowed the possibilities for interpretation, not only by reducing it to some typos, typos, etc., but also by the fact that it was necessary to identify inconsistencies in the documents in the application forms with the information that was in the documents provided to the registration authority together with the applications;

- the order of the Federal Tax Service of Russia of January 25, 2012 was based on the priority of the information contained in the documents submitted simultaneously with the application, over the information contained in this application. In other words, for the legislator, the application is a secondary document, which is only intended to reflect information from other documents; the information contained in it does not have an independent meaning, and therefore, if there can be an error, it is in such a statement in the form of inconsistency with other documents that are

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provided to the registering authority. There is logic here, and another interesting conclusion can be drawn from it: the correction of errors that were made in these documents themselves could not be done through the mechanism of correcting the "error". Thus, the possibility (even theoretical) of distorting the will of the participants in the creation of a legal entity or the initiators of changes to the documents and information defining its legal status was excluded, and, consequently, the possibility of making such changes that affected the rights of third parties was excluded.

Order of the Federal Tax Service of Russia No. ED-7-14/617@ of August 31, 2020 also indicates the possibility of correcting the error by sending a special form – "Application for state registration of changes made to the constituent Document of a legal entity and (or) for making changes to the information about the legal entity contained in the Unified State Register of Legal Entities" (form No. P13014). This form also contains as one of the reasons for sending such an application "correction of errors made in the previously submitted application".

If we compare the reasons for submitting the relevant application in the five specified regulations adopted in 2004-2020, it is clear that the legislator is inclined to consider the case of correcting the "error" as a case of correcting the text of the application sent to the registration authority.

According to this logic, there can be no errors in the primary documents submitted to the registering body – the constituent documents, the transfer act, etc. Otherwise, there is a risk that these documents will be changed through this institution, including for negative purposes. If an error is made in such (other) documents – then this is the subject of other procedures, as well as disputes about the law.

4. "Typos and errors" in the documents issued by the registration authority. The basis for the appearance of this case, as already noted, is Federal Law No. 210-FZ of July 27, 2010 (Articles 5, 11.1, 11.2). The relevant provisions appeared in it as a result of changes made in December 2011.

That is, strictly speaking, with the Law on state registration of legal entities and individual entrepreneurs, this case is not directly connected; the connection is indirect – through the provisions of the Federal law of July 27, 2010 No. 210-FZ on the procedure and conditions of provision of public services.

The Administrative Regulations of the State Registration of the Ministry of Justice of the Russian Federation of 2011 provide for the possibility of appealing against the actions and (or) inaction of officials of the Ministry of Justice of the Russian Federation in a pre-trial (out-of-court) order, including such (p. 114):

- refusal of the body providing the public service, the official of the body providing the public service, to correct the typos and errors in the documents issued as a result of the provision of the public service;
- violation of the deadline for such corrections.

Paragraph 115 of the Administrative Regulations of the State Registration of the Ministry of Justice of the Russian Federation of 2011 provides for one of the options for considering such a complaint – its satisfaction, including in the form of cancellation of the decision, correction of typos and errors made by the body providing the state service in the documents issued as a result of the provision of the state service.

In essence, the first of these grounds was not directly, but implicitly pointed to the new right of the applicant during state registration – to require the registering authority to correct typos and errors in the documents issued as a result of state registration (this right is not explicitly specified in Federal Law No. 210-FZ of July 27, 2010). The second of these reasons looked somewhat strange, since the deadline for corrections was not actually set.

In 2012, similar provisions were fixed in the Administrative Regulations for the Provision by the Federal Tax Service of state Services for the state Registration of Legal Entities, Individuals as individual entrepreneurs and Peasant (Farm) Farms, approved by the order of the Ministry of Finance of the Russian Federation of June 22, 2012. No. 87n (hereinafter referred to as the Administrative Regulations for State Registration of the Federal Tax Service of Russia of 2012), and then in the following (2016) Administrative Regulations for the Provision by the Federal Tax Service of State Services for the

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State Registration of Legal Entities, Individuals as Individual Entrepreneurs and Peasant (Farmer) Farms, approved by Order No. 169n of the Ministry of Finance of the Russian Federation of September 30, 2016 (hereinafter referred to as the Administrative Regulations for State Registration of the Federal Tax Service of Russia of 2016).

The current Administrative Regulations of the State Registration of the Federal Tax Service of Russia in 2020 differ in the description of the procedure for correcting "typos and errors", and for the better.

5. Conclusions.

The analysis provides a basis for not very positive conclusions regarding the assessment of the current legislation on the state registration of legal entities.

First, it is obvious that the simultaneous existence of three orders of correction of a "technical error", "error", as it currently exists – with all their intersections with each other - is nonsense.

Secondly, it is clear that the regulation of all cases of non-compliance of the records of the Unified State Register of Legal Entities with the submitted applications, the documents available to the registering authority, the issued documents, and in general with the actual circumstances are all special cases of violation of the rule on the reliability of the information included in the Unified State Register of Legal Entities. Accordingly, they can and should be regulated as such special cases.

But for this – and this, thirdly, it is necessary to bring in the norms of the Civil Code of the Russian Federation and the legislation on state registration of legal entities an elementary order with an understanding of reliability / unreliability.

This issue should be quite definitely settled in order to exclude both the very peculiar rulemaking of the registering authority and the practice of unfair behavior of the participants in the turnover themselves (including in the form of inaction – timely failure to provide information included in the Unified State Register of Legal Entities with actual (changed) life circumstances).

In this regard, we would consider necessary the following changes in the current legislation (although ideally it is high time to create a new law on state registration of legal entities, because the state of the current law is absolutely unsatisfactory, it has long lost its consistency, its subject has "floated", there are numerous contradictions within individual provisions; it is impossible not to note the continued autonomous existence of its norms and formally serving as the main norms of the Civil Code of the Russian Federation):

1) the existing regulation of the issue of reliability and various "inconsistencies" ("technical errors") should be excluded from Articles 4, 5, paragraphs 4.2 – 4.4 of Article 9, paragraphs 5 and 6 of Article 11 of the Law on State Registration of Legal Entities and Individual Entrepreneurs. All of them are what is called " out of place»:

- the provisions of Article 4 on technical error cannot be located in this norm by its very name; this norm must contain the principle of maintaining state registers – ensuring the reliability of information contained in such registers by means established by the norms of this law. At the same time, it is necessary to exclude the unclear principles of maintaining state registers that are available in the text of the Law on State Registration of Legal Entities and Individual Entrepreneurs. For example, in terms of maintaining the unified federal register of information on the facts of the activities of legal entities, it is stated (paragraph 4 of Article 7.1 of the law) about the responsibility for the "reliability and correctness of information" entered in this register. If we take into account that the word "correctness" means in the Russian language the quality of correctness and accuracy [16, p. 298], then from the conclusions we made earlier, it is clear that correctness is a synonym for reliability. The provisions of the Law on Information analyzed above regarding the requirements for information in the form of reliability and relevance are also subject to a certain correction in correspondence with these changes;

- the provisions of Article 5 (paragraph 1, paragraph 4) are also subject to exclusion due to the fact that they, in essence, contain an alternative (and non-viable) explanation of the reliability of the information included in the Unified State Register of Legal Entities;

- the provisions of paragraph 4.2 of Article 9

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are subject to deletion and transfer to another part of the law, at least in terms of verifying the reliability of information entered in the Unified State Register of Legal Entities (they are not in place here for the very purpose of this article and create uncertainty); however, it seems to us that this article as a whole should be "cleared" of the provisions concerning reliability; for the purposes of this article, the existing provision of paragraph 1 of paragraph 4.4 is quite sufficient, and the details of verifying the reliability of information entered in the Unified State Register of Legal Entities and Individual Entrepreneurs should be transferred to other parts of the Law on State Registration of Legal Entities and Individual Entrepreneurs;

- the provisions of paragraphs 5 and 6 of Article 11 of the Law on State Registration of Legal Entities and Individual Entrepreneurs are also not in place, since Article 11 has a completely different purpose of regulation; these provisions also need to be reformed to take into account all the facts of unreliability. The relevant paragraphs should be re-stated (with the amendment of the provisions of the order of the Federal Tax Service of Russia dated February 11, 2016 No. MMV-7-14/72@, including the exclusion of the possibility of automatically marking the inaccuracy of information in the Unified State Register of Legal Entities without conducting a preliminary check);

2) it is necessary to "unload" Article 51 of the Civil Code of the Russian Federation from a lot of unnecessary provisions found in it, edit it in terms of the conceptual apparatus; the definition of the reliability of information in the Unified State Register of Legal Entities and Individual Entrepreneurs is given in the Law on State Registration of Legal Entities and Individual Entrepreneurs as:

- compliance of the information included in the Unified State Register of Legal Entities with the actual (actual) circumstances;

- compliance of the information included in the Unified State Register of Legal Entities with the actual (actual) circumstances that determine the legal status and activities of the legal entity, as well as with the documents issued by the registration authority based on the results of the state registration of the legal entity.

For the implementation of these provisions, it is essential to clearly indicate what circumstances are taken into account.

It may be necessary to give a more general definition of reliability in relation to information in general in the Law on Information, indicating the possibility of special regulation, which will include the provisions of the Law on State Registration of Legal Entities and Individual Entrepreneurs;

3) for the real (and not illusory, as today) implementation of the principle of public reliability, it is necessary to conduct an audit of Article 5 of the Law on State Registration of Legal Entities and Individual Entrepreneurs to determine what information should be in the Unified State Register of Legal Entities and in what form. Currently, the Unified State Register of Legal Entities with its content does not allow this to be done.

4) determining the reliability and reforming the Unified State Register of Legal Entities in this way will allow us to determine what is unreliable, indicating its different cases, which, most likely, will be several:

- unreliability caused by inaction of the legal entity itself;

- unreliability that has arisen due to the inaction of state bodies and other (other than the applicant) persons who are required to update information in the state register;

- unreliability resulting from erroneous actions of the state body and other persons (other than the applicant) who are required to update the information in the state register;

- unreliability – as a result of deliberate actions of a person aimed at introducing false information (here you will need an obvious correction of the norms of administrative (Article 14.25 of the Administrative Code of the Russian Federation) and criminal (Article 170.1, 173.1, 285.3 of the Criminal Code of the Russian Federation) legislation)

- the presence of a period of time of "technical unreliability" - during which the information is subject to update.

The most (there are several dozen of them today) odious normative provisions that create legal uncertainty (both the actual legal norms and regulatory explanations) in terms of unreliability of the address, as well as some other types of

information, are subject to invalidation. A reasonable idea is to abandon the current understanding of the address with the option of replacing it with an electronic (digital) address, which has already been expressed in separate studies and has even been the subject of separate instructions aimed at preparing relevant legislative initiatives.

It is necessary to clearly distinguish between the unreliability and non-compliance of the submitted documents with the requirements of the law, which in practice is not always done (especially in cases of reorganization and liquidation) [17, p. 54, 56].

A separate issue is the redistribution of regulations (by level of regulation). Some of them, which are currently in by-laws (Order of the Federal Tax Service of Russia No. MMV-7-14/72 of February 11, 2016), administrative regulations, etc. acts) and separate explanations of a regulatory nature, subject to transfer to the level of federal law. The same applies to some conclusions of the courts (for example, at the level of the law, it is necessary to regulate the possibility / impossibility of verifying the accuracy of information in the Unified State Register of Legal Entities in relation to a person who has ceased to exist; at the same level, determine the "depth" of the assessment of unreliability of information, and so on.);

5) to ensure reliability, it is necessary to introduce a single form of a correction statement with a clear reflection of the grounds for refusal to accept it, stating them in Article 23 of the Law on State Registration of Legal Entities and Individual Entrepreneurs and in the relevant articles of federal laws regulating special procedures for state registration (non-profit organizations, etc.);

6) an error, for whatever reason it may arise, is a special case of unreliability and it must be resolved within the framework of the specified provisions on ensuring reliability;

7) structurally (in terms of legislation on state registration of legal entities and individual entrepreneurs) these changes may look as follows:

- or introduce in Chapter II of the Law on State Registration of Legal Entities and Individual Entrepreneurs separate articles on ensuring the reliability of information entered in the Unified State Register of Legal Entities and on ensuring the reliability of information included in the Unified State Register of Legal Entities;

– - or introduce a separate chapter in the specified law-II.1 "Ensuring the reliability of information in state registers", where the entire block of relevant issues is regulated in detail.

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