Social services as a basis of city development: models of legal regulation

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Abstract. The article examines social service. The aim of the article is to pose a problem in terms of understanding the legal category of social services, determining its place in the system of legal relations and industry, identifying areas for development of legislation for provision of social services, both within the framework of its provision by entities related to public institutions and in the social sphere. The leading approach to the study of this problem is analysis, synthesis, formal legal method and comparative legal method. The authors suggest that an indication of intersectoral nature of relations requires legislative determination and establishing principles for interaction of these industries. The analysis allows to conclude that relations in the field of social services in the framework of development of socio-economic relations, with the modern legislative vector, seek to enter the sphere of economic, private, entrepreneurial relations, introducing into this category an element of publicity.

1 Introduction

In the nineties of the last century, the Concept of Sustainable Development appeared and remains popular nowadays. Its main task is to achieve a balance between human activities and reproducing forces of nature. The concept directs society not only to growth in all spheres of life, but also to self-sufficient development; within its framework the needs of both the individual and society as a whole are provided. The needs of mankind consist not only in economic well-being of all countries, social development of society, but also in a healthy environment, harmony, expressed in human well-being in all areas of nature and social relations.

Preserving the possibility of existence on Earth by future generations is only one of the manifestations of the idea of sustainable development. In addition, this is the formation of a society where each person feels part of a single whole, feels support, both through a stable economy and a decent existence, and through the common actions of the government, civil society, scientific community, business, whose common goals should lead to the unity of actions, creation of new social institutions. These mechanisms cannot be frozen, they must develop, be modern, take the best of the experience of generations and introduce new forms.

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The sign of a social state with a policy enshrined in the Constitution of the Russian Federation systematically finds confirmation in various measures. Within their framework conditions are created for a decent life and free development of a person.

The idea of a social state has already been implemented in the creation of a system of government bodies that provide support to entities in need of special social support from the state, including children, people with disabilities, and senior citizens. Taking into account the concept of sustainable social development, enterprises and organizations are also involved in these relations to provide assistance to needy citizens, whose goal is to create conditions that bring people in need closer to an equal position among all other people, to most effectively provide assistance to citizens in need of social services, the receipt of which makes their life worthy.

The effective implementation of such projects and possible ways to achieve this goal have been repeatedly discussed in the scientific literature. Scientists have taken the approach that the state's actions are not enough, all representatives of civil society should assume some of the responsibilities for providing socially significant services.

These ideas are confirmed in the legislation and programs of the Government of the Russian Federation. So, in order to increase life expectancy, the "Concept of long-term socio-economic development of the Russian Federation for the period until 2020" was created, with a purpose to comprehensively improve the lives of citizens.

The program is implemented, *inter alia*, through the development of the sector of non-governmental organizations in provision of social services, since a mechanism is being developed in the social protection system to attract subjects of all forms of ownership to provide services to those in need, in particular elderly and disabled citizens.

Focusing on the idea of sustainable development, the Concept enshrined directions for achieving goals for high standards of personal security, access to education and health services, and ensuring social welfare. So in 2017, the Government approved a set of measures to create a system of long-term care for elderly citizens and people with disabilities, including social services and medical care at home, as well as in a semi-stationary and stationary form. [On the implementation of a pilot project to create a long-term care system for senior citizens and people with disabilities in the pilot regions in 2019, approved. By Order of the Ministry of Labor and Social Protection of the Russian Federation of February 28, 2019 No. 128]

This document provides for the improvement of mechanisms for interagency cooperation between medical organizations and social service organizations, including synchronization of information systems in the field of social protection and public health. The project began implementation in six regions (Volgograd region, Kostroma region, Novgorod region, Pskov region, Ryazan region, Tula region) on the territory of 12 municipalities.

By 2022, a long-term care system for senior citizens and people with disabilities is expected to be implemented in all 85 regions of the Russian Federation. In the regions participating in the projects, their own subprograms were created, in particular, the Government of the Jewish Autonomous Region adopted a resolution aimed at implementation of these tasks, identified the amount of funding.

Relevance. Defining the concept of social services, legislators focus on what it is such an action, such activities in the field of providing assistance to citizens, in order to improve their living conditions and (or) expand their ability to independently provide for their basic necessities of life.

Legal rules governing relations in the field of social services traditionally belonged to the social security law. In connection with the development of society in the field of law and economy, new social relations and directions for development of institutions appeared, part of the powers from state bodies were transferred to the new system of relations of

social entrepreneurship.

The interbranch nature of legal regulation requires determination of the basic principles of legal regulation of developing relations, as well as resolution of the issue of determining status of legal relations. The current economic situation affects development of social norms, although the sphere of social protection remains the prerogative of the state and belongs to the category of public goods.

A social service is provided by any member of social service system, while both government organizations and institutions, as well as commercial organizations and individual entrepreneurs providing social services, have equal responsibilities in terms of providing quality services based on the requirements of standards and an individual rehabilitation program.

Theory of social security obligations was not reflected in the development of legislation. The norms of legislation on social services in terms of regulating the agreement and terminology are more consistent with civil law.

2 Materials and Methods

Both in the legal and economic spheres, there is a discussion about the changing legal and social models, taking into account the fact that the institution of social entrepreneurship is becoming a reality of our time. The combination of such a polar public and private element objectively necessitates further study (Barkov A.V., Serova O.A., Bogdanov E.V., Lushnikov A.M. Lushnikova M.V. Tarusina N.N.).

Given the analyzed area, the problems posed are studied from the perspective of both social security law, in terms of social services for needy citizens, and from the point of view of business and civil law, the design of a service agreement, the participation of social entrepreneurs in the process of providing primarily social services.

Scientific research has repeatedly touched on issues of social services, their social security, public character, problems of transition period to a new economic formation, subject composition and terms of the contract for provision of social services were analyzed. These are such authors as Barkov A.V., Bogdanov E.V. Burmenko T.D. Lushnikova A.M. Lushnikova A.M., Malofeev I.V., Savinov T.L., Tarusina N.N., Tyukin O.A., Putilo N.V., whose studies play an important role in formation of ideas on the new stage.

This is the novelty of the study, since the lack of unambiguous conclusions and the position of the legislator does not make it possible to unequivocally choose a variant of behavior and be guided by specific principles. The emphasis on the signs of social services, correlation of concepts of services and social services, their general characteristics, ways of protecting the rights of service recipients, areas of development of legislation, clearly demonstrates legislative gaps in the regulation of social security relations, and social and entrepreneurial relations.

The purpose of the work is to search for optimal mechanisms for legal regulation of the legal category of social services from the position of industry identification. Identification of characteristics of the category in question, characteristics of subjects and designation of the main directions of development of the legislation will allow planning, regulating the development of social and at the same time entrepreneurial relations. To achieve this goal, it is necessary to use analysis methods, including in terms of changes in legislation at different historical stages, synthesis, formal legal method and comparative legal method.

3 Results

Article 3 of the Federal Law “On the Basics of Social Services for Citizens in the Russian Federation” No. 442 determines that the provider of social services is a legal entity regardless of its legal form and / or individual entrepreneur providing social services. Article 5 of the mentioned law supplements the idea of a systemic construction in the interaction of all entities involved in the provision of social services to citizens.

Interacting entities include not only federal and regional executive bodies, which carry out functions of developing and implementing state policy and legal regulation in the field of social services, recognizing citizens in need of social services, and also perform a number of other functions.

Along with the above mentioned entities, legislators also name non-governmental commercial organizations of social services, including socially oriented non-profit organizations that provide social services, individual entrepreneurs. These entities have been given the active role of participants in social security relations, since it is impossible to resolve all arising issues through the efforts of state bodies alone.

Since dynamically developing economic market relations objectively increase the stratification of society and cause the need to protect needy citizens, we believe that this circumstance once again confirms the position of Filatova U.B. that actively involving elements of civil society in the social sphere and suggests that in the future many functions in the social sphere will be transferred to business entities. [1]

For several decades we have been witnessing the emergence of a special kind of relationship. Given the historical development of the Russian Federation in the Soviet and post-Soviet period, when the responsibility for maintenance of needy citizens was entrusted to state bodies, while expenses were offset by budgetary funds, social services were traditionally included in the social security law system. Questions about the sectoral affiliation of relations, their alimentary and public-law nature did not arise.

Social relations are inherently dynamic, their development invariably entails the development of legal institutions. At the present stage, the features of the institution of social services suggest voluntary entry into legal relations, based on the same industry principle. The service is provided at the initiative of a citizen, recipient of a social service, recognized by force of law as needy. The development of legislation defined an approach to the concept of social services, to the procedure for obtaining and designing services, which are seen as elements of a civil obligation [2].

The study of the essence of social services, and, as a consequence, the system of social entrepreneurship should go in one direction, since it is of fundamental importance in development, human functioning, which allows a citizen to realize the right to a decent life and free development.

The prospects for development of small and medium-sized enterprises are defined in the Strategy on development of small and medium-sized enterprises in the Russian Federation for the period until 2030. The main directions in the policy in the field of social entrepreneurship include increasing the share of small and medium-sized enterprises in the field of social services.

However, changes in legislation only outlined the problem of industry affiliation and delineation of provisions regarding social services. In accordance with Article 17 of the Federal Law “On the Basics of Social Services for Citizens in the Russian Federation” No. 442, a service is provided on the basis of an agreement on the provision of social services concluded between a social services provider and a citizen or his legal representative based on an individual program.

An order of the Ministry of Labor and Social Development developed an approximate form of the contract, called the essential terms of the contract for provision of social

services. The legislator referred to them the provisions determined by the individual program, as well as the cost of social services if they are provided for a fee or a partial fee.

4 Discussion

Analyzing the development of legal thought, in particular in the previously presented work of Lushnikov A.M., Lushnikova M.V. Tarusina N.N. note that the main conclusion was the position that allows us to attribute the relationship of social services to the category of social security, regardless of the fact that many relationships arise on the basis of contracts. The authors conclude on the basis of an analysis of the legislation and characteristic features of a special category of recipient entities of the service, the relatively equivalent approach to payment, requirements and special control in relation to organizations providing the service. The position is presented in the work that the use of civil contractual structures by the legislator is not justified.

Later, in studies when analyzing the legal regulation of social services, a characteristic began to sound more and more often, which made it possible to find more and more private law features in contractual relations in the field of social services. This is logically explained by the rapid development of socio-economic relations.

So, in particular, in the work of A. Barkov "The agreement on the provision of social services as the basis of legal design of placement of children in an organization for orphans" the author refers these relations to the social services market and the developing system of entrepreneurial relations. Conclusions are made regarding dispositive principles that help mobilize the individual's internal potential in a difficult situation, while maintaining special qualities of social security structures, taking into account the intersectoral nature of relations.

Despite the special nature of relations, based on the principle of protecting needy citizens, we cannot take into account the signs that are designated in the civil law sphere as characterizing these relations. The need for the benefits that the service brings, the activities of the contractor, the voluntary nature of entering into relationships, including the receipt of social services, the ability to choose contract terms that are appropriate to the needs, whether the service meets quality standards - all these characteristics will be applicable, regardless of whether there are social nature of the relationship or not.

Even the presence or absence of a sign of a reimbursable nature in certain respects for the provision of social services means only that the service must be paid, but to whom the obligation to pay belongs, depends on a number of conditions. Consequently, we can conclude that the essence of the service in the civil law sense, as well as from the standpoint of social security law, does not categorically change, since it is formed on the basis of economic theory, in terms of the needs of citizens that are met in different ways.

Civil law governs a number of relations in which there is an element of obligation, despite the private law nature. In accordance with Art. 426 of the Civil Code of the Russian Federation a public contract allows the customer to demand the provision of a service, and the contractor does not have the right to refuse to conclude a contract. Analyzing the legislation, we can conclude that, as in social security relations, in the field of public civil contract, it is possible to lower prices for certain categories of citizens, there is a responsibility for refusing to conclude a contract.

Regarding the organization of provision of services under public contracts, legislators establish special requirements for implementing entities, for example, when concluding a contract for transportation by public transport, concluding a compulsory civil liability insurance contract, and an energy supply contract. Let us assume that civil-law models of legal regulation correspond to the essence and conditions for provision of social services.

Based on the logic of legislators, expressed in the framework of the Federal Law of the

Russian Federation “On the Development of Small and Medium-Sized Entrepreneurship in the Russian Federation” No. 209, regarding changes aimed at reinforcing concepts and supporting subjects of social entrepreneurship, we believe that intention is expressed to develop the social sphere of entrepreneurial relations, due to the social service system.

After analyzing legal acts regulating relations allegedly located in the framework of the polar private and public law, we can find a single subject composition, goals, types of services and much more: (table 1).

Table 1 Analysis of legal acts

Indicator	“On the development of small and medium enterprises in the Russian Federation” Federal Law No. 209	On the basics of social services for citizens in the Russian Federation: Federal Law No. 442
Subjects-recipients of services	disabled people and persons with disabilities, single and / or large family parents raising minor children, including disabled children, pensioners and citizens of pre-retirement age citizens not specified .. recognized as needing social services; ... (Article 24.1 of the Federal Law No. 209)	a citizen who is recognized as needing social services and who is provided with social services (Article 3 of the Federal Law No. 442)
Purpose of provision of services	In order to create conditions for them to overcome or compensate for limitations of their livelihoods, as well as the opportunity to participate on an equal basis with other citizens in society ... (Article 24.1 of Federal Law No. 209)	in order to improve the conditions of his life and (or) expand his ability to independently provide for his basic necessities of life (Article 3 of the Federal Law No. 442)
Types of services	1) activities for provision of social services ...; 2) activities for provision of social and medical services ...; 3) activities for provision of socio-psychological services ...; 4) activities for provision of social and educational services ...; 5) activities for provision of social and labor services aimed at assisting in employment ...; 6) activities for provision of services providing for an increase in communicative potential, rehabilitation ... (Article 24.1 of the Federal Law No. 209)	1) social and domestic services ...; 2) socio-medical services; 3) socio-psychological services...; 4) socio-pedagogical services...; 5) social and labor services, aimed at assisting in employment ...; 6) social and legal services...; 7) services to improve communication potential ...; (Article 20 of the Federal Law No. 442)

For example, the above mentioned law stipulates that a small and medium-sized business provides employment for people with disabilities, single parents with children under 7 years, parents with many children, unemployed pensioners, graduates of orphanages under the age of twenty-three years, and other categories. Especially legislators noted persons recognized as needing social services.

Such a broad interpretation is unambiguously connected, in our opinion, with the fact that legislators have changed the approach by refusing to list categories of citizens who need social services, recognizing the right to receive social services for everyone who is recognized as needing by a decision of an authorized state body. [Art.14]

In addition, the duties of social entrepreneurs also include creation of conditions for needy citizens to overcome or compensate for the limitations of their livelihoods, creation of opportunities to participate equally with other citizens in society, provision of social, medical, pedagogical and other types of services, similarly enshrined in the Federal Law of the Russian Federation "On the Basics of Social Services in the Russian Federation" No. 442.

5 Conclusion

The current situation, in our opinion, considers it possible to divide the areas of legal regulation in provision of social services. Given in public legal nature of relations of social security law, we believe it is necessary to consolidate, within the framework of social security relations, norms that determine the need of a citizen to protect society through the receipt of social services.

The process of recognizing the right of a citizen to receive it, setting criteria or the absence of criteria for gratuitous nature of the service received or for a partial fee are those issues that must be decided by the authorized body that makes the decision, which will be the basis for assisting the citizen. Further, a citizen, within the framework of social service system, selects a provider of social services, among persons who have the right to provide them, in accordance with established standards.

Given the importance of protecting citizens receiving social services, relevant public authorities should be empowered to protect rights if social entrepreneurs fail to comply. In law enforcement practice, there is a positive experience of bodies and organizations controlling observance of the rights of citizens, for example, insurance supervision, labor inspectorates, and others.

Having determined the industry affiliation of a particular group of relations, in the process of application there will be no questions about the use of conceptual apparatus, the list of rights and obligations of subjects, ways of protecting the rights of service recipients.

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