

Personal Non-property Right of the Russian Federation, as a Subject of Civil Law Relations, to Reputation

Alexei V. Telnov ^a

Department of Civil Law and Litigation and Private International Law of the Law Institute of the FSAEI HE "Peoples' Friendship University of Russia", Moscow, Russia

Keywords: Intangible Benefits, Personal Non-property Rights, Reputation, Defamation, Dissemination of Untrue Damaging Information.


Abstract: The subject of research of this article is the regulations of civil legislation, controlling intangible benefits, personal non-property rights, the rights of the Russian Federation as an independent participant in civil law relations, as well as the provisions of the legal doctrine, that study the relevant objects of civil rights. The purpose of this research is to study the current state of public relations, associated with such a type of intangible benefits as reputation, and the personal non-property right of the Russian Federation to this benefit, which is associated with multiple situations, associated with the dissemination of untrue damaging information, regarding the Russian state, concerning various fields of its activity. The methodological basis of the study consists of general scientific and special methods, in particular, theoretical, comparative-legal, method of analysis, and synthesis. The scientific novelty of the research lies in the fact, that on the basis of existing knowledge in the field of litigation practice, the provisions of judicial practice, the necessity of a legislative definition of reputation as a separate type of intangible benefits and the personal non-property right of the Russian Federation to reputation is substantiated, the applicability of the reputation as an object of protection in defamation regarding the Russian Federation, as well as the concept and content of the given personal non-property right of the Russian Federation to reputation are determined.

1 INTRODUCTION

Our state is currently in a difficult situation, when more and more often untrue damaging materials are disseminated regarding it in the media, both inside the country and abroad, concerning it in completely different fields of its activity, for example, such like sports, history, politics or culture. Here we can give as an example the accusations of Russia in the poisoning of Sergei and Yulia Skripal in the UK, as well as the Russian opposition leader Alexei Navalny, and indications of interference in the election campaign of the US President in 2016, and reproaches for initiating the Second World War, and the imposition of responsible for the outbreak of the new coronavirus infection COVID-19. There are other examples as well.

These cases of dissemination of information are exactly defamation, i.e. the dissemination of untrue damaging information regarding Russia as a state,

since they are based on unverified, unconfirmed information, and also, often, on assumptions and speculation. At first glance, it seems, that these cases are only the private opinions of individuals, expressed within the framework of freedom of expression, enshrined in Art. 10 of the 1950 Convention for the protection of human rights and fundamental freedoms and Art. 29 of the Constitution of the Russian Federation of 1993, which should not be the subject of special attention. But, over the past 5-7 years, there have already been a lot of such cases, which forms a general negative background around the country. Moreover, the given materials, after their publication, become the basis for applying real economic and political sanctions to the Russian Federation, entail deterioration of trade relations with other countries, depriving it, on an equal footing with other countries, of the opportunity to participate in sports competitions, etc. (Inshakova, A.O., Frolova, E.E., Rusakova, E.P., Galkina, M.V., 2020), as a result of

^a <https://orcid.org/0000-0002-5877-7432>

which irreparable and significant material and intangible damage is caused, not only to Russia in the international arena and within the country, but also to all subjects - legal entities and individuals, belonging to the Russian jurisdiction. It seems, that the common purpose of the above publications, which have no proper foundation, is the opportunity to undermine, destabilize the position of Russia and reduce its reputation in the eyes of the world community.

It is necessary to properly respond to these cases of dissemination of damaging materials in order for the country to be able to show the public the true nature of certain events, to shatter illusions, that prevail at the moment in public opinion, formed under the influence of the media, and not only to preserve its position at the international level, but also to strengthen its position in the eyes of other states and within Russia, including in the eyes of its citizens. If these actions are not taken, then the inaccurate nature of the widespread damaging information will become global and all around, which will affect, among other things, the attitude towards ordinary Russian citizens, who will feel embarrassed for their country and will be ashamed of being Russians. In support of this point of view about the repeated dissemination of untrue information, one can point to a quote, attributed to the French writer and diplomat of the 18-19th centuries Francois René de Chateaubriand, who noted that “A lie, repeated a thousand times, becomes true”.

Based on all this, an urgent need arose to protect the Russian Federation, as an equal right subject of civil law, from cases of dissemination of damaging information, that does not correspond to reality. To do this, first of all, it is required to legislatively introduce such a new type of intangible benefits as reputation, since it is currently formally absent in civil legislation, as well as to determine the personal non-property right of Russia to the mentioned intangible benefit, which has a general social character, and to doctrinally study, what the above right represents.

Without the introduction at the legislative level of the aforementioned type of intangible benefit and the personal non-property right of the Russian Federation to a reputation, it is really impossible to carry out actions, related to the protection of the state from numerous violations. At the same time, the introduction of such a type of intangible benefit as reputation will allow for the regulatory support of the subsequent development of legislation in terms of strengthening the reputation of the state, increasing the level of its special protection from defamation and other violations. It is possible to say, that the legislative introduction of the above type of intangible benefit and the introduction of a new type

of personal non-property right of Russia to reputation will be the legal basis for the protection, provision and further strengthening, not only of the non-property rights of the state, but also of the non-property rights of all constituent entities of the Russian Federation, including citizens and legal entities of this jurisdiction, since damage from defamation against the state actually directly and indirectly affects the rights of all listed subjects of civil rights (Telnov, A.V., 2021).

2 RESULTS AND DISCUSSION

The possibility of the Russian Federation to be a subject of civil-law relations, both property and personal non-property, along with other participants of these relations - individuals and legal entities, and on an equal basis with these participants, is enshrined in Cl. 1 of Article 2 of the Civil Code of the RF and in Cl. 1 of Article 124 of the Civil Code of the RF. The above indicates, that the state has civil legal personality, i.e. the existence of a social and legal opportunity to be a participant in civil property and personal non-property legal relations, which includes legal competence - the ability to have civil rights and obligations in relation to material or immaterial objects, and legal capacity - the ability to acquire rights by your actions and bear responsibilities. At the same time, the state has some specifics of participation in civil legal relations, in view of which, in accordance with cl. 1 of Art. 125 of the Civil Code of the Russian Federation, on behalf of the Russian Federation, can by their actions acquire and exercise property and personal non-property rights and obligations, appear in court, government bodies within their competence, established by acts, determining the status of these bodies.

With regard to the participation of the Russian Federation in property legal relations and its possession of property rights, the issue is legally resolved (for example, one of the signs, characterizing the state as a subject of civil law is ringfenced assets and at the legislative level, the possibility of property being in the ownership of the state is determined - Article 212 of the Civil Code of the Russian Federation) and does not cause any particular disagreement doctrinally. At the same time, the issues of Russia's ownership of intangible goods and personal non-property rights to them, as well as the participation of the state in personal non-property legal relations, are currently almost unexplored. This is due to the widespread in the doctrine of a special approach about belonging of intangible benefits and

personal non-property rights to individuals and legal entities, and the fact that in respect of Russia "public-law nature overshadows its civil-law status" (Tolstoj, V.S., 2009).

However, nowadays, the study of the participation of the Russian Federation in personal non-property relations, as an equal participant of civil law relations, is very relevant, given the provision of cl. 1 of Art. 125 of the Civil Code, directly recognizing for the state the existence of personal non-property rights.

At the same time, one can only guess, what kind of personal non-property rights Russia has. If we take into account the provision of cl. 2 of Art. 124 of the Civil Code of the Russian Federation, in accordance with which "The regulations, determining the participation of legal entities in relations, controlled by civil law, are applied to the subjects of civil law, specified in cl. 1 of this article (Russian Federation, constituent entities of the Russian Federation: republics, territories, regions, cities of federal significance, autonomous regions, autonomous districts, as well as urban, rural settlements and other municipalities) unless otherwise follows from the law or the specifics of these entities", it turns out, that the Russian Federation, as a subject of civil law, can only have the right to defense business reputation, provided for in cl. 11 of Art. 152 of the Civil Code of the Russian Federation.

At the same time, the idea of business reputation as a phenomenon, related only to subjects engaged in entrepreneurial and other economic activity, has developed in the Russian legal doctrine. In particular, A.R. Gusalova, who understands business reputation as "a public assessment of the entrepreneurial qualities of a subject, speaks about this. And the "subjects of business reputation are subjects of entrepreneurial activity, i.e. citizens - entrepreneurs and legal entities" (Gusalova, A.R., 2012) and researcher U.Z. Sahapov, who states the following: "If we speak about subject of entrepreneurial activity, then, of course, to characterize their professional skills, ability to engage in economic activities, a general social assessment is not enough. Therefore, in order to assess the professional qualities of subjects of entrepreneurial and other economic activity, the legislator supplements the term "reputation" with a qualitative and professional criterion. As a result, the term "business reputation" is obtained (Sahapov, U.Z., 2007). At the same time, if the activities of subjects of civil law relations concern their general social assessment, then the concept of "business reputation" does not apply to such activities.

It follows from this, that in a situation, where defamatory information is disseminated against

Russia, which is a negative and untrue assessment of the state, its business reputation could be damaged if such information related to the sphere of entrepreneurship. But, the Russian Federation is the subject, that carries out its activities not only in this field. As M.N. Maleina rightly notes: "The assessment of the state should not be limited solely to economic indicators, credit rating and be expressed in money or inventories, although damaging and untrue information may relate only to such data" (Maleina, M.N., 2013). In view of this, the name of the intangible benefit to be protected, as a reputation, which has a general social orientation, and does not limit its application exclusively to the business, economic sphere, is more suitable for the state as a subject of law, since the Russian Federation is a participant of many social relations, most of which are not associated with entrepreneurial activity.

At the same time, the state, represented by the competent government bodies, in cases where untrue damaging information, concerning its general social assessment, is disseminated against it, is forced to use the adjacent objects, available in legislation, that are subject to protection, such as "business reputation", "honor", "dignity", "honest name", which does not quite correspond to their meaning. And if, in particular, we speak about the categories "honor", "dignity" and "honest name", then it is possible to say, that they are more applicable to the life of individuals, than to the activities of collective subjects of law, including the activity of the state. So, for example, in the science of civil law, the idea of honor as a phenomenon "directed from society to an individual, to a person" (Kuznecov, N.M., 2009) has developed, i.e. associated with a person in a subjective sense. The same can be said about a honest name: "the honest name of a person, established in public opinion, inspires respect for him. The latter, being a phenomenon of consciousness, should be enveloped in some kind of external forms, with the help of which it becomes a real, visibly perceived social relation, a fact of existing morals" (Blyumkin, V.A., 1974). The category of "dignity" is more different from reputation, since it is associated with the inner self-consciousness and self-esteem of a person, i.e. it is associated with a person's ability to assess and measure his behaviour and actions with the requirements of society, the ability to suppress selfish and immoral aspirations, intentions and desires, the fulfillment of which could lead to an assessment of a person as dishonest and unreliable, and in his ability to act in social life in accordance with generally accepted requirements, standards and rules of behavior.

In judicial practice, there are, of course, cases when, for example, the honor of public officials (the President of the Russian Federation, heads of constituent entities of the Russian Federation, heads of municipalities) or the honor of a state body and its head was considered as an object, to which a defamatory violation was directed and was identified with the reputation of this or that public entity. However, it cannot be said, that the reputation of a public entity in its content corresponds to the honor or reputation of a particular official or body of this entity. The reputation of a public entity and the honor of a public official, a state body are different intangible benefits, which may not coincide in their content. The reputation of public entity is seen as a broader concept and an independent benefit.

Thus, it is the reputation, as an intangible benefit, that is subject to protection when disseminating untrue and damaging information against the Russian Federation in the fields of its activity, that are not related to the economic field of activity.

When defamatory infringement on the reputation of the state, the question may arise as to what is the real object of legal protection. In civil law, two independent objects of protection are distinguished - subjective law and interest, protected by law. S.N. Bratus, defining subjective civil law, noted that "subjective law is a recognized and legally secured measure (boundary) of a person's possible behavior in this particular legal relation" (Bratus, S.N., 1947). Malein N.S. stands in full solidarity with him: "the concept of subjective law as a measure of permissible behavior, the ability to act in a certain way can be attributed to the generally recognized concept" (Malein, N.S., 1981), Yu.K. Tolstoy, who defined subjective law as "a measure of possible behavior in this legal relations, assigned to the person, authorised to satisfy his interests, secured by the imposition of duties on other persons" (Tolstoj, U.K., 1959), and S.S. Alekseev, who believes, that "subjective law is a measure of permissible behavior, belonging to the subject, provided by the state" (Alekseev, S.S., 1999). As noted by N.I. Matuzov, "when they want to say about any right, belonging to a particular person, the subject, wishing to emphasize the "personal", "individual" nature of this right, they resort to the term "subjective law", which basically correctly define and expresses a legal phenomenon, its essence, because by this, sort of, it is briefly stated, that this is not about legal regulations, not about laws and other normative acts, but about the rights, belonging to certain persons, subjects" (Matuzov, N.I., 1966).

The concept of a legally protected interest is less studied in the science of civil law, since such an

interest is not included in the content of civil legal competence (Articles 17-18 and 49 of the Civil Code of the Russian Federation), is not included in the number of objects of civil rights (Article 128 of the Civil Code of the Russian Federation) and is not mentioned as an intangible benefit (Article 150 of the Civil Code of the Russian Federation). At the same time, A.A. Eroshenko understands by a legally protected interest "the legally provided striving of the subject to achieve those benefits, the possession of which is permitted by the state and is ensured by providing a person with legal opportunities of a certain type" (Eroshenko, A.A., 1977). N.S. Malein believes that "a legally protected interest is a right of a general type, which is possessed not by one specific subject, but by all or a certain category of citizens, i.e. it is one of the elements of the general capacity for ownership, which constitute the content of legal competence. However, not all elements of legal competence are equally legally warranted. Some of them have maximum legal guarantees, thanks to which they acquire signs of legal rights, others are legally warranted to a lesser extent and constitute the category of legitimate interests" (Malein, N.S., 1985).

In fact, the legal status of legal right is established for those material or intangible benefits, the position of which in an undisturbed state directly depends on the will of the possessing subject. In relation to intangible benefits, this concerns, for example, the non-property right of authorship of a person to a musical work, which allows the author of a work to give the rights for its temporary or permanent use to another person. Or the right to privacy, which implies, that a person is entitled to give information about his private life to someone or keep it secret.

At the same time, it is believed, that the status of legal right cannot be established in relation to those benefits, that "are objectified only in the process of violating the universal obligation not to perform certain actions, confirmed in legislation, and are not an object of public relations, that existed before the violation" (Nohrina, M.L., 2004). That is, "for such benefits as personal security, honor, dignity, favorable environment, the legal status of interest, protected by law, is sufficient."

However, if we speak about public relations, associated with the reputation of Russia, then, in order to give the possibilities of its use, protection and strengthening of a real legal form, it is necessary to consider such relations not as exclusively protective, i.e. arising only in the event of an infringement on the reputation of the state, but it is required to establish the legal status of subjective civil law corresponding to their nature, indicating its content, limits of

exercise and protection (Senchishchev, V.I., 1988). Subjective civil law, as a general rule, takes under its secure and protection those interests, that are recognized as the most important, essential for society and the state in order to allow the subject of the right to exercise it and defend it in case of violations (Miroshnichenko, O.I., Samusenko, T.M., Gaivoronskaya, Ya.V., Frolova, E.E., 2018). Therefore, it is the structure of subjective civil law, that will allow to properly secure for the state such an object of civil law as reputation, which is actually inherent in it, but requiring legal confirmation, legal control and protection in connection with the emerging social need – numerous cases of dissemination of damaging materials against the state. In this regard, it is necessary to disagree with R.O. Khalfina, who believed, that “it is pointless to establish a subjective right to the reputation (honest name) of an individual and a non-profit organization, that does not carry out entrepreneurial activity, since these benefits are inseparable from the owners, and the possibility of their illegal use is practically excluded. Therefore, the legal status of interest, protected by law, is quite sufficient for them” (Timerhanov, A.A., 2013). This approach follows from the point of view, that civil law, as a branch of law, does not control personal non-property relations regarding intangible benefits, but only secures them (protects), which is based on cl. 2 of Art. 2 and cl. 2 of Art. 150 of the Civil Code of the Russian Federation and proceeds only from the possibility of protecting intangible benefits, but not from their "positive" controlling. But, civil law personal non-property relations are “legal bonds between subjects about the nonmaterial benefits, belonging to the individual. Such social and legal bonds (relations) exist regardless of their violation, i.e. until there is a need to protect them”, and “personal rights have a very definite positive content, citizens have these rights regardless of their violation; the relations between the subject of the law and the obligated persons is controlled by the regulations of law also until there is a violation”.

From the foregoing, the issue of the content of the right of the Russian Federation to a reputation follows quite logically, i.e. what exactly opportunities are available to the subject having such a right, namely, the state, regarding reputation, as well as whether there is a right of the state to reputation before encroachment on it.

As a general rule, the content of law “includes the processes, associated with its effect on social relations. The content of the law also includes the possible and proper behavior of people, stipulated by

its regulations”. There is no consensus in the doctrine, regarding the authorities, that are part of subjective civil law. Scientists distinguish two main authorities - the authority to act on their own and the requirement for an obliged person to perform certain actions, or three authorities, when the authority to protect a subjective right (claim) is also added to the above (Aleksandrov, N.G., 1955). There is also a point of view according to which the possibility of using a social benefit is added to these authorities as an independent structural element of subjective law (Matuzov, N.I., 1972).

It seems, that the right to reputation, as a subjective right, should proceed from the triple structure of its constituent authorities, which implies "the possibility of one's own actions, the ability to demand certain behavior from obligated persons and the opportunity to seek support and protection of the violated right". I.e. the content of the studied subjective law should proceed not only from the "negative content", which includes only the possibility to demand non-acting, that violate the law, addressed to an unlimited number of persons (Belyavskij, A..V, Pridvorov, N.A., 1971), but also from the "positive content" of subjective law, including the possibility of an interested subject's own actions regarding the intangible benefit, belonging to him.

The authority to take its own actions, which is structurally included in the subjective right of the state to reputation, supposes, that the state, acting in the prescribed manner through the competent government bodies, has this intangible benefit, and has the right to independently carry out actions, including the formation (improvement) and use of its reputation within the framework of behavior, stipulated by the current legislation of the Russian Federation, and, as a result, to gain any necessary advantages from it.

Within the above, it is implied, that the Russian Federation has, first of all, the main authority to own a reputation, which means that an intangible benefit belongs to the state. In this regard, one cannot agree with the opinion on the application of the understanding of the right of ownership to personal rights, proceeding from the property (proprietary) right, that “possession is a physical control over a thing, an object”. The authority of ownership, coming from the personal non-property right, differs in its meaning from the property (proprietary) understanding of the right of ownership, and represents a close, inextricable connection of an intangible good with a specific subject, which does not necessarily should be based on a sense of touch (tactile sense) about a certain object. It should be

noted, that if the state did not have the right to own its reputation, then it would be impossible to carry out, for example, actions to refute the widespread untrue damaging information, that does not correspond to reality, since it would not be possible to prove the connection of the widespread untrue damaging information with the state. Thus, the authority to own a reputation determines the accessory of the reputation of the state and the ability of the state to take actions to form (improve), use and protect the reputation from any encroachment.

From the authority to own its reputation follows the authority of the state to use it, which consists in the actions, that Russia can perform, using the specified intangible benefit, as well as in relation to it. In this regard, “the use of the benefit should be understood in a broad sense. It can consist not simply and not necessarily in the possession of certain things, values, objects, but also in the very freedom of behavior, in the freedom of actions and deeds, which in itself is a benefit, only intangible” (Hohlova, E.M., 2014).

Such actions will consist, for example, in the ability to use the long-standing reputation in their activities, taking as a basis the idea of oneself, existing in society, in any of the spheres of activity. For example, based on the fact, that our country has been famous for a very good preparation of musicians for a long time, the Ministry of Culture has the opportunity to organize international festivals and competitions of musical art, which are of great interest to foreign participants.

Actions for the use of reputation can also include the implementation of actions for self-presentation and formation (improvement) of reputation, aimed at changing the existing reputation for a good side, i.e. actions to inform other persons, of some specific government body (bodies), state officials, and about the state as a whole. Within the above, options for adoption are possible on the basis of cl. 3 of Art. 125 of the Civil Code of the Russian Federation, relevant acts, by virtue of which such actions can be carried out by competent state bodies, legal entities and individuals, or by concluding transactions provided for, for example, by ch. 37 of the Civil Code of the Russian Federation (provisions of civil legislation on the contract), ch. 39 of the Civil Code of the Russian Federation (provisions on the provision of paid services), ch. 49 of the Civil Code of the Russian Federation (provisions on instructions) or ch. 52 of the Civil Code of the Russian Federation (provisions on agenting), according to which the necessary actions to build a reputation will be carried out on behalf of the competent government bodies for a fee.

The above will fully comply with the current legislation, and the limits of the state's right to use its reputation will be the limits of the exercise of civil rights, provided for in Art. 10 of the Civil Code of the Russian Federation, within which the Russian Federation should not act in bad faith, with the aim of causing damage to any other persons, as well as with the aim of confusing the latter, disseminating untrue damaging information about itself.

Also, actions within the Russian Federation's use of its reputation can be monitoring of the information field by an authorized competent body for possible violations of reputation and the right to reputation. It seems necessary, that each government body or state body, within the competence, determined by the relevant acts, take actions to identify the facts of violation of the state's reputation in the media or on the Internet in order to further protect the state's reputation.

Characterizing the authority to one's own actions, which is included in the subjective right of the state to reputation, it is possible to say, that the emerging legal relations have both an absolute and a relative nature (Flejshic, E.A. (1939). So, directly informing other persons about the country, about its activity, about its role in this or that event, about the significance of this or that fact for the purposes of a correct understanding of the course of events, the relevant competent government body enters into an absolute legal relation with an undefined number of participants on the other side in a given social relation. In this part, the subjective right of the Russian Federation to reputation, the foundation of which is the very existence of the state and its reputation, correspond to the obligations of an indefinite circle of subjects not to interfere with the exercise of this right and not to take actions, that violate this right. At the same time, for example, by concluding an agency agreement with a commercial firm, the subject of which is the formation of a positive reputation in the opinion of entourage, the competent government body enters into a relative legal relation with such a firm, the participants of which are known, and, in this case, the right of the state to reputation corresponds to the obligations of the counterparty under the contract, which consist in performing actions to form (improve) the reputation of the state.

The second authority, structurally included in the non-property right of Russia to a reputation, is the ability to demand from other (obligated) persons such behavior, in which the state will be able to freely satisfy existing needs at the expense of its own benefit, to prevent the dissemination of untrue

damaging information in any form, and require any subjects of the right to refrain from any actions, that violate the reputation and the existing right of the state to reputation. It seems, that this authority of the state, regarding reputation, is based on the intersectoral duty of all subjects, which consists in refraining from encroachments on material or intangible benefits, belonging to others, since "there are no such rights, that would not be potentially warranted by law and order against possible illegal actions of any persons" (Sinicyn, S.A., 2015). In this case, the personal non-property right of the state to reputation will have an absolute nature, since the circle of obliged subjects is not defined, and the content of the obligation, that secure it, is the same for all other persons. Due to the fact, that everyone around is obliged to refrain from violating the reputation and the personal non-property right of the Russian Federation to reputation, the autonomy of its will is ensured.

At the same time, in the event of an violation, a protective personal non-property legal relation will arise that exists against the background of a general regulatory relation (Luspenik, D.D., 2003), which will acquire a relative nature, since the circle of subjects will be known and will be narrowed down to one or several persons, who have disseminated damaging information. It should be noted, that a legal relation of an absolute nature will remain with respect to the rest of the subjects. An interesting characteristic of legal relations, similar to the second authorities, included into the subjective right of the Russian Federation to the reputation, was given by V.K. Reicher, who noted that "communication between people in a legal relations is established either by the type of direct lines, located between any points in space, or by the type of radio communication, which connects a specific point in space with an absolutely indefinite number of other points. In the first case (relative legal relations), legal energy spreads only through this line, although at the same time it disperses in the surrounding space, performing the reflected action at third parties. In the second case (absolute legal relations), law radiates energy from one point in a wave-like manner to all sides of the social environment" (Rajher, V.K., 1928).

The most important is to recognize the nature of the third authority of the Russian Federation - to protect its subjective civil right to reputation, since by its nature, any "subjective right granted to a person, but not secured against its violation by the necessary means of protection, is only a declarative right. Although it is declared in the law, but, not being provided with state law enforcement, it can only be

reckoned on voluntary respect for it by members of society and a this nature of only a morally secured right, based on the consciousness of members of society and the authority of state power, gains force" (Gribanov, V.P., 1992).

The general theoretical opportunity of any subject to protect the rights belonging to this subject is enshrined in ch. 2 of the Civil Code of the Russian Federation, which includes judicial and extrajudicial methods of protecting civil rights. As stated in the legal encyclopedia: "protection is a system of measures applied to ensure the free and proper exercise of subjective rights, including judicial protection, legislative, economic, organizational, technical and other means and measures, as well as self-defense of civil rights" (Tihomirova, L.V. , Tihomirov, M.U., 1998).

In the legal literature, there are various points of view, regarding the nature of the right to protect. Some scientists define it as part of the authorities of subjective civil law (Gribanov, V.P., 2000), others recognize the independent status of this right, discovering in its composition the authorities, corresponding to the nature of the individual right (for the subject's own active actions, requirements for certain behavior from obligated persons and force of the state in case of violation of the law) (Vlasova, A.V., 1998). In this regard, we can agree with N.I. Matuzov, who includes the right to protect in the subjective civil law, but, at the same time, notes, that "no serious mistake will be made if this opportunity is noted separately. First, this emphasizes one of the most important specifics of the subjective rights of citizens - their legal security; secondly, this is one of the types of possible actions, behaviors of the owner of the subjective right" (Matuzov, N.I., 1966).

With regard to a situation, in which untrue damaging information is being disseminated against the Russian Federation, it can be stated, that the state has the right to protect its reputation in view of the encroachment on it, which should be structurally considered as part of the state's more general right to reputation. It can even be said, that the protection of the right is a special stage in the development of the protected subjective right of the state to reputation, since it, like any other subjective right, can either pass into the stage of protection from the arised violations, and not pass, if the state will not exercise the authority to protect an existing right.

Provided, that Russia takes advantage of the opportunity to exercise the above authorities, a protective, potentially delictual, legal relation is formed, the basis of which is the existence of the fact, that the assumed infringer has committed an action to

disseminate discrediting and untrue (at the conclusion of the competent government bodies) information. It should be noted, that it will become a tort legal relation only if the fact of defamation is established in a judicial or extrajudicial procedure, and the elements of the delict will also be the ratio of common information to the injured subject and the cause and effect relationship between the committed action and possible damage, which can be inflicted on the reputation of the state as a result of the deterioration of the level of its general social assessment. The presence of the infringer guilt in committing a delict, in contrast to the criminal offense in the form of libel, is not mandatory, and thus, the imposition of responsibility for the offense is quite possible even in the absence of the infringer guilt (cl. 2 of article 1064 of the Civil Code of the Russian Federation).

The authority of the Russian Federation to protect its reputation is the ability of the authorised person to use the law enforcement, provided for in Art. 12 and 152 (by analogy with the methods of protecting honor, dignity and business reputation) of the Civil Code of the Russian Federation, and other acts in order to restore the violated right, as well as suppress actions, that violate it.

A specific feature of Russia's authority to protect its right to reputation is the mixed nature of the emerging legal relation. As a general rule, the parties to the protective legal relation to protect thereputation are known - the state, represented by the competent government body and the obligated person, who disseminated damaging information. In this case, a relative legal relation arises. But, in the case, provided for in cl. 8 of Art. 152 of the Civil Code of the Russian Federation, when it is impossible to establish the identity of a person, who disseminated the specified information, the state does not lose the authority to protect its reputation, and should also have, by analogy with the law, the possibility of recognizing the disseminated information as untrue information. In this case, an absolute legal relation will arise, where the state's demand will be addressed to an indefinite circle of persons.

3 CONCLUSION

The research, carried out in this article, showed, that the subjective right of the state to reputation really exists in the social relations, that have developed in modern conditions, is structurally included in the legal competence of Russia as a subject of civil law, and this right, due to its specifics, can be attributed to personal non-property rights, which the Russian

Federation possesses, by virtue of cl. 1 of Art. 125 of the Civil Code of the Russian Federation. Describing the state's right to reputation, it can be confirmed, that its content consists of the possibility of its own actions, suggesting, that the Russian Federation owns and has a reputation, the possibility of demanding from other persons to prevent the dissemination of damaging information and refrain from any actions, that violate the existing right, as well as the possibility of protection of the violated right to reputation in the event, that negative, untrue information is anyway disseminated.

Also, we would like to say the following. Based on the fact, that at present, there are repeated cases of dissemination of untrue damaging information, regarding the Russian Federation, it is reasonable to use a set of measures for the practical application of this research by analogy with measures to improve the efficiency of the legal control mechanism, that are used in the general theory of law (Hohlova, E.M., 2014):

- amendments to the current civil legislation of the Russian Federation, which implies the need for a legislative definition of reputation as an independent type of intangible benefit and securing the state's personal non-property right to reputation, including the authority to protect it. The legislative confirmation of the Russian Federation's right to reputation, and its protection, will serve as a basis for subsequently determining specific ways to protect the violated right, as well as, within the framework of this, develop clear measures to be taken. If these actions are not taken, then the Russian Federation will remain, in fact, defenseless against defamation in completely different fields of state activity, and will suffer significant reputational damage;

In cl. 1 of Art. 150 of the Civil Code of the Russian Federation, in the list of available intangible benefits, it is required to include reputation as a separate type of intangible benefits. It is also required to introduce certain rules of law into the Civil Code of the Russian Federation establishing the right of such subjects to a reputation, such as the Russian Federation, constituent entities of the Russian Federation and municipalities (this could be done, for example, by including cl. 4 of the relevant content in Article 125 of the Civil Code) and the right of these subjects to protect their reputation (by including Article 152.1 in the Civil Code of the Russian Federation).

- development and application of a set of measures, that complement the regulatory control, which must be taken to protect the state's right to reputation from numerous violations, as well as aimed at forming (improving), creating an adequate

level of the state's reputation, using reputation in the activity of the state. The optimal combination of lawmaking and law enforcement will give flexibility and universality to legal control.

In conclusion, it should be noted, that, of course, the requirements for the volume of the article did not allow the author to more fully disclose the research topic, which undoubtedly needs to be described in more detail many of the issues, raised in the article. At the same time, the author will try to do this in the future, in the following scientific works.

REFERENCES

- Inshakova, A.O., Frolova, E.E., Rusakova, E.P., Galkina, M.V. (2020). Development of social market economy under the influence of noneconomic factors: modeling and regulation. *International Journal of Sociology and Social Policy*. T. 40. pages 1.
- Mémoires d'outre-tombe par Chateaubriand. Volume 4. Dufour. *Mulat et Boulanger*. 1860: 237 Telnov, A.V. (2021). *The Russian Federation as a subject of defamatory civil law relations during the formation of the digital economy*. SHS Web of Conferences 106: 02002.
- Tolstoj, V.S. (2009). *Lichnye neimushchestvennye pravootnosheniya*. pages 202.
- Inshakova, A.O., Frolova, E.E., Rusakova, E.P., Kovalev, S.I. The model of distribution of human and machine labor at intellectual production in industry 4.0. *Journal of Intellectual Capital*. T. 21, 4. pages 601-622.
- Gusalova, A.R. (2012). *Grazhdansko-pravovaya zashchita delovoj reputacii*: diss. k.yu.n. Vladikavkaz. pages 30.
- Sahapov, U.Z. (2007). *Delovaya reputaciya sub"ektov predprinimatel'skoj deyatel'nosti v sisteme ob"ektov grazhdanskih prav i osobennosti ee grazhdansko-pravovoj zashchity*: diss., k.yu.n.Kazan'. pages 49.
- Maleina, M.N. (2013). Pravo gosudarstva (publichno obrazovaniya) na reputaciyu. *Gosudarstvo i pravo*, 5. pages 101
- Kuznecov, N.M., (2009). *Soderzhanie otnoshenij po zashchite chesti, dostoinstva i delovoj reputacii*. diss. k.yu.n. pages 31.
- Rogov, D.I. (2003). *Mekhanizm grazhdansko-pravovogo regulirovaniya otnoshenij, voznikayushchih po povodu chesti, dostoinstva i dobrego imeni grazhdan*: diss. k.yu.n. Ekaterinburg. pages. 78.
- Rusakova, E.P., Frolova, E.E., Gorbacheva, A.I. (2020). Digital rights as a new object of civil rights: issues of substantive and procedural law. *Advances in Intelligent Systems and Computing*. T. 1100. pages 665-671.
- Blyumkin, V.A. (1974). *O chesti i dostoinstve sovetskogo cheloveka*. pages 27.
- Bratus, S.N. (1947). *Yuridicheskie lica v sovetskom grazhdanskom prave*. pages 31-34.
- Malein, N.S. (1981). *Grazhdanskij zakon i pravalichnosti v SSSR*. pages 94
- Tolstoj, U.K. (1959). *K teorii pravootnosheniya*. pages 45-46.
- Alekseev, S.S. (1999). *Pravo. Azbuka. Teoriya. Filosofiya: Opyt kompleksnogo issledovaniya*. pages 68.
- Matuzov, N.I. (1966). *Subektivnye prava grazhdan*. pages 33
- Eroshenko, A.A. (1977). *Sudebnaya zashchita ohranyaemogo zakonom interesa. Sovetskayayusticiya*, 13. pages 19.
- Malein, N.S. (1985). *Pravonarushenie: ponyatie, prichiny, otvetstvennost'*. pages 62-63.
- Nohrina, M.L. (2004). *Grazhdansko-pravovoe regulirovanie lichnyh neimushchestvennyh otnoshenij, ne svyazannyh s imushchestvennymi*. pages 29.
- Nohrina, M.L. (2004). *Grazhdansko-pravovoe regulirovanie lichnyh neimushchestvennyh otnoshenij, ne svyazannyh s imushchestvennymi*. pages 182
- Senchishchev, V.I. (1988). *Obekt grazhdanskogo pravootnosheniya. Aktual'nye voprosy grazhdanskogo prava*. pages 139-140.
- Miroshnichenko, O.I., Samusenko, T.M., Gaivoronskaya, Ya.V., Frolova, E.E. (2018). Doctrine in the modern world: legal traditions and modern potential. *The social sciences (Pakistan). The social sciences (Pakistan)*. T. 13. № 2. pages 235-240.
- Timerhanov, A.A. (2013). *Delovaya reputaciya yuridicheskogo lica*: diss. k.yu.n.. pages 81.
- Malein, N.S. Mozolin, V.P. (1986). *Razvitie sovetskogo grazhdanskogo prava na sovremennom etape*. pages 205-206.
- Teoriya gosudarstva i prava: Uchebnik dlya vuzov. Zakon i pravo. (2004). pages 187.
- Aleksandrov, N.G. (1955). *Zakonnost' i pravootnosheniya v sovetskom obshchestve*. pages 108;
- Yavich, S.L. (1976). *Obshchaya teoriya prava*. pages 177;
- Tarhov, V.A. (1998). *Grazhdanskoe pravo*. pages 115.
- Matuzov, N.I. (1972). *Lichnost'. Prava. Demokratiya*. Teoreticheskie problemy subektivnogo prava. pages 115-124.
- Alekseev, S.S. (1972). *Problemy teorii prava*. T. 1. pages 308;
- Gribanov, V.P. (2001). *Osushchestvlenie i zashchita grazhdanskih prav*.
- Belyavskij, A.V., Pridvorov, N.A. (1971). *Ohrana chesti i dostoinstva lichnosti v SSSR*. pages 33.
- D'yachenko, E.M. (2005). *Delovaya reputaciya yuridicheskikh lic*: diss. k.yu.n.. pages 127-128.
- Hohlova, E.M. (2014). *Sub"ektivnoe pravo i yuridicheskaya obyazannost' v mekhanizme pravovogo regulirovaniya*. pages 45.
- Flejshtic, E.A. (1939). *Lichnye prava v grazhdanskom prave SSSR i kapitalisticheskikh stran*: diss. d.yu.n..
- Halfina, R.O. (1974). *Obshchee uchenie o pravootnoshenii. In-t gosudarstva i prava AN SSSR*.
- Ioffe, O.S. (2000). *Spornye voprosy ucheniya o pravootnoshenii*. Sbornik izbrannyh trudov po grazhdanskomu pravu.
- Sinicyan, S.A. (2015). *Absolyutnye i otnositel'nye sub"ektivnye prava. Obshchee uchenie i problemy teorii*

- grazhdanskogo prava. Sravnitel'no- pravovoe issledovanie: monografiya. pages 46*
- Grazhdanskoe pravo: aktual'nye problemy teorii i praktiki. (2008). pages 628.*
- Nikulicheva, N.U. (2004)., Pravo yuridicheskikh lic na delovuyu reputaciyu i ee grazhdansko-pravovaya zashchita: diss. k.yu.n. pages 71.
- Malinovskij, D.A. (2002). *Aktual'nye problemy kategorii sub"ektivnogo veshchnogo prava: diss. k.yu.n. pages 133-136.*
- Luspenik, D.D. (2003). *Sudoproizvodstvo po delam o zashchite chesti, dostoinstva i delovoj reputacii: diss. k.yu.n. pages 26.*
- Rajher, V.K. (1928). Absolyutnye i odnositel'nye prava. *Izvestiya ekonomicheskogo fakul'teta Leningradskogo politekhnicheskogo instituta, I (XXVIII). pages 304*
- Gribanov, V.P. (1992). *Predely osushchestvleniya i zashchity grazhdanskikh prav. pages 96.*
- Tihomirova, L.V., Tihomirov, M.U. (1998) Yuridicheskaya enciklopediya. pages 169.
- Gribanov, V.P. (2000). *Osushchestvlenie i zashchita grazhdanskikh prav. pages 104.*
- Anisimov, A.L. (2001). *Grazhdansko-pravovaya zashchita chesti, dostoinstva i delovoj reputacii po zakonodatel'stvu Rossijskoj Federacii. pages 44.*
- Vlasova, A.V. (1998). *Struktura subektivnogo grazhdanskogo prava. pages 26.*
- Krashenninikov, E.A. (1986). K voprosu o strukture subektivnogo prava. *Aktual'nye filosofskie problemy sovremennoj nauki i tekhniki. pages 27-28.*
- Matuzov, N.I. (1966). Sub"ektivnye prava grazhdan. pages 33.
- Hohlova, E.M. (2014). *Sub"ektivnoe pravo i yuridicheskaya obyazannost' v mekhanizmepravovogo regulirovaniya: monografiya. pages 70.*
- The civil code of the Russian Federation. [Electronic resource]. – URL: https://www.wto.org/english/thewto_e/acc_e/rus_e/wt ac.. (date of treatment: 01.05.2021).