Advances in Economics, Business and Management Research, volume 90

International Scientific-Practical Conference on Business Cooperation (ISPCBS 2019)

The Role of the Institute of Contractual Regulation in the Formation of Sustainable Business Cooperation (on the Example of the New Hanseatic League)

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***Abstract*—Extensive foreign economic relations can be replaced by local hubs of business cooperation. The Hanseatic League of New Time can be such an example. The rulemaking process shifts from states to non-governmental organizations in international private law. The authors analyze what the science of civil law can offer today for the development of sustainable business cooperation between entrepreneurs of the New Hanseatic League. Research methods. The authors explore the concepts of "sustainable business cooperation between entrepreneurs of the Hanseatic League" and "the institution of contractual regulation of business relations between entrepreneurs of different nationalities". Based on these concepts, the authors analyze the possibilities of the Hanseatic League to influence the development of this institution. According to the results of the analysis, the authors make recommendations on the formation of standards for new business practices of the Hanseatic League. Results. The authors propose a scientific definition of the concept of "sustainable business cooperation between entrepreneurs of the New Hanseatic League". The authors conclude that the institution of contractual regulation of foreign economic relations includes not only formal norms but also norms of other levels of regulation. One of these levels is the level of entrepreneurs themselves. The authors recommend the New Hanseatic League to form new standards of contractual practice, using the experience of researchers and practitioners of international private law, lex mercatoria law and comparative law. These recommendations include the use of new technologies in the standards of business practice of concluding and executing contracts, such as distributed registry technologies, electronic documents and other data.**

Keywords—the Hanseatic League; sustainable business cooperation; the institution of contractual regulation; legal means of ensuring sustainable business relations of the New Hanseatic League

I. INTRODUCTION

Until recently, globalization was the most discussed topic of research. It is clear today that the processes of globalization in the economy can be artificially slowed down under the influence of political phenomena. This makes it difficult to form sustainable business cooperation and attract investment in the national economy. Entrepreneurs need to adapt to changing conditions and solve new problems. Extensive foreign economic relations can be replaced by local business cooperation centers. The Hanseatic League of New Time can be such a center. Cooperation of entrepreneurs located in the territories of cities participating in the Hanseatic League can be one of the ways to restore economic ties. Sustainable business cooperation of such entrepreneurs can set an example for other similar alliances. The purpose of the Hanseatic League is to revive traditional values in business relationships, such as quality, trust, and reliability, as well as support for international trade. This article explores the question of what civic law science can offer today to create sustainable business cooperation for entrepreneurs of the New Hanseatic League.

II. METHODS

The authors explore the concepts of "sustainable business cooperation between entrepreneurs of the Hanseatic League" and "the institution of contractual regulation of business relations between entrepreneurs of different nationalities." Based on these concepts, the authors analyze the possibilities of the Hanseatic League to influence the development of this institution. According to the results of the analysis, the authors make recommendations on the formation of standards for new business practices of the Hanseatic League. The authors then explore the impact of information and digital technologies on contractual practice. The recommendations for the Hanseatic League are adjusted to reflect these technologies.

III. RESULTS

A. The Concept of Sustainable Business Cooperation

The revival of the Hanseatic League corresponds to the spirit of the times. It is interesting to note that the process of fragmentation of the law is currently taking place. At the level of foreign economic cooperation, this process is characterized by the replacement of bureaucratic management by adhocratic (from the Latin ad hoc), which is associated with temporary working groups arising on a specific occasion. That is, the rulemaking process shifts from states to non-governmental organizations [12, pp. 201–202].

Economic research pays great attention to the sustainable development of economic systems, although this term does not have a uniform understanding. For example, in international organizations, "sustainable development" means meeting the needs of the current generation without threatening the ability of future generations to meet their own

needs. There are more traditional approaches to understanding the term "sustainability", namely, the ability of the system to withstand the impact from the outside, to return to the original steady state from various states [8]. Civil law studies understand the sustainability of economic relations as their stability. The term "civil turnover stability" is used. The concepts of sustainability and stability are not equivalent, but similar in meaning. They are used in law (at least civil) science in the study of related problems.

The category of "turnover" was studied in the Russian pre-revolutionary civil literature, as well as in the science of the Soviet era. This concept is used in modern legislation. There are no legislative definitions of these concepts, and the doctrinal views on them are diverse [23; 24]. It is possible to characterize civil turnover as a legal shell of economic turnover. It is necessary to agree with the opinion that, in the most general form, civil turnover is a process of transfer of various goods from one person to another regulated by law [2, p. 51].

Civil law faces the difficult task of ensuring the stability of a complicated economic turnover. The complication of turnover is due to the new objects, electronic payments, the widespread use of electronic communication tools in the conclusion and execution of contracts. The turnover becomes even more difficult with the participation of a foreign element in it. Sustained business relationships require the development of adequate legal regimes. On the one hand, they must ensure enough mobility of turnover, and on the other hand, guarantee the realization and protection of the rights of individuals.

There is no comprehensive research on the problems of the stability of civil turnover. There is a study where the concept of the stability of civil turnover in the aspect of the transition of a single subjective right is given [14]. Such an approach can be welcomed, but it should be considered as a narrow interpretation of the concept of turnover stability, which does not consider macroeconomic approaches. From the point of view of the macroeconomic interpretation of turnover, one can speak of a private-law and public law understanding of its stability. The sustainability of civil turnover is such a state of legal regulation of transactions and transfer of rights from one person to another, which allows for the realization and protection of the subjective rights in the most effective way and sustainable economic development and security of the state.

A doctrinal concept of sustainable business cooperation between entrepreneurs of the New Hanseatic League can be formulated. This is the state of legal regulation of transactions and the transfer of the rights of entrepreneurs of the Hanseatic League, which makes it possible to ensure, firstly, the most effective implementation and protection of their subjective rights (private law aspect) and, secondly, sustainable economic development and economic security of their states (public law aspect).

B. The Institute of Contractual Regulation as a Legal Means of Ensuring Sustainable Business Relations of the New Hanseatic League

The value of the institution of contracts for the formation of civil turnover stability is difficult to overestimate. The term "institution" in legal science has its special meaning. This is a set of rules of conduct governing a relatively independent group of relations. Thus, an institution is considered as an element of the legal system, a structural unit of law. In institutional economics, an institution is any rules established in society, restrictive frameworks created by people that organize the relations between them, as well as a system of measures to ensure their enforcement [7, p. 694; 13, p. 18]. Economists consider both formal and informal rules as institutions. Thus, legislation is a formal institution.

However, it is important to use not only legislative but also other levels of regulation to form the institution of contractual regulation of relations between entrepreneurs of different countries. The level approach methodology is known to modern legal research [3]. This institution should include such levels as national legislation, international law, applicable foreign law, norms formed by entrepreneurs themselves (what is called lex mercatoria). It should be noted that the concept of lex mercatoria has no clearly recognized content [11]. All these norms should be included in the content of the institution of civil law contracts governing the business relations of participants of different nationalities. The methodology of economic research is useful in legal research [19].

The consideration of the institution by economists as a concept that includes both formal and informal rules should be supported precisely in this sphere of relations. The formation of rules not at the level of the legislator, but by the participants themselves is particularly relevant in international private law, where foreign legislation is not enough known or not perceived by the participants, and the unification method is becoming less significant today. Globalization has created a decline in the importance of national law and the strengthening of international law, the traditional method of which was unification. However, unification does not keep up modern realities and does not consider the influence of information and digital technologies. Therefore, it is precisely "non-binding" legal mechanisms, such as standardization, typification, and the normalization of international treaties, that take on special significance. They are not developed by states, but by private actors, which gave rise to the phenomenon of fragmentation of private law [12, p. 202–203].

It is advisable for businessmen of cities of the Hanseatic League to hold conferences where they could discuss and adopt such rules, which initially would be recommendatory, and, as they are used, would become well-established ones and part of the institution of contractual regulation. These could be codes of ethics, standard contract terms, standard rules, and similar lex mercatoria legal tools. To do this, the participants of the Hanseatic League need to attract scholars and practitioners specializing not only in the legislation and economic reality of each individual state but also in comparative law and macroeconomic research. This could be mutually beneficial cooperation. On the one hand, this would contribute to the formation of quality standards of business practice, and on the other hand, would enrich the research material by expanding the subject matter.

The methodology of comparative law could also be useful for shaping the rules of contractual regulation by entrepreneurs of the Hanseatic League. According to this methodology, not only separate legal institutions and norms

of different states are compared but also legal structures, principles and methods of regulation, legislative technique, systems of sources, case-law. Modern studies emphasize that the methodology of comparative law should be based not only on the comparison of legal texts but on a deeper study of legal phenomena, which include the analysis of all aspects of social life, types of legal consciousness, etc. [1, p. 208]. For the Hanseatic League, this would not be a comparison of completely different legal systems, since Russian civil law is the closest to Roman-German law. The modern development of Russian civil legislation shows further convergence of Russian law with the law of Germany [22].

Thus, the institution of contractual regulation of business relations of entrepreneurs of different nationalities is well-established rules. It is necessary to include in it not only formal norms of law but also norms of different levels of regulation, including those emanating from the entrepreneurs themselves, their communities. The participants of the Hanseatic League of New Time can be recommended to form new standards of contractual practice, using the experience of researchers and practitioners in the private international law, lex mercatoria law, and comparative law.

C. Formation of the New Rules of the Institution of Contractual Regulation under the Influence of Information and Digital Technologies

The formation of standards of contractual practices is influenced by new trends in the development of society, primarily technological changes. In this case, the legal regulation does not keep pace with the development of social relations. The adoption of strategies and programs for the legal regulation of the telecommunications, digital areas are attempts not only to comprehend the existing situation and demands of society but also to simulate possible requests. Telecommunications and digitalization can affect many issues of regulation of relations of subjects of the external economy. This may be the conclusion and form of contracts [17], the fulfillment of obligations in whole or in part (depending on whether it is related to the transfer of information or not), payment under the contract. Formation of new business standards of entrepreneurs of different countries requires consideration of new technologies to resolve these issues. International agreements that now regulate foreign trade do not consider new realities. The Hanseatic League could become such an organization, by the example of which new rules of contractual regulation would be developed, considering modern trends in the development of the economy under the influence of information and digital technologies.

There is no doubt that the legislation of different countries is developing faster than international, therefore, examples of national regulation should be studied. For example, rules are now being formed that regulate the use of digital technologies in Russia. In 2017, the Government of the Russian Federation approved the program of the digital economy of the Russian Federation. In terms of this program, the institution of contractual regulation of business cooperation is an environment that creates the conditions for effective interaction between economic entities. The technologies themselves form competencies for the development of such interaction. The program calls basic digital technology. Among them are those that can help form a new level of interaction between entrepreneurs of different nationalities. For example, distributed registry technology can be used to enter into contracts, and the Internet, big data, and wireless technologies are important for fulfilling contractual obligations.

One of the directions of the implementation of the digital economy program in Russia is the introduction of amendments to the Civil Code from October 1, 2019. The introduction of the term “electronic rights” to the Civil Code is a novelty of this law. They are recognized as objects of civil rights, are a type of property rights. It seems that the concept of digital rights is redundant, it is not a type of rights. These are all the same rights, but they have a different method of identification, namely, they are fixed in the information system. The exercise and disposal of these rights are possible only in this information system. In fact, there are different ways of fixing rights and not different types of rights. The rights do not become different, just another way of their exercise and disposal appears. For example, non-documentary securities should also be recognized as a special way of fixing rights, and not a separate type of rights. The introduction of the concept of digital rights in the legal framework must be supported by a deep theoretical rationale. It seems that this was done to meet the immediate requirements.

In addition, the articles of the Civil Code on the order and form of transactions and decisions of meetings have been changed. The purpose of the changes is to provide that the transaction can be accomplished using electronic or other technical means, allowing to reproduce the content of the transaction on a tangible medium in unchanged form. Now the contract can be concluded not only through the exchange of documents, including electronic, but also other data.

The Law on Amendments to the Civil Code also tries to solve one of the most important tasks of law, that is, consumer protection in electronic networks, primarily the Internet. Therefore, a rule has been introduced according to which payment for goods can be confirmed by an electronic document, and not only the display of goods in points of sale but also on the Internet is recognized as an offer. It should be noted that the protection of the rights of citizens in the era of modern technology is one of the most pressing issues of law [5; 20; 4].

The inclusion in the Civil Code of the article on the agreement on the provision of information services is another innovation.

The convergence of information and communication technologies has long become a landmark phenomenon that characterizes the development of modern economic relations. We are talking about telecommunications services, the provision of which is often complicated by a foreign element. The term “telecommunication services” is a well-established, but not completely defined [9; 10].

The provision of such services at the international level raises issues of information security, including national information security. These questions are relevant to Russia [6]. The process of formation of the legal system of ensuring international information security, as well as the system of information security in Russia, is examined in modern studies [15]. Similar problems are being solved in other

countries. [16]. However, there are no generally accepted solutions in this area. There are scientific doctrines that justify the impossibility of state sovereignty on the Internet and the need for self-regulatory mechanisms [21]. There are studies that modern technologies conflict with modern legislation on personal data [18].

Thus, the formation of new standards of business practice cannot occur without considering modern trends in the development of the economy and law and the impact on them of information and digital technologies. Entrepreneurs of the New Hanseatic League should use modern technologies in the standards of business practice in the field of concluding and executing contracts.

IV. Conclusion

The study concluded that the Hanseatic League of New Time can become an example of a local business cooperation center, through which foreign economic relations can be restored and sustainable business cooperation of entrepreneurs can be formed. The authors propose a scientific definition of the concept of sustainable business cooperation of entrepreneurs of the Hanseatic League. It is a stable state of civil turnover between entrepreneurs of the participating cities, that is, such a state of legal regulation of transactions and the transfer of the rights of entrepreneurs of the Hanseatic League, which allows to ensure, firstly, the most effective implementation and protection of their subjective rights (private law aspect) and, secondly, sustainable economic development and economic security of their states (public law aspect).

The main civil legal means of establishing sustainable business relations of entrepreneurs of the Hanseatic League is the institution of contractual regulation. The authors concluded that this institution should include not only formal norms of law but also norms formed at other levels of regulation.

The conclusion was made that one of the levels of regulation at which the norms of the institution of contractual regulation are formed should be the level of entrepreneurs themselves and their communities. Professional communities of entrepreneurs could initiate and develop new standards of business practice. Therefore, the Hanseatic League can become a non-state center of rule-making, a source of the formation of norms of the institute. The participants of the New Hanseatic League can be recommended to form new standards of contractual practice, using the experience of researchers and practitioners in the private international law, lex mercatoria law, and comparative law. The traditional methods of regulating foreign economic relations, namely international treaties, do not keep up modern realities and does not consider the influence of information and digital technologies on the conclusion and execution of contracts. Entrepreneurs of the New Hanseatic League could introduce the use of new technologies in the standards of business practice of concluding and executing contracts. Distributed registry technologies, electronic documents, and other data could be used.

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