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**THE RIGHT TO A NAME OR PSEUDONYM AS AN OBJECT OF PROTECTION IN RUSSIAN LAW**

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**Abstract.** *The article discusses the issues of legal protection of the right of a citizen to a name or pseudonym in the system of legislation of the Russian Federation. The authors analyze various aspects of this right in the constitutional-legal, civil-law, and family-law contexts, as well as in the framework of copyright and patent legal relations. In addition, it is emphasized that the digitalization of society requires the development of a mechanism for the realization of personal non-property rights, including the right to a name, in virtual space. The ways of judicial protection of this right, especially the possibility of applying the institute of compensation for moral damage in case of its violation, are also considered.*

**Keywords:** *the right to a name, pseudonym, digital space, compensation for moral damage, personal non-property rights.*

Part 1 of Article 19 of the Civil Code of the Russian Federation establishes that a citizen acquires and exercises rights and obligations under their name, which includes the surname and proper name, as well as the patronymic, unless otherwise follows from the law or national custom. And in the cases and in the manner prescribed by law, a citizen may use a pseudonym (fictitious name).

It should be taken into account that the use of the name of a particular person as a pseudonym by another person in creative activity is lawful under two conditions: obtaining consent for the use of the name by the respective person, as well as not causing damage to the bearer of the name by another bearer of the name<sup>1</sup>.

It should be taken into account that along with the name in legal practice such a concept as *personal data* is used. The content of Part 2 of Article 24 of the Constitution of the Russian Federation, Paragraph 1 of Article 3 of the Federal Law “On personal data”, Article 19 of the Civil Code of the Russian Federation allows referring to the personal data of a person, first, their surname, name, patronymic, year, month, date, and place of birth, address, marital, social, property status, education, profession, income, as well as other information by means of which it is possible to identify a particular person<sup>2</sup>.

The right of a citizen to a name or a pseudonym in Russian law usually becomes the subject of serious attention in the following most common aspects of everyday life and relevant legal relations:

— the right to a name or pseudonym in the constitutional-legal aspect, for example, when analyzing and applying Part 1 of Article 23 of the Constitution of the Russian Federation, Part 1 of Article 55 of the Constitution of the Russian Federation<sup>3</sup>;

— the right to a name or pseudonym in the civil law aspect (Article 19 of the Civil Code of the Russian Federation),

— the right of a child to a name in the family law aspect (Article 58 of the Family Code of the Russian Federation)<sup>4</sup>;

<sup>1</sup> Obzor sudebnoy praktiki Verkhovnogo Suda Rossiyskoy Federatsii No. 1 (2018), utv. Prezidiumom Verkhovnogo Suda RF 28.03.2018 [Review of judicial practice of the Supreme Court of the Russian Federation No. 1 (2018), approved by the Presidium of the Supreme Court of the Russian Federation 28.03.2018] // Spravochno-pravovaya sistema “KonsultantPlyus” [ConsultantPlus legal reference system]: [Electronic resource]. — URL: [https://www.consultant.ru/document/cons\\_doc\\_LAW\\_294792/](https://www.consultant.ru/document/cons_doc_LAW_294792/) (date of address: 14.01.2023).

<sup>2</sup> Opredelenie Tret'yego kassatsionnogo suda obshchey yurisdiktsii ot 03.02.2020 No. 88-1304/2020 [Decision of the Third Cassation Court of General Jurisdiction of 03.02.2020 No. 88-1304/2020] // Spravochno-pravovaya sistema “KonsultantPlyus” [ConsultantPlus legal reference system].

<sup>3</sup> See, e.g.: Vinokurov V.A. Pravo cheloveka na imya: konstitutsionno-pravovoy aspekt [The human right to a name: constitutional and legal aspect] // Konstitutsionnoe i munitsipalnoe pravo [The constitutional and municipal law]. 2019. No. 6. Pp. 46–49.

<sup>4</sup> See, e.g.: Ilina O.Yu. Interesy rebenka v semeynom prave Rossiyskoy Federatsii [Interests of the child in the family law of the Russian Federation]. M.: Gorodets, 2006. P. 80; Korol I.G. Lichnye neimushchestvennye prava rebenka po semeynomu pravu Rossiyskoy Federatsii: Nauchno-prakticheskoe posobie [Personal non-property rights of the child under the family law of the Russian Federation: Scientific and practical textbook]. M.: Prospekt, 2010. P. 132.

— copyright and patent legal relations, where the right to a name (pseudonym) presupposes the existence of an exclusive or copyright (Article 1345 of the Civil Code of the Russian Federation) and others.

In the latter case, it is necessary to take into account the opinion of M.A. Rozhkova, who, speaking about the inclusion of the author's right to a name among the personal non-property rights — a right that is a type of inalienable right to a name (Article 19 of the Civil Code of the Russian Federation), by virtue of Paragraph 1 of Article 7 of the UN Convention on the Rights of the Child, 1989, according to which it is recognized that a child has the right to a name from the moment of birth, notes that “undoubtedly, in the field of intellectual property the content of the right to a name is narrowed down to the power “to use or authorize the use of works of art” (Article 1265 of the Civil Code of the Russian Federation). However, even in this truncated form, it retains the main characteristic feature mentioned by M. Agarkov<sup>1</sup>: “... the right to a name does not give the authorized person the right of exclusive use of his name. Other persons can also use it quite rightfully, but, firstly, when they themselves possess the same name, and secondly, when they do not cause damage by it”<sup>2</sup>.

A. V. Zalesov, in this context, reasonably points out that the author's right to a name (pseudonym) is always connected with the work and with its circulation. Therefore, one can clearly trace a rather close correlation between the identity of the author of an artistic work and the fate of the work, including its circulation and even disputes about authorship and protectability<sup>3</sup>.

Thus, the right to a name or pseudonym can be directly associated with personal or proprietary spiritual, moral and intellectual rights<sup>4</sup>, including in the case of the protection of exclusive rights in the creative environment<sup>5</sup>.

<sup>1</sup> Agarkov M. M. Pravo na imya. Izbrannye trudy po grazhdanskomu pravu: V 2 t. T. II [The right to a name. Selected works on civil law: In 2 volumes. V. II.] M., 2002. P. 96.

<sup>2</sup> Tsivilisticheskaya kontseptsiya intellektualnoy sobstvennosti v sisteme rossiyskogo prava: monografiya [Civilistic concept of intellectual property in the system of Russian law: a monograph] / A. A. Bogustov, V. N. Glonina, M. A. Rozhkova i dr.; pod obshch. red. M. A. Rozhkovoy. M.: Statut, 2018. 271 p.

<sup>3</sup> Zalesov A. V. Patentnoe pravo kak monopolnoe promyshlennoe pravo patentovladeltsa-investora [Patent law as a monopoly industrial right of the patent owner-investor] // IS. Promyshlennaya sobstvennost [Intellectual property. Industrial property]. 2021. No. 12. Pp. 49–58.

<sup>4</sup> See more: Ibragimova A. I. Ponyatie i zashchita lichnykh ili sobstvennykh dukhovno-nravstvennykh i intellektualnykh prav, i grazhdansko-pravovaya otvetstvennost za ikh narushenie [The concept and protection of personal or proprietary spiritual, moral and intellectual rights, and civil liability for their violation] // Rossiyskaya yustitsiya [Russian justice]. 2020. No. 8. Pp. 13–16.

<sup>5</sup> Shakirova E. Razreshenie sporov, svyazannykh s zashchitoy iskhlyuchitelnykh prav v tvorcheskoy srede [The resolution of disputes related to the protection of exclusive rights in the creative environment] // Trudovoe pravo [Labor law]. 2022. No. 1. Pp. 45–58.

Regardless of the legal relations in which a citizen's right to a name or a pseudonym is involved, it is subject to judicial protection by virtue of Article 46 of the Constitution of the Russian Federation, which actually establishes the absolute right to judicial protection of any violated or challenged right or legitimate interest of a citizen.

One of the ways to protect civil rights, including personal non-property rights, is compensation for moral damage (Article 12 of the Civil Code of the Russian Federation). This method recently remains practically the only possibility to restore one's reputation, at least psychologically, if a citizen sees the violation of his right to a name or pseudonym on the Internet, experiences moral or physical suffering (Paragraph 5 of Article 19, Article 151 of the Civil Code of the Russian Federation). Therefore, no one denies or can replace the presence of live, real communication in everyday life, but we cannot doubt the existence of the digital world around us either.

It should be stated that, unfortunately, today we have to spend most of our time "at the computer" — it is both work and training and just communication on the Internet, social networks, etc. Therefore, the digitalization of society, in general, social relations in any spheres of human activity could not but affect civil legal relations, including in such a sensitive area as the existence and realization of personal non-property rights. For objective reasons, we voluntarily or involuntarily transfer our real world perceptions to the sphere of digital relations, where a virtual world is formed, which begins to dictate its rules and laws to us. In fact, mankind is making its first, but confident enough steps into the digital space, as it was in its time with the conquest of the sea and space, so compensation for moral damage as one of the ways to protect the personal non-property rights of a citizen can be considered as a life jacket or a lap at sea, or a spacesuit or a rescue apparatus in space. But this spacesuit or life jacket must belong to you, which is ensured by the protection of your right to a name or pseudonym, including in digital space.

Violation of a citizen's right to a name or a pseudonym must be expressed in its distortion, or use of the name by means or in a form that affects his honor, diminishes dignity or business reputation (Paragraph 5 of Article 19 of the Civil Code of the Russian Federation). Acquisition of rights and obligations under the name of another person is a violation of the rights of this person<sup>1</sup>.

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<sup>1</sup> Opredelenie Vostmogo Kassatsionnogo suda obshchey yurisdiksii ot 04.02.2020 № 88-2829/2020 [Decision of the Eighth Cassation Court of General Jurisdiction of 04.02.2020 No. 88-2829/2020] // Spravochno-pravovaya sistema "KonsultantPlyus" [ConsultantPlus legal reference system]: [Electronic resource]. — URL: <https://www.consultant.ru/cons/cgi/online.cgi?req=doc&base=KSOJ008&n=2460#Wd89p4U15ldcSkZ6> (date of access: 14.01.2023).

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