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INNOVATIONS IN THE FIELD OF CIVIL PROCEDURAL RELATIONS

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After significant changes in almost every sphere of activity of Ukrainian citizens, since 2014 the government has implemented certain reforms. One of these was judicial reform, which in turn led to the adoption of new regulations and amendments to the current ones. Such reform has also affected civil procedure relations and their regulation.

The first novelty in the field of civil law is the amendment of the Civil Procedure Code of Ukraine (hereinafter - CPC) on court proceedings to restrict individuals from visiting gambling establishments and participating in gambling in accordance with the Law of Ukraine "On State Regulation of Gambling" dated July 14, 2020 № 768-IX [1, 2]. That is, Chapter 2-1 of Section 4 of the CPC currently provides a mechanism and procedure for consideration of such cases, as well as restrictions for an individual to visit the relevant institutions to protect the property rights of her and/or family members [3].

In addition, this law in Art. 300-2 of the CPC stipulates that the relevant application for the purpose of instituting proceedings may be submitted only by family members of the first degree of kinship or legal representatives of this person. This statement is not assimilated from Art. 296 of the same code, as it defines the range of persons as follows: family members (regardless of the degree of kinship), guardianship authority, psychiatric institution. Therefore, such a discrepancy must be eliminated, because it involves the application of the analogy of the law in the case, which is not always the right decision [1, 3].

Another contradictory change added by this law is the combination of the applicant and the legal representative in Art. 300-2 CPC. However, the previously approved norms (Articles 42 and 64) show a distinction between the participants in certain cases and a separate group of participants in the proceedings [1, 3].

It should also be noted that the current version of the CPC establishes several responsibilities for evidence in civil proceedings: to help establish all the circumstances of the case, to follow the procedure and deadlines for providing evidence and full answers to questions posed by the court. Currently, the articles of the CPC build a logical chain of the process of proof in civil proceedings:

Art. 43 of the CPC provides for the right and at the same time the obligation of the parties to the case to submit evidence in the manner and within the time limits established by law and the court, and Art.81 establishes a rule for the division of the burden of proof between the parties. In accordance with Part 7 of Art. 81 of the CPC innovation is that the court has the opportunity in exceptional cases to collect evidence on its own initiative, ie the collection of evidence is not his duty [1, 4].

The process of reforming the judiciary and its components is still ongoing, so the current versions of the legislation will be subject to revision. Especially some provisions of the CPC that are not in line with other provisions of the Code and related laws. Its implementation can fill the gaps in the CPC and reconcile the assertions of the articles, which will greatly simplify both the judicial process and regulate civil procedural relations [5].

Summarizing all the above, it should be emphasized that the reform of one of the branches of government and relevant legislation is a long and painstaking process that requires a lot of time to adapt not only the normative formulation of certain rules, but also their practical implementation. That is, in order to significantly improve the regulation of civil law relations, it is first necessary to identify existing problems and gaps in the legislation, and then develop appropriate provisions that would eliminate them. After all, the main criterion of "quality" and "simplicity" of civil law relations and their regulation is its full understanding and observance by participants in cases related to such relations.

Referenses:

1. Цивільно процесуальний кодекс України: Закон України від 01.09.2005 року № 1618-IV. URL: <https://zakon.rada.gov.ua/laws/show/1618-15#Text> (date of access: 14.03.2022)
2. Про державне регулювання діяльності щодо організації та проведення азартних ігор: Закон України від 14.07.2020 р. № 768-IX. URL: <https://zakon.rada.gov.ua/laws/show/768-20#Text> (date of access: 14.03.2022)
3. Мінченко Р. Юридична техніка внесення змін до цивільного процесуального законодавства України. URL: pravo.com.ua/files/39/pdf/22.pdf (date of access: 14.03.2022)
4. Луспенник Д. Доказування у цивільному процесі. URL: <http://kdkako.com.ua/dokazuvannya-u-civilnomu-procesi-shcho-novogo-u-cpk-ta-chomu-sudnadileniy-pravom-vitrebuvannya/> (date of access: 14.03.2022)
5. Проект Закону про внесення змін до Господарського процесуального кодексу України, Цивільного процесуального кодексу України, Кодексу адміністративного судочинства України від 26.05.2021. URL: http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=72043 (date of access: 14.03.2022)