

References

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CIVIL RELATIONS

Doctrinal civil relationships have finally been legally defined. It was in Article 1 of the CCU that the term "civil relations" was first used.

Civil relations are social relations governed by the rule of civil law, the participants of which are the holders of subjective civil rights and legal obligations. Legal relations are a form in which the abstract model of a rule of law, due to a certain legal fact, gets its specific expression and binding of the rights and obligations of specific entities to certain objects. The implementation of a rule of law in a particular legal relationship is that its participants receive subjective rights and are entrusted with the legal obligations guaranteed by the state in the person of its judiciary and sometimes other bodies.

Characteristic features of civil relationships are:

they are a variant of only such legal relationships that meet the requirements of the subject matter and method of civil law. Hence, property and personal non-property relations;

this relationship is formalized by the rules of civil law;

they are protected by the rules of civil law;

they arise, change and terminate on the basis of the legal facts which are inherent in private law. In doing so, they may arise on grounds which are not provided for by law but do not contradict it;

their subjective rights and legal obligations are regulated or modeled by the rules of civil law;

have a wide range of legal objects: things, property, property requirements, works and services, information, results of creative activity, etc.

Civil relations are thus a form of social relations governed by the rules of civil law, the members of which are the holders of subjective civil rights and legal obligations [1, p. 89].

Civil relations and other legal relationships have their own structure. Traditional is a three-pronged structure in which the elements of civil relations are attributed to subjects, objects and content.

The subjects are members of a civil legal relationship. According to Art. 2 of the CCU are individuals and legal entities. The last created by people to ensure their common interests are certain social entities (organizations) that have been given the generic name of legal entities. In addition, the parties to the legal relationship may be: the state of Ukraine, the Autonomous Republic of Crimea, administrative and territorial entities, foreign states and international governmental and non-governmental organizations. It should be noted that public-law legal entities are more likely to be passive participants in civil legal relationships. They are the holders of personal non-property rights, the owners of the target property (funds). The latter spend only within the boundaries of the estimated parts of the budget and property, works, services required for [2].

Civil law objects are all things that give rise to subjective rights and legal obligations. It is only under such conditions that the parties to these legal relationships satisfy their needs and interests. Objects include: things, actions (works, services), results of creative and other spiritual activities, personal non-property benefits, natural rights, rights of claims and more.

The content of the relationship is made up of subjective rights and legal obligations.

Subjective law is characterized by the unity of three elements:

the type and extent of permissible behavior of the holder of this right and within which the carrier independently exercises his freedom to choose another participant, object, variant of behavior;

the right to demand from other persons their own conduct, which ensures the attainment of the purpose of entering into this self-interest relationship. It is a right to demand certain counter-acts of others;

the right to demand that the state, in the person of its authorized bodies, compel the holder of a counter-legal duty. These powers are also referred to as rights of defense [3, p. 183].

Types of civil relations in the science of civil law have stabilized on certain classifiers:

regulatory - regulate (regulate) normal personal and property relations on the basis of personal rights, property or property rights. Such regulation is done by determining the optimal legal position of the subjects in a particular legal institute or by determining the legal regime of the object of the legal relationship, the procedure, method and limits of exercising subjective rights, stimulating the fulfillment of legal obligations;

security - related to the possibility of committing a violation of rights and legitimate interests and their consequences. The content of the relationship:

absolute - because of certain subjective rights to one person and the general legal obligation of all other persons to refrain from violating this right. In such relationships, the subjective right bears a clearly unspecified amount of legal obligation bearers. Any person may violate the subjective right.

relative - the subjective right bearer is always opposed to the specific legal obligation holder (the seller is the seller, the employer is the landlord, the contractor is the customer, the commissioner is the agent) [4, p. 204].

Therefore, subjective civil law is the type and extent of the possible (permissible) behavior of a party to a legal relationship, which is provided by the possibilities of requirements to holders of a counter-legal obligation and to violate in a prescribed manner the use of state coercion.

It should be noted that some subjective rights in origin and basis of origin are twofold: elements of legal relations and subjective law at the same time. These are natural rights. They occur because of human birth.

Subjective civil law in legal relations is always opposed by the counter-legal obligation of the obliged person (s). It should be emphasized that, for the most part, subjective rights and legal obligations are mutually consistent. Therefore, it is a legal duty to recognize the type and extent of the required behavior of the obliged person as a guarantor of the exercise of the subjective right of another party to a legal relationship secured by the possibility of coercion.

With a four-link system, they add a rule of civil law - a state-imposed or state-mandated rule of conduct that is mandatory and enforced by state coercion. The peculiarity of the rule of civil law is that the parties to the legal relationship can, within the framework of "allowed all that is not prohibited by law" themselves create the rules of law. These are the so-

called mononorms. They are mostly used when the law-making bodies do not have time to follow the real relations and their participants are forced to create the right for themselves.

Under a five-link system, the legal structure includes the grounds for their occurrence - the specific life circumstances (legal facts) that are associated with the emergence, change and termination of subjective rights and legal obligations [5, p. 326].

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СТЯГНЕННЯ МОРАЛЬНОЇ ШКОДИ В АВІАЦІЙНИХ ПЕРЕВЕЗЕННЯХ

Право на відшкодування моральної (немайнової) шкоди виникає внаслідок заподіяння шкоди (майнової, фізичної чи немайнової (моральної)) незалежно від наявності спеціальних норм цивільного законодавства та не включає в себе ніякого майнового елемента, не має економічного змісту.

Однак визначення поняття матеріальної (немайнової) шкоди є предметом дискусій серед науковців, а також супроводжується неоднозначним її тлумаченням законодавцем. Так, на сьогодні існує розширена законодавча база, яка закріплює право громадянина на відшкодування моральної (немайнової) шкоди, а саме: Конституція України [1], Цивільний кодекс України [2], тощо. Разом з тим, враховуючи специфіку дослідження, ми звертаємось і до спеціального законодавства. Так, «авіаційні перевезення