

встановлюються в актах цивільного законодавства, зокрема, передбачених у статті 4 Цивільного кодексу України [1].

*Література*

1. Цивільний кодекс України від 16 січ. 2003 р. № 435–IV. Відомості Верховної Ради України. 2003. № 40–44. Ст. 356.

UDC 342.7:614.253(043.2)

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**PROBLEM ISSUES OF UNDERSTANDING INFORMATION AND  
CONFIDENTIAL INFORMATION ABOUT A NATURAL PERSON**

There is no doubt that the process of reforming all civil legislation started in Ukraine in order to bring it into line with international trends in the development of private law is timely and necessary. One of the important directions of updating national civil legislation should be the sphere of legal regulation of civil relations regarding confidential information in general, and confidential information about a person, in particular. This necessity, first of all, is due to problems of the quality of civil law norms, which establish the concept of information and confidential information about a natural person as an object of civil rights.

As you know, confidential information is a type of information and it is difficult to disagree with this. However, the analysis of certain norms of civil legislation casts doubt on the given axiom. Accordingly, let's try to analyze it.

The concept of information is contained both in the Civil Code of Ukraine and in the Law of Ukraine "On Information" and they are identical. So, according to Part 1 of Article 200 of the Civil Code of Ukraine and Paragraph 4 of Part 1 of Article 1 of the Law of Ukraine "On Information" – information is any information and/or data that can be stored on physical media or displayed in electronic form.

Analysis of the content of such a norm allows us to identify six groups of information as an object of civil rights. These are: 1) any information and data that can be stored on physical media; 2) any information and data that can be stored electronically; 3) any information that can be stored on physical media; 4) any information that can be stored electronically; 5) any data that can be stored on physical media; 6) any data that can be stored electronically.

Accordingly, taking into account the above, it can be concluded that information as an object of civil rights can essentially refer to three of its

manifestations. These can be: information; data; information and data. At the same time, within the framework of the voiced question, it is important to pay attention to the fact that data is not information, just as information is not data. The same applies to the set of information and data (as a whole), which cannot be referred to either as information or as data. Accordingly, information can be presented in three forms: 1) as information; 2) as data; 3) as a collection of information and data. From the above, it can be concluded that conceptually, information is limited to only three of its main types. And therefore a logical conclusion will be: if something cannot be attributed to the above types, then it is not information. At least in the legal sense of the word.

As for confidential information about a natural person, if it is a type of information, then it is logical that it should belong to one of the above types of information. Accordingly, in order to determine what type of information confidential information about a natural person belongs to, it is necessary to analyze the current legislation.

The concept of confidential information is provided in Part 2 of Article 21 of the Law of Ukraine “On Information” – as information about a natural person, as well as information to which access is limited to a natural or legal person, except for subjects of authority. The same definition is contained in Article 7 of the Law of Ukraine “On Access to Public Information”. Further, Article 11 of the Law of Ukraine “On Information” establishes that information about a natural person (personal data) is information or a collection of information about a natural person who is identified or can be specifically identified.

However, the latest legal norm causes a certain critical attitude towards it. In particular, if we analyze such a part of this sentence – “information about a natural person (personal data) ...”, then we can conclude that information about a natural person, as confidential information, is a type of personal data. That is, confidential information about a natural person should refer to such a type of information as data. Along with this, information about a natural person (personal data) is disclosed in the analyzed legal norm through another legal category, namely, through information. Here the question arises: to what type of information does confidential information about a natural person belong? To information or to data?

Because, as previously stated, information is not data, and data is not information. At least, if we proceed from the concept laid down in Part 1 of Article 200 of the Civil Code of Ukraine and Paragraph 4 of Part 1 of Article 1 of the Law of Ukraine “On Information”, regarding the concept of information.

This legal uncertainty is also reinforced by part 2 of Article 11 of the Law of Ukraine “On Information”, which states that confidential information about a natural person includes, in particular, data on his nationality, education, marital status, religious beliefs, state of health, as well as address, date and place of

birth. That is, here confidential information about a natural person is disclosed not through information, but through data. At the same time, if all confidential information about a natural person consists only of data about such a natural person, then why is information about a natural person (personal data) disclosed through information?

It seems that it is part 1 of Article 11 of the Law of Ukraine “On Information” that creates a state of legal uncertainty.

The above leads to the conclusion that the current civil legislation of Ukraine is not sufficiently clear and consistent with regard to such a type of information as confidential information about a natural person. Such inconsistency creates the problem of classifying it as information (in the legal sense of the word). It consists in the fact that confidential information about a natural person, according to how it is defined in civil legislation, refers to a type of personal data, but along with this it is considered as information or a set of information about a natural person that is identified or can be specifically identified.

That is, from the given wording, confidential information about a natural person is information as a type of data. This legal status creates the problem of classifying it as information as an object of civil rights. This is due to the fact that information as an object of civil rights cannot be information as a type of data, since information, according to today’s concept, can be either information, or data, or a combination of information and data.

The above leads to the need to bring the relevant civil law norms to the requirements of the general legal concept of information as an object of civil rights. In particular, this applies to Part 1 of Article 11 of the Law of Ukraine “On Information”. Taking this into account, it is proposed to set out part 1 of Article 11 in the following wording: “Information about a natural person (personal data) – data or a set of data about a natural person who is identified or can be specifically identified”.

UDC 347.99:347.77(043.2)

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## **ON THE QUESTION OF CONSIDERATION OF DOMAIN DISPUTES IN THE ASPECT OF JUDICIAL REFORM (IR OF THE COURT)**

In connection with the rapid development of legal relations in the field of using the worldwide system of unification of computer networks for storing and transmitting information (the Internet), the problem of resolving disputes regarding domain names (a more accurate translation from English - domain