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PROSECUTOR AS REPRESENTATIVE IN CIVIL PROCEEDINGS

In my opinion, the topic: “Prosecutor as a representative in civil proceedings” is interesting because we can analyze the main actions and skills of the prosecutor in his work, and understand the importance of the prosecutor’s office in our country.

First, we need to consider the article by N.V. Volkov on the topic: “Regarding the participation of the prosecutor in the civil process (separate aspects)”.

The Constitution of Ukraine established one of the functions of the prosecutor’s office as the representation of the interests of a citizen or the state in the court in cases specified by law (clause 2 of article 121) [1, p. 115].

From this part, we can conclude that the prosecutor represents the people’s interests.

So, for example, the prosecutor cannot act as a party, a third party, because he is not defending his own rights and interests, but the rights and interests of another person, he has no personal interest in the consideration and resolution of the case, but a state interest, since it is the state following the basic law, endowed the prosecutor’s office with such a function as representing the interests of a citizen or the state in the court [1, p. 115].

From this part, we can conclude that the prosecutor is entrusted with his functions from the state and in his interest to protect the interests of other citizens.

The prosecutor does not represent the party, as it is expressly stated in Part 2 of Art. 41 of the Code of Criminal Procedure of Ukraine, that the prosecutor cannot be a representative in the court, except when he acts as a representative of the relevant body that is a party or a third party in the case, or as a legal representative. Having analyzed the civil procedural legislation, it is possible to distinguish certain differences between the legal position of the prosecutor in

the civil process and the representative: firstly, the prosecutor himself decides the issue of going to the court, and the representative acts in the court based on a power of attorney (or by the law); secondly, the prosecutor acts on behalf of the state body - the prosecutor's office, and the representative acts on behalf of the person he represents in the court; thirdly, to confirm his powers, the prosecutor does not need to provide the court with any documents, powers of attorney, except for an official certificate, unlike the representative, since the prosecutor does not enter into any legal relations with the party, etc [1, p. 116].

From this part, we can conclude that the prosecutor has individual positions in the civil process and has several differences from representatives.

Under Part 2 of Art. 45 of the Civil Code of Ukraine, to represent the interests of a citizen or the state in the court, the prosecutor, within the limits of the powers defined by law, applies to the court with a statement of claim (application), participates in consideration of cases based on his claims, and can also enter on his initiative in a case, proceeding in which, at the request of other persons, at any stage of its consideration, he files an appeal, a cassation complaint, an application for review of the court decision by the Supreme Court of Ukraine, for review of the court decision based on newly discovered circumstances [1, p. 116].

From this part, we can see exactly how the prosecutor intervenes in the case and how his claim is implemented.

From the analysis of the above norm, two forms of participation of the prosecutor in the civil process can be distinguished, namely: opening of proceedings in the case by applying to the court with a statement of claim (application); entry into the started process, at any stage of its consideration, by filing an appeal, cassation complaint, application for review of the court decision by the Supreme Court of Ukraine, for review of the court decision based on newly discovered circumstances [1, p. 116].

Considering this part, we can understand that the prosecutor can not only apply to the court at various stages of the case itself but also has the right to appeal the court's decision.

We also need to consider the article written by V. Bontlab on the topic: "Peculiarities of the legal status of the prosecutor in civil proceedings".

In turn, Part 2 of Article 23 of the Law of Ukraine "On the Prosecutor's Office" enshrines the provision according to which the prosecutor represents the interests of a citizen (a citizen of Ukraine, a foreigner, or a stateless person) in the court if such a person is unable to independently defend his or her violated or disputed rights or exercise procedural powers due to underage, incapacity or limited legal capacity, and legal representatives or bodies empowered by law to protect the rights, freedoms and interests of such a person do not or improperly perform their protection [2, p. 12].

From this part, we can understand who the prosecutor can represent and why he represents citizens who cannot speak for themselves.

Only after the court has confirmed the validity of the grounds given by the prosecutor for representing the interests of the state or an individual, the participation of the prosecutor in the interests of the said entities in the legal process is allowed. At the same time, the prosecutor is obliged to inform the citizen and his legal representative or the relevant subject of authority about the need for the court to confirm the validity of the reasons for the prosecutor's participation in the court process, before applying to the court [2, p. 12].

From this part, we can understand that the prosecutor and his actions are under the control of the court, and the prosecutor's intervention in the case can be implemented only after the permission of the court.

In conclusion, I would like to note that the prosecutor's actions in the civil process are important and he is helped by a large number of rules, laws, and nuances thanks to which the prosecutor can effectively perform his duties.

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НЕЗАКОННИЙ ОБІГ ЗБРОЇ МАСОВОГО ЗНИЩЕННЯ У МІЖНАРОДНОМУ КРИМІНАЛЬНОМУ ПРАВІ

У міжнародному кримінальному праві застосування зброї масового знищення визнається злочином проти людства. А, відповідно, будь яка особа, яка вчинила злочин проти людства може бути притягнена до відповідальності Міжнародним кримінальним судом. Окрім цього відповідальність настає і за виробництво, транспортування, зберігання зброї масового знищення. Такі дії визнаються злочинами проти миру. Також держави зобов'язані приймати відповідні заходи для забезпечення