

Legal Regulation of Civil Relations

Sarmonov Alimardon Obidjonovich ¹

¹ Inspector of Prevention of the Department of Prevention of Offenses of the Public Security Service of the Department for Coordinating the Activities of Internal Affairs Bodies, Major

Abstract:

In this scientific article, the subjective civil law and the right to defense are different legal categories, as they have different legal grounds for their emergence, different structures, and the direction and duration of the participants' actions.

Keywords: Subjective citizenship, civil law, protection of rights, legal norm, interest.

Introduction

The basis of subjective civil law is a lawful act or event established by the relevant regulator of civil relations and having regulatory legal significance for their participants. In turn, the basis of the right to defense is the presence of illegal legal facts.

In essence, subjective civil law is aimed at satisfying the legal interests of the participants in the legal relationship in the process of its implementation, while the right to defense is aimed at correcting the defect of the civil legal relationship and their subsequent correct implementation.

Finally, subjective civil law remains in effect from the moment the parties express their will for the period of its implementation determined by them, and the emergence of the right to defense is directly related to the violation of subjective civil law or legal interest and remains in effect for the established period (claim period), the expiration of which terminates the corresponding right.

To the theory of the independence of the right to defense from subjective civil law, which the author of this study also agrees with, a certain completeness is given by distinguishing three powers in the structure of the right to defense, namely: 1) the ability (competence) to perform independent factual actions to protect the right (application of means of self-defense) or to perform independent legal actions to restore the right (application of means of operational influence); 2) the ability (authority) to demand from state bodies the compulsory restoration of a violated right (application of legal

remedies); 3) ability (competence) to defend a right, to make a claim (application of coercive means in a new protective legal relationship).

Thus, we can conclude that subjective civil law ensures the implementation of civil relations within the framework of agreed behavioral models between their participants. Such implementation is achieved through the powers that constitute the content of subjective civil law (competence to act and competence to demand).

A possible direction for the development of legal regulation of civil relations is the identification of circumstances of objective reality, subjective factors of a deviant nature, or illegal actions of third parties, due to which obstacles arise to the normal development of regulatory relations that impede or completely prevent the implementation of the rights and obligations of the subjects of legal relations (defects of a legal fact). Under such conditions, the legal regulation of civil relations cannot ensure the implementation of a certain legal model agreed upon by their participants. In this case, structural changes occur in the legal regulation of civil relations¹.

Methodology

The emergence of a protective legal relationship is accompanied by the formation of its content, the basis of which is the powers that ensure its proper implementation, that is, the right to protection of the participants in these legal relations.

That is, subjective civil law manifests itself in the following forms depending on the type of civil relations:

1. regulatory subjective civil law, which constitutes the content of regulatory relations and includes a set of powers performing certain functions;
2. compensatory (compensatory) subjective civil law, which constitutes the content of protective relations and consists of established powers.

However, this refers only to the civil aspect of the content of legal relations.

When we approach the structure of legal relations in a general theoretical context, its content actually consists of subjective civil law. This right is..."a legally guaranteed scope of possible actions of a person..."² is understood as. It consists of three main powers: the right to perform one's actions, the right to demand, and the right to defense. S. Bratus was the first to pay attention to this direction.

Results and Discussion

Based on the functional nature of civil relations, subjective civil law is formed by a variable set of powers. It should be noted that the place of the right to protection in the structure of subjective civil law in the above-mentioned model of civil relations is a subject of scientific discussion.

In our opinion, such arguments are groundless, since each of the above views does not deny the right to defense either in the structure of legal relations or in the content of subjective civil law. The fact is that this problem is studied in various theoretical dimensions.

If we analyze the structure of subjective civil law in a general theoretical context, then the structure of the model of legal relations contains legal obligation and subjective civil law. Also, subjective civil law manifests itself as a combination of three powers: the authority to demand, the authority to perform one's actions, and the authority to defend.

¹ Коструба А.В. Юридичні факти в механізмі право припинення цивільних відносин: монографія. – Київ: Ін Юре, 2014. – 376 с. – С. 329–365.

² Братусь С.Н. Субъекты гражданского права. М.: – Госюриздат, 1950. – 13 с.

When studying legal relations from a sectoral point of view, from the point of view of civil law, these powers are distinguished depending on the protective or regulatory type of civil relations.

Inclusion of the power of defense in the composition of subjective civil law limits this power to the exercise of it only within the framework of the corresponding subjective civil law. In this case, some legal structures related to subjective civil law remain outside the scope of legal influence as a measure of possible behavior. The existence of such structures should ensure the possibility of the proper implementation of civil relations, since subjective civil law itself may not fully reflect the existing legitimate aspirations of the subjects of civil relations. One such structure is the legal interest.

Thus, the legal possibilities guaranteed by the state are not limited to subjective civil law. Such possibilities, expressed through natural law, include the individual's striving to satisfy their personal needs, which is a reflection of the degree of personal freedom. This freedom, in turn, may not have corresponding legal limits for physical actions.

The etymological meaning of the word "interest" includes:

- a) attention, interest, participation in someone or something;
- b) value or significance;
- c) what is most interesting to someone, the content of thoughts and concerns;
- d) aspirations, needs;
- e) something that benefits someone, satisfies their needs, provides an advantage, benefit, or income.

In sociology, the category of "interest" is perceived as an objectively existing and subjectively understood social need. It is interpreted as a motivation, incentive, or impetus. In psychology, it refers to a person's attitude towards a particular issue as something valuable and attractive.

From the point of view of constitutional law, it is based on a general approach aimed at understanding the category of "interest" as an expression of a person's chosen attitude towards an object, based on its vital significance and emotional attractiveness. Thus, the interests of the individual are manifested in the possibility of realizing their content, which is ensured by means of legal influence.

On the other hand, a legal norm constructs an interest in the form of "legality" as an example of actions expressing the unlawful aspirations of a person.

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