

законодавчим органом стояло питання щодо прийняття нормативно-правового акту, норми якого покликані здійснити захист прав позичальників, майно яких було знищено або зазнало пошкоджень внаслідок збройної агресії Російської Федерації.

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THE FREEDOM OF WILL IN CIVIL LAW AND CIVIL PROCEDURE

The current legislation of Ukraine does not contain a definition of the concept of “freedom of will”. However, its content is reflected in every field of law and is manifested in the subject's ability to independently manage the scope of his/her rights. This can be called the right to exercise the right. At the same time, such a process must comply with legality and not interfere with the similar right of other subjects. In view of that, it should be remembered that freedom of will is not literal, as it contains certain limitations.

In order to understand better the meaning of freedom of will, we should consider it on the example of a specific field of law. Therefore, we suggest

analyzing this concept and its framework in more detail through the prism of civil law and civil procedure.

Earlier we have noted that the current legislation of Ukraine does not contain the term freedom of will, but there are many other concepts that are widely used in normative legal acts and carry a similar meaning. Thus, after analyzing the Civil Code of Ukraine (hereinafter referred to as the CC Ukraine) and the Civil Procedure Code of Ukraine (hereinafter referred to as the CPC of Ukraine), we can distinguish the following terms: “free expression of will”, “voluntary consent”, “own discretion” etc.

Within the limits of civil law, subjects are able to fully exercise their freedom of will. This is evidenced by the establishment of free expression of will as one of the mandatory elements of civil legal relations (part one of Article 1 of the CC of Ukraine) [1].

Thus, among the list of the main principles of civil legislation, the following find their consolidation:

1) freedom of contract (clause 3 of part 1 of article 3 of the CC of Ukraine), which allows the subject to independently choose with whom, when and under what conditions, within the framework of legality, to enter into a contract.

2) freedom of entrepreneurial activity (clause 4 of part 1 of article 3 of the CC of Ukraine), which gives the subject the opportunity to choose any legal type of entrepreneurial activity.

Listed above principles are the best examples that convey the idea of freedom of will in civil law.

Non-observance of the free expression of will by the party transaction (part 3 of Article 203 of the CC of Ukraine) entails the recognition of the transaction as invalid in accordance with the provisions of Art. 215 of the CC of Ukraine, as well as the onset of the consequences provided for in Art. 216 of the same Code [1].

The list of examples that confirm the importance of freedom of will in civil legal relations is quite extensive. In our opinion, such a feature of civil legal relations lies in the legal equality of the parties.

Cases arising out of civil, land, labor, family, housing and other legal relations are considered in the procedure of civil proceedings, except for those that are resolved in the procedure of other proceedings in accordance with the legislation (part one of Article 19 of the CCP of Ukraine) [2].

We draw your attention to the third part of Art. 13 of the CPC of Ukraine, which states: “The parties to the case may dispose of the rights related to the subject of the dispute at their own discretion, with the exception of subjects who do not have procedural capacity” [2]. In this way, the dispositive nature of civil proceedings contributes to the realization of the content of the freedom of will of the participants during trial.

During the consideration of the case, the participants exercise their freedom of will within the limits of their procedural rights. The procedural rights of participants in the legal process can be divided into general (Article 43 of the CPC of Ukraine, which contains a list of rights and obligations that apply to all participants in the legal process) and special.

The scope of the latter depends on the participant's role during the case. For example, the defendant and the plaintiff, who are parties to the civil process, are additionally governed by the rights and obligations provided for in Art. 49 of the CPC of Ukraine.

The role of a witness needs special attention. According to Art. 71 of the CPC of Ukraine, a witness cannot refuse to testify [2]. The exception is testimony about his/herself, family members or close relatives. The question arises whether such a provision does not contradict the content of freedom of will?

Considering the fact that the hypothesis of the mentioned article contains a number of exceptions, and giving testimony about third parties does not carry legal negative consequences for the witness, our answer is no.

We also emphasize that the presence of obligations on the participants of the civil process does not indicate a violation of freedom of will.

Thus, we can conclude that the content of freedom of will in civil law and civil procedure consists in the ability of the subject to independently manage the scope of his/her rights and observe the limitations established by law.

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THE STRUCTURE OF INTELLECTUAL PROPERTY RIGHTS RELATIONS IN CYBERSPACE

The word “structure” is known to most of us, and comes from the Latin word *structura*, that is, “connection, construction”. So, when we are talking about the structure of specific legal relations, we can understand it as a combination of subjects and a method of connection between them based on