TERMS IN CIVIL LAW AND THEIR APPLICATION IN LEGAL PROTECTION OF CITIZENS IN THE REPUBLIC OF UZBEKISTAN

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The urgency of the selected theme is caused by that timely realization and protection of violated rights promotes achievement of that purpose which subjects pursued, entering in civil legal relationship. Observance of the terms including terms of statute of limitation, promotes stability of the law and order, stability between actually developed subjects of legal relationship. Necessity of observance of the terms, terms of limitation of actions is caused by the fact that different circumstances after long time cannot be always established with necessary reliability and many proofs (especially written proofs) are lost in due course. This fact induces the parties in legal relationship to show care of realization and protection of the rights beforehand.

In the present manuscript the research of the theoretical matters connected with concept of terms in civil law, separate kinds of terms in civil law, including term of limitation of actions, with general characteristic of term of limitation of actions, determination of the order of calculation of statute limitation, legal consequences of the expiry of the term of prescription is carried out.

Any life activities, including public relations regulated by civil law, exist in time and space which in many cases make an important impact on their development.

The expiration of a certain period of time (term) is of great importance in civil law. It represents legal fact with which the law connects various civil legal consequences.

Terms are defined by calendar date or the expiration of the period of time, for example, under the loan contract the sum of money with term of return 15.11.2009 (calendar date) is given. Time period is estimated in years, months, weeks, days or hours. Term can also be defined by instructions on event which should come inevitably. For example, inheritance comes from the date of death of the person.

In civil law terms are moments or time periods, the beginning or expiration of which attracts certain legal consequences.

Term is a certain moment or period throughout the time. It is legal fact with which occurrence, change and termination of civil rights and duties connected. So, on reaching 18-year-old age (legal age) the citizen can independently make any transactions. From the moment of birth the citizen gets personal non-property rights - the right to life and health, dignity, honor and reputation. The expiration after death of the author of the 70-year-old term established by the law stops an exclusive property right of his successors on use of the product of science, literature or arts created by him, but it does not stop the personal non-property rights of the author (copyright, right to a name and right to protection of his reputation).

The role of terms in civil legal relationship is considerable. They specify the beginning and the end of legal relationship, establish necessity of fulfillment of the provided actions, bring definiteness in civil legal relationship, and discipline its participants. Terms frequently serve in contractual relations as their obligation element. Correct application of terms provides realization and protection of the rights of participants of civil legal relationship.

The numerous terms meeting in civil law, can be classified on variety of the bases. One can distinguish standard terms, the terms defined by the transaction, including the contract, and the terms appointed by court. Standard terms are established by the law or other statutory acts.

In the unilateral transaction term is defined at the discretion of the person, conducted it, and in bilateral or multilateral transaction it is defined by the agreement of the parties.

Judicial terms are appointed by court. For example, in the decision on satisfaction of the requirement of the claimant on publication of a refutation of the data discrediting honour and dignity of the citizen the court appoints publication term.

Standard terms can be imperative (terms of limitation of actions, purchase prescription, copyright, etc.) and dispositive. The term provided by dispositive norm, is applied in cases when the parties of the agreement have not defined other term (greater or smaller, depending on their powers). For example, the debtor is obliged to meet the obligation defined by the moment of claiming, in 7-day term from the date of presentation of the requirement of the creditor, however the agreement of the parties can provide immediate execution or longer preferential term. On occasion the law or other legal certificate establishes either maximum or minimum term (the maximum term of the letter of attorney is 3 years).

Depending on definiteness degree one can distinguish absolutely determined (certain), relatively determined and uncertain terms. Absolutely certain terms specify the beginning, the termination (by instructions on the moment or event) and size.

Relatively determined terms specify approximate reference points: **reasonable term, normally necessary time**.

Uncertain terms are applied in cases when term is provided neither by the law, nor by the contract, or it is certain by the claiming moment. So, if rent term in the contract is not specified, it is considered to be concluded for uncertain term.

The terms having general meaning, i.e. concerning any subjects of civil law and

same cases, are called general terms. For example, general term (deadline) of action of the letter of attorney is certain by the law as 3 years. Special terms are established as exceptions of the general rule and operate only in the cases directly specified in the law. As an example of special term can be period of validity of the letter of attorney intended for fulfillment of actions abroad which is valid before cancellation by body which has given out the letter of attorney (Civil Code of the Republic of Uzbekistan).

According to the destination the terms can be distinguished as terms generating civil rights, terms of realization of civil rights, terms changing the rights, terms of their termination, terms of performance of duties and terms of protection of the violated rights.

Beginning (or expiration) of the terms generating civil rights, attracts occurrence of these rights. So, the expiration of the terms established by the Civil code, terms of open, continuous and diligent possession of the property by the person, who is not proprietor, attracts occurrence of his property rights to this property. From the date of the state registration organization gets the rights of the legal person.

Terms of realization of the civil rights is time during which authorized person can realize the right belonging to him or demand from the obliged person to make certain actions on realization of this right. The following items may enter this list: terms of existence of civil rights (the exclusive right of patent giver); preclusive terms (the guarantee termination); warranty periods, terms of service and validity; claim terms (transport charters and codes provide an obligatory pre-judicial order of settlement of disputes).

Changes of civil legal relationship owing to the expiration of certain term occurs, for example, in the cases provided by Civil Code of RUz (the Republic of Uzbekistan): before the end of the term risk of casual destruction of a thing is born by one party, after end of the term the risk can move on other party.

The termination of legal relationship happens owing to the beginning of the term of realization of civil rights or discharge of duties. In most cases the expiration of terms of subjective right existence itself does not influence its termination.

The law determines terms and dates of performance of duties as the time during which the obliged person should make the actions making up this duty. Partial terms alongside with the general terms are of great value for discharge of the duties, especially at lasting relations (delivery, capital construction, etc.). General terms are final terms of execution, partial are terms of execution of part of the obligation (delivery of a part of total production); it is also necessary to distinguish intermediate terms as terms of partial readiness of execution (readiness of construction, dress, etc.).

Partial and intermediate terms provide rhythm of work and control over obligation execution. Change, lengthening of the general term represents an execution delay, change or an establishment of partial or intermediate terms disguised before - execution installments.

They are required at difficulties in execution of the obligation and are defined

by the agreement of the parties or the court decision.

Duty default in time is a delay (the duty is not executed or executed with tardiness).

Terms of purchase prescription are understood as time considered as the reformative legal factor. Other subjective rights are sometimes got as a result of the expiry of the term combined with other legal factors.

Terms of protection of the civil rights is the period during which the violated or challenged right is subject to protection. These terms consist from pretentious terms and terms of limitation of actions. Pretentious term is a term for the reference of the carrier of the subjective right to other party of legal relationship concerning infringement of the duties by it. Terms of presentation of claims are established by statutory acts and the contract.

With terms of existence of civil rights, preclusive and pretentious, terms of limitation of actions pull together because in all three cases with the expiry of the term law connects repayment of those possibilities which are set in the subjective law. In this sense the term of limitation of actions also can be considered as existence of the right (the right to protection as the independent subjective law). However between these terms there is also essential distinction, consisting in the fact that terms of existence of the right, no less than preclusive term, are terms of existence of the subjective law not in broken condition but long term is the period during which compulsory realization of the violated right is supposed. Accurate differentiation of these terms has practical value because rules on stay, break and restoration of limitation of actions, do not extend on terms of realization of the civil rights, and they unlike limitation of actions, in some cases can be changed by the agreement of the parties.

Terms of limitation of actions and pretentious terms make related that both of them are connected with the broken subjective right, start to run, as a rule, simultaneously and mutually absorb each other. But if pretentious term is established by the law for dispute settlement directly by parties, the term of statutory limitation limits time frameworks of compulsory realization of the subjective right through the court, arbitration or arbitration court, as well as other competent bodies.

Correct calculation of term assumes its exact determination of the initial and final moments. Term can be defined by calendar date, the period of time or instructions on event which inevitably should come. Calendar date term is defined in a case when occurrence, change or termination of the civil rights and duties is necessary to connect with the certain moment of time or with concrete date of each month, quarter and so on. According to article 154 of the Civil code of the Republic of Uzbekistan the term begins on the next day after calendar date or beginning of event by which it is defined. So, the tenant is obliged to bring a rent for occupied under the contract premises monthly, not later than 10th day of each month, following the lived month. Delay begins with 11th day of each month, following the lived. Hence, by general rule provided by this article, the first day of term is not considered. Term is defined

by the period, if it is necessary to specify a time interval in which civil rights and duties should arise, exist, change or stop. In this case term is estimated in years, months, weeks, days, hours, minutes, quarters, decades, etc. In order to define term by time period, it is necessary to establish the initial moment of its current. Terms can be defined by instructions on events which inevitably should come (the season beginning, reaching of certain age).

The beginning of term running can be defined differently by special legislation. The term estimated on years, expires in corresponding month and date of last year of the term. The term estimated on months, expires in corresponding date of last month of the term. The term defined in half-month, is considered as the term estimated on days, and it is considered to be equal 15 days. The term estimated on weeks, expires in corresponding day of last week of the term. In cases when last day of the term is a day off, the day of the termination of term considers the next working day following it. If term is established for fulfillment of any action, it can be made till midnight of the last day of the term. For example if debtor is obliged to repay a debt on June, 3rd, he can make this action till midnight of the specified day. The rule is not applied, when actions should be made in the organization. In that case the person is limited by an organization operating time. Action should be made till the end of the working day of the organization, but not till midnight. All written statements and notices which have been handed over on mail or telegraph till midnight of last day of the term are considered to be handed over in time. The given rule has the general character. For example, the claim shown to the citizen, in case of delivery of the statement of claim on mail till midnight of last day of three-year term is considered to be shown within term of limitation of actions even it has arrived in court behind its limits. At the written conclusion of the contract with instructions of term for the answer, the answer is considered to data in due time if it is handed over on mail or telegraph till midnight of the last day of the term.

Definition of concept of terms of limitation of actions (or statutory limitation)

Term of protection of civil rights is understood as term during which the person whose right is broken, can demand compulsory realization or protection of the right. Claim is the basic protection frame of the broken civil law; hence the specified term was called as the term of limitation of actions or statutory limitation. Besides, according to Civil Code of RUz protection of civil rights is carried out not only by court, but in the cases provided by the law and others, in particular administrative bodies, as well as by application of measures of self-defense. Concrete terms in which limits these bodies or authorized person can carry out protection of the broken rights, are not defined by the law.

So, statutory limitation is the term for right protection under the claim of the person whose right is broken. Value of statutory limitation consists in assisting in finding-out by court of the valid circumstances of case, rights and duties of the

parties. Limitation of actions disciplines participants of legal relationship, induces them in due time to care of protection of the subjective rights.

There are two kinds of terms of limitation of actions: general and special. Their distinction is based on distinction of a subject of dispute. The general term of limitation of actions is applied in all cases when the Law does not establish other. Changes of terms and order of their calculation under the agreement of parties is not supposed. The general term is established by the law as 3 years.

For separate kinds of requirements special terms of limitation of actions reduced or longer in comparison with general term can be established by the law. The establishment of the reduced terms of limitation of actions is predetermined by character of legal relationship, generating certain civil-law requirements.

Realization of the subjective right consists not only in fulfillment of different actions (for example, using a thing) by authorized person but also in his requirement to the obliged person to make certain actions (for example to pay money, to transfer a thing, etc.). If the obliged person does not make such actions, authorized person can demand that the bodies specified in the law (court, arbitration and others) have forced him to it and promote in compulsory realization of the right.

Limitation of actions, as follows from the law, is the legal fact which attracts legal consequences, first of all, for authorized persons: if this person during the term of limitation of actions does not demand compulsory realization of the right by general rule, he cannot demand then acceptance of forced measures to the obliged person. But limitation of actions attracts the important consequences also for the obliged person because after the expiry of the term of limitation of actions he has the right not to make those actions which has been obliged to make in advantage to authorized person.

Requirements about protection of the broken right are accepted to consideration by court irrespective of the expiry of the term of limitation of actions. The admission of term of limitation of actions doesn't deprive the party of the right of claim neither in procedural, nor in material sense. Limitation of actions is applied by court only under the party statement in the dispute, made before the verdict of court. The court has no right to apply prescription under the initiative.

The party declaring the admission of term of limitation of actions is defendant, but it also can be claimant. The expiry of the term of limitation of actions which application is declared by the party in dispute is the basis to making by court of the decision on abjudication in the claim. The statement of the party for the prescription expiry of the term is subject to check by court, taking into account all corresponding instructions of the civil legislation on the beginning, stay and break of running of a limitation period. Having convinced, that term of limitation of actions is passed, the court passes the decision on refusal in the claim. Restoration of a limitation period by court is supposed in strictly limited cases.

In the obligation where some persons participate on the party of the debtor, the

expiry of the term of limitation of actions on demand to one of them does not mention requirements of the creditor to the rests.

Limitation of actions is applied by consideration almost in all civil disputes. However, its action does not extend on some requirements specified in the law.

Limitation of actions does not extend on requirements on protection of the personal non-property rights and other non-material blessings. It provides the fullest protection of the specified rights. In particular, the requirement on protection of honour and dignity of the citizen; the requirements shown in cases of infringement of the personal rights of the author of product; invention; indemnification of moral harm are not subject to action of limitation of actions.

Limitation of actions does not extend on requirements of investors to bank on delivery of deposits and on delivery of percents or prizes, and also requirements on delivery of deposits according to the instructions of the investor on a death case;

Limitation of actions does not extend on requirements of the state organizations about return of the state property from illegal possession of collective farms and others co-operative and public organizations or citizens;

Limitation of actions does not extend on requirements about compensation of the harm caused to life or health of the citizen, including connected with execution of labour duties by citizen;

Limitation of actions does not extend on requirements of the proprietor or other owner about elimination of any infringements of his right even if these infringements have not been connected to possession deprivation.

Expansion of this list is supposed in other laws. Owing to specificity of relations, a protection subject is the common law, unlimited in time. According to Civil Code of Uzbekistan general term of limitation of actions is applied, but term calculation is made by rules about lasting requirements, the right to presentation of them arises not at a time.

Determination of the moment from which term of limitation of actions runs

For correct calculation of term of limitation of actions it is necessary to define its initial moment. The current of term of limitation of actions begins from the date of occurrence of the right of action. The right of action arises from the date when the person has learnt or should learn about infringement of the right. Withdrawals from this rule are established by the civil legislation and other laws.

The claimant who has learnt about infringement of the right not at the moment of its infringement, but later, should prove it. Practically, such situation is possible in the disputes connected with the property law, author's and election law, and also with compensation of the caused harm. In contractual relations creditor usually knows about infringement of the right or, anyway, it should be known to him at the moment of infringement.

And if the person knew nothing about infringement of the right? In such cases courts will have difficulties at an establishment of the beginning of a current of term

of limitation of actions. So in article 9 of Convention it is specified, that the current of term of limitation of actions begins from the date of occurrence of the right to the requirement, except for the cases provided by the item of articles 10, 11, 12. In article 10 the right of the requirement following from infringement of the contract is provided, that, it is considered arisen in day when such infringement took place. The right to the requirement following from defect or other discrepancy of quality of the goods to treaty provisions arises from the date of actual transfer of the goods to the buyer or his refusal of goods acceptance. The right to the requirement based on a deceit, made before or during the conclusion of the contract or during its execution, arises from the date when the deceit was or could be reasonably found out.

In Convention item 11 it is specified, that if the seller concerning the goods has given directly expressed guarantee which period of validity is limited by the certain period of time or in different way, a current of term of limitation of actions under any requirement following from such guarantee, begins from the date of the notice of the seller by the buyer about the fact which has formed the basis for such requirement, however not later than the termination of period of validity of a guarantee.

In Convention item 12 it is provided, that if in the presence of the circumstances provided by the applicable right to the contract, one party has the right to declare a termination of the contract before term of its execution, and carries out this right, a current of limitation of actions concerning the requirement based on such circumstance, begins from the date of the statement to other party. Under obligations with a certain date of performance the current of limitation of actions begins upon termination of a date of performance. Under the obligations in which date of performance is not defined or certain by the claiming moment, the current of limitation of actions begins with the moment when the creditor has a right to make the demand about obligation of execution and if term for execution of such requirement is given to the debtor preferential, calculation of limitation of actions begins upon termination of the specified term. For example, in the contract of property hiring, concluded for uncertain term, it is established preferential term of a month, and at hiring of structures and uninhabited premises - preferential term of three month. The rule about calculation of limitation of actions under obligations with a certain date of performance corresponds to the general rule as to the claimant knows the moment in which he should learn about infringement of the right if it took place.

The requirement right arises not at a time, but consecutive on days or the periods (for example, penalty fee or percent for using another's money resources), term of limitation of actions is estimated separately on each of them (from the moment of occurrence of the corresponding right of the requirement).

On regressive obligations the current of limitation of actions begins with the moment of execution of the basic obligation.

The beginning of a current of term of limitation of actions is specified by many special norms from the date of an estab-

lishment of lacks of delivered production, from the date of acceptance of work or the statement about its lacks and so on. In many cases the beginning of a current of term of limitation of actions communicates with terms of the statement of the claim.

Change of persons in the obligation does not attract change of term of limitation of actions and an order of its calculation. This position of the Civil Legislation has universal character. It concerns to the case of a concession of the requirement (transition of the rights of the creditor to other person), and to a case of transfer of debt by the debtor on other person. It is applicable both to universal, and to partial succession.

Stay of a current of terms of limitation of actions

The current of limitation of actions is influenced by the certain circumstances provided by the law. Influence of these circumstances is various hence it is spoken about stay and about break of a current of terms of limitation of actions.

In some cases claimant, for the reasons independent of him, cannot sue in the terms established by the law. For such cases possibility of stay of a limitation period is provided. Stay is a position when during action of the circumstances provided by the law term of limitation of actions does not run. Stay is defined by the period of action of the given circumstances. The law provides 4 circumstances:

- If extreme or unpreventable under the given conditions circumstance (force majeure) interfered with a claim presentation;
- If the claimant or the respondent are in the Armed forces transferred on the state of martial law;
- Owing to delay of execution of obligations (moratorium) established by the Government of the Republic of Uzbekistan on the basis of the law;
- Owing to stay of action of the law or other legal statute regulating the corresponding relation.

The law provides the circumstances which existence owing to the law is considered the basis for recognition of the fact that for the claimant there was no possibility to protect the right by a claim presentation, and for this reason the special rule about limitation period calculation (its stay) is applied.

Force majeure is understood as extreme condition, external in relation to the activity of the subject which could not be prevented under these circumstances.

The second circumstance operates when Armed forces or at least only one that part in which there is a participant of data legal relationship, are transferred on the state of martial law. In itself stay in Armed forces does not influence a current of terms of limitation of actions.

Moratorium is called the delay of execution of the obligation established by the government on the basis of the law. Such delay can be declared at force majeure, for example, at earthquake.

Concerning claims about compensation of the harm connected with damage of health or causing of death, the current of limitation of actions stops, except the general bases, also the reference of the claimant to corresponding bodies with the statement

for pension or grant appointment – before their appointment or refusal in their appointment.

The current of term of limitation of actions stops if the specified circumstances have arisen or continued to exist for last six months of a limitation period and if this term is equal to six months or less than six months – during a limitation period. All the time, throughout which one of the circumstances operates, does not join to the term of limitation of actions. It occurs provided that action of the given circumstance lasts for previous 6 months of a limitation period. If a limitation period is no more than 6 months, stay can occur at any moment of a term current. After cancellation of the circumstance which has suspended a current of term of limitation of actions, the term current renews for six months, if the term is less than six months the term current begins over again.

From the date of the termination of the circumstance which has formed the basis of stay of prescription, the current of its term proceeds.

Break of a current of terms of limitation of actions

The current of term of limitation of actions is interrupted by a claim presentation hereunder, and also fulfillment by the obliged person of the actions testifying to a recognition of a debt (partial execution of the obligation, sending of the letter with the request of a delay and others). In relations between the organizations the recognition of a debt does not interrupt a prescription current.

The claim presentation interrupts prescription provided that the claim is accepted by court. If the obligation is solidary the claim laid concerning one solidary debtor, interrupts prescription concerning other debtors. In the share obligation the claim is laid to each debtor. The prescription interrupts only concerning the respondent to whom the claim is laid.

Break of a current of term of limitation of actions is such action of the circumstance provided by the law when the current of term after a break is started over again.

The break is defined by the moment of fulfillment of the action provided by the law. The circumstances interrupting a current of term of limitation of actions are: claim presentation hereunder and fulfillment by the obliged person of the actions testifying to recognition of a debt. The claim presentation hereunder assumes the observance by the claimant of the current legislation about jurisdiction of disputes, and also conditions of a presentation of the claim (including registrations of the statement of claim). If the claim is laid in an inadequate order, the break does not occur. In a case when the claim is resolved, the limitation period current on the given dispute comes to an end. Renewal of a current of term of limitation of actions occurs when the laid claim is not considered in essence.

After a break the current of term of limitation of actions begins anew; time which has expired before a break is not set off in new term.

The limitation period break stops its current. If for any reasons there is a necessity to sue anew, also the limitation period current begins anew, and the time which has been expired before a break, is not set off in new term. This is the difference of a break from limitation period stay.

If the claim is left by court without consideration, the current of term of limitation of actions begun before presentation of the claim proceeds in general order.

If the court leaves without consideration the claim laid in criminal case the current of term of limitation of actions begun before a presentation of the claim stops up to the introduction into validity of a sentence by which the claim is stopped without consideration; the time during which the prescription has been suspended, is not set off in term limitation of actions. Thus, if the rest of the term is less than six months, it is extended up to six months.

Restoration of terms of limitation of actions

In unusual cases when the court recognizes as valid the reason of the admission of term of limitation of actions on the circumstances connected with the person of the claimant, the broken right of the citizen is subject to protection. In particular, uncertainty of the location of the respondent under condition of acceptance by the claimant of measures for finding-out of it can be a good reason. Obviously, heavy illness of the claimant, a helpless condition, illiteracy, innocent ignorance of the person of the infringer in real legal relationship and others should be considered as good reasons. The reasons of the passing of term of limitation of actions can be admitted as valid if they took place in last six months of a limitation period and if this term is equal to six months or less than six months – during a limitation period.

Restoration of term of limitation of actions does not mean its renewal for new term. It means that the court gives protection of the broken right in spite of the fact that term of limitation of actions is passed. In the Civil Code of the Republic of Uzbekistan the possibility to restore a limitation period is kept only concerning citizens and only in the presence of the circumstances connected with the person of the claimant.

Perhaps it is the unique possibility to restore term of limitation of actions only for the citizen, but not for the juridical entity.

The debtor or other obliged person who has executed a duty after the expiry of the term of limitation of actions, have not the right to demand the execution back, even if the specified person did not know about the prescription expiration at the moment of execution.

Stay, prolongation and restoration of terms of limitation of actions are applied to the general and the reduced terms if the law does not establish other.

Legal consequences of the expiration of terms of limitation of actions

The expiry of the term of prescription does not involve the termination of the right, but the right of action in material sense is lost.

If the right of the creditor continues to exist, the debtor cannot demand back voluntary executed action after expiry of the prescription of the term. The law does not give legal value to that fact, whether the debtor knew about the prescription expiration. The property transferred to execute the obligation after the expiry of the term of limitation of actions, does not admit baseless enrichment of the creditor. The creditor, who has not obtained on demand the sums in a current of a limitation period,

can write off them at a loss, only having informed about it in a ten-day term the higher organization under which this enterprise operates. Owing to the expiry of the term of limitation of actions the proprietor has not the right to obtain on demand a thing from the person who is not a proprietor, but also the actual owner of this thing cannot get the property right on it. With the expiry of the term of limitation of actions the property of the state organization is not enlisted in property of the debtor-organization. At the same time, the state creditor-organization loses the right of an operational administration concerning such property.

With the expiry of the term of limitation of actions under the main requirement term of limitation of actions under additional requirements (the forfeit, penalty, pledge, the guarantee, etc.) also expires.

Refusal in the claim means refusal in claim protection of the subjective right and thereof impossibility of its compulsory realization.

Conclusion

In the manuscript the theoretical questions connected with concept of terms in civil law, separate kinds of terms and their legal value, including term of limitation of actions are considered; with a general characteristic of term of limitation of actions, and legal consequences of its expiration. Features of an order of calculation of separate kinds of terms of limitation of actions are studied, and also the bases of stay, break and restoration of a current of term of limitation of actions are considered.

We maid a conclusion that application of rules about terms and terms of limitation of actions find out actual circumstances in each concrete case and it promotes making correct decisions, stabilization of a civil turn, uncertainty elimination in relations of its participants, strengthening of contractual discipline, stimulates activity of subjects of civil law, efficiency of protection of the broken rights.

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CIVILINĖS TEISĖS TERMINAI IR JŲ TAIKYMAS GINANT ASMENS TEISES UZBEKISTANO RESPUBLIKOJE

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S a n t r a u k a

Šiame straipsnyje autorė nagrinėja teorinius klausimus, susijusius su civilinės teisės terminų samprata ir reikšme, pateikia išsamią civilinės teisės terminų klasifikaciją, aptaria atskiras šių terminų rūšis, jų reikšmę ir taikymą. Autorė daug dėmesio skiria ieškinio senaties institutui. Darbe išsamiai aptariamos ieškinio senaties skaičiavimo taisyklės ir su tuo susiję ieškinio senaties pradžios nustatymo, ieškinio senaties sustabdymo, nutraukimo ir atnaujinimo pagrindų aiškinimo ir taikymo klausimai, nagrinėjami ieškinio senaties pabaigos teisiniai padariniai.

Autorė teigia, kad teisių įgyvendinimas laiku, pažeistų teisių gynimas užtikrina teisinį stabilumą, prisideda prie tų tikslų, kurių siekė asmenys, užmegzdami civilinius teisinius santykius, įgyvendinimo. Terminų, įskaitant ieškinio senaties terminą, laikymosi reikalingumą suponuoja tai, kad praėjus tam tikram laiko tarpui, teisiškai reikšmingos aplinkybės ne visada gali būti pakankamai patikimai nustatytos, o daugelis įrodymų gali būti prarasti. Visa tai skatina šalis rūpintis savo teisių įgyvendinimu ir gynimu.

Terminai turi itin didelę reikšmę civiliniams teisiniams santykiams. Jie apibrėžia teisinio santykio pradžią ir pabaigą, įtvirtina reikalavimą atlikti numatytus veiksmus, įneša daugiau apibrėžtumo į civilinius teisinius santykius, disciplinuoja šių santykių dalyvius. Esant sutartiniams santykiams terminai dažnai veikia kaip prievolės elementas.

Autorė daro išvadą, kad terminų, ieškinio senaties taisyklių taikymas užtikrina teisingų sprendimų priėmimą, civilinės apyvartos stabilumą, mažina teisinių santykių neapibrėžtumą, stiprina sutarties vykdymo discipliną, stimuliuoja civilinių teisinių santykių dalyvių elgesį, pažeistų teisių gynimo efektyvumą.

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