UDC 347.9

THE LEGAL NATURE OF THE CIVIL PROCESS IN THE EVIDENCE OF EUGENE VASKOVSKY'S SCENARIOUS REVIEW

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The science of civil procedural law can be proud of its history, as there were many prominent scholars in its field, who laid the solid foundation for its development for centuries in their works. Eugene V. Vaskovskii, a famous Russian and Polish scientist-proceduralist, lawyer and judge, belongs to the galaxy of such scholars. The incomplete list of selected works of Odessa and Polish period of his creativity and life demonstrates the many-sidedness of his field of scientific interests in the field of civil process, which covers the actual, at the beginning of the last century, problem of understanding the legal nature of the civil process.

If the participants in the civil process have mutual procedural rights and proportionate responsibilities, then the question naturally arises about the nature of the process and its understanding as the only legal relationship? This problem was first directly and clearly formulated by the professor Oscar Bulov and he solved it in an affirmative form. “No one has expressed doubts, – he says, – that procedural law defines the rights and obligations of the court and the parties in their mutual relations. This gives us an understanding of the process, as the ratio of rights and responsibilities, that is, the legal relationship” [3, p. 195]. However, this is not a private law relation. “Since procedural rights and obligations exist between state institutions and citizens, as the process of manifesting the activities of officials and as the parties are considered only in their relation to the activities of these individuals and in terms of promoting this activity, it is clearly clear that the process belongs to the sphere of public law: the process is a public-legal relationship” [3, p. 197]. It differs from other legal relations in the way that having arisen, it does not remain immutable and immovable, but, on the contrary, it is developing and moving up to the final completion. The subjects of procedural legal relations are the court and the parties, but in relation to each other, the parties do not have procedural rights and duties: they have rights in relation to the court only, to which their duties correspond. In one of his subsequent articles O. Bulov formulates this provision as follows: “The process is a tripartite, very complex, legal entity consisting of various elements, partly from the mutual legal connection of the parties, partly from the duties of the court, with regard to the commission of procedural actions of a certain content and corresponding to these obligations of the rights of the parties” [2, p. 113].

In the process of further discussion, the opinions of scientists in this issue sharply divided. Some proceduralists fully joined the position of O. Bulov, others

more or less evade the use of its wording, so that the result was four views on the essence of the process.

1. According to the first approach pursued by O. Bulov himself and his followers, the civil process is a tripartite legal relationship, in which the parties have only rights, and the court has exclusive duties, proportional to the rights of the parties.

2. Representatives of the second approach, agreeing that the parties have no rights or obligations with respect to each other, consider that the court is endowed not only with duties but also with rights. In particular, this feature attracted the attention of prof. Helwig, pointing out that the court has the right and duty in relation to the parties to exercise his due authority, as a body of state, power [2, p. 75].

3. Within the framework of the third approach, it is noted that the court, without prosecuting in the process of independent interests, is not the subject of procedural legal relations, but as a body of state power stands above the parties over them.

4. The supporters of the fourth approach are expressed in the presence of procedural responsibilities of the parties, considering that all three participants in the process - the court, the plaintiff, the defendant are mutually related byrights and obligations.

E. V. Vaskovskii noted in this regard that the results of studying the peculiarities of the procedural status of the court and the parties give reason to believe that the obligations of the court are proportionate to the relevant procedural rights of the parties [1, p. 618]. So, as the rights of one person offer the duty of another, which has the right to value, technical sense, and, conversely, to ensure the existence of two parallel, existing synchronous rights of law: 1) the plaintiff – the court and 2) the defendant – the court. The parties do not interact with each other in procedural law, because procedural rights of one party do not correspond to the procedural obligations of another. Thus, it should be recognized that the civil lawsuit process in its structure represents the integral unity of two bilateral legal relations.

In addition to the theory of O. Bulov there were other attempts to indicate the legal nature of the civil process. In particular, the latter considered as a set of legal agreements and through the prism of relations of power-subordination. Denying the rationality of the above-mentioned approaches, E. V. Vaskovskii noted that within the framework of civil proceedings procedural actions of the court and the parties to the dispute have nothing to do with legal agreements, and the power of the court in relation to the parties to the process manifested only in the formal guidance of the process and support of external order in meetings. Denying the rationality of the above-mentioned approaches, E. V. Vaskovskii noted that “the procedural actions of the court and the parties to the dispute in the framework of civil proceedings have nothing to do with legal agreements, and the power of the court in relation to the parties to the process is manifested only in the formal guidance of the process and the maintenance of external order in the meetings. In the rest of the party not only

do not subordinate to the authorities of the court, but, on the contrary, may require him to comply with the acts specified in the law, because they have in relation to the court only rights and do not bear any purely procedural duties" [1, p. 620].

Consequently, given that the obligatory subject in each of the above-mentioned legal relationship is the court, they are both combined by the identity of the essential element and form a single entity. As a result, the process becomes internal unity. It should be borne in mind, firstly, that the civil process is a complex legal relationship, which consists of two simpler ones; and secondly, there are three entities in it, but there are no mutual rights and obligations between the two of them, that is, there is no direct procedural legal relationship; and thirdly, the civil process has a pronounced public-law nature, as one of its subjects is a state authority, a court.

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INDIVIDUAL TAX CONSULTATION AND ITS EFFECT ON TAXPAYERS RIGHTS

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It is the common knowledge nowadays that a public tax consultation is quite important matter. Taxpayers should be aware of how to enjoy their rights and perform obligations. Because of the complexity of the tax legislation it is not an easy task. On the one hand, there is the presumption of knowledge of law (it is believed that everyone knows their rights and obligations), but on the other hand, it is difficult to provide the correct understanding of each aspect of the legislation. In particular it concerns the issues of tax legislation. That is why the individual tax consultation aims to bring certainty to tax enforcement practice. As for the right to receive the individual tax consultation, it can be determined as one of the main taxpayers' right.

In this study the individual tax consultation is understood as a public consultation which is issued by the tax authorities. As for the private tax consultation they do not have such legal nature and cannot cause as substantial legal effect as the public one. The private tax consultation that is given by a private