

CIVIL ACTION WITHIN CRIMINAL PROCEEDING

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Introduction. A civil action in criminal proceedings plays a key role in the legal remedy mechanism, acting as a means of restoring violated rights of citizens. Its significance is due to the fact that this tool allows victims to receive compensation for the damage caused within criminal proceedings, thereby combining the functions of criminal and civil proceedings. The basis of legal regulation of this mechanism is set out in Part 5 of Article 128 of the CPC of Ukraine, which enshrines the concept of combining criminal prosecution with the possibility of compensation for victims.

Objectives. To investigate and analyze civil action within criminal proceedings as a criminal procedural law institution in order to represent the standard operating procedures and any transgressions.

Methods. The study is based on the use of general scientific and specialised methods. In particular, the main focus is on analysis and synthesis, which allowed for a comprehensive study of the institution of civil action within criminal proceedings.

Results. The grounds and procedural procedure can be found directly in the CPC of Ukraine in Article 128 [2]. If the issue concerns the interests of the state, the civil action is brought by the prosecutor, as provided for in part 3 of the above article. Similarly, a civil action may be filed by a prosecutor in cases established by law, also in the interests of citizens who, due to lack of legal age, incapacity or limited capacity, are unable to protect their rights on their own. Since the 'interests of the state' is an evaluative concept, the prosecutor in each individual case determines, with reference to the legislation on the basis of which the claim is filed, what exactly has been or may be a violation of the material or other interests of the state, and justifies in the statement of claim the need to protect them.

The prosecutor filing a civil action in criminal proceedings must substantiate the existence of grounds for representing the interests of a citizen or the state in court, as provided for in part four of Article 25 of the Law of Ukraine 'On the Prosecutor's Office'. In order to represent a citizen in court, the prosecutor must also provide documents confirming the minority, incapacity or limited capacity of the respective citizen, as well as the written consent of the legal representative or body authorised by law to protect the rights, freedoms and interests of the respective person to represent him/her [1].

The national court practice stipulates that the prosecutor represents the legitimate interests of the state in court in case of violation or threat of violation under two conditions:

1. If a state authority, local self-government body or other public authority authorised to protect these interests in disputed legal relations fails to do so or does so improperly.

2. If there is no body or authority competent to protect the state interests in disputed legal relations.

When filing a lawsuit, appeal or cassation appeal, the prosecutor is obliged to substantiate and provide evidence of the existence of grounds for representing the state's interests in court [3].

Conclusion. Article 128 of the CPC of Ukraine defines the grounds and procedure for filing a civil action in criminal proceedings. Prosecutors may bring claims in state interests or on behalf of citizens unable to protect their rights due to minority or incapacity. Since "state interests" is an evaluative concept, the prosecutor must justify the claim based on legislation. Court practice allows prosecutors to represent the state if no competent authority exists or if an authorized body fails to act. In all cases, the prosecutor must provide evidence supporting the need for legal representation.

References:

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THE ADOPTION, CONTENT, AND HISTORICAL SIGNIFICANCE OF THE “ACT OF DECLARATION OF INDEPENDENCE OF UKRAINE”

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In the late 1980s and early 1990s, the Soviet Union was falling apart, leading to big political changes in Eastern Europe. Ukraine, one of the largest Soviet republics, saw a growing movement pushing for independence. This paper analyses the key events that led to independence, the adoption of the Independence Act, and the nationwide vote that confirmed Ukraine's new status.

By the late 1980s, the Soviet Union was struggling with serious political and economic problems. Leader Mikhail Gorbachev introduced reforms called perestroika (restructuring) and glasnost (openness), but those changes weakened the Soviet government's control. Many Ukrainians were unhappy with Moscow's rule and wanted more freedom.