

# Updating Civil Legislation in Accordance with European Quality Standards: The Example of Ukraine

*Actualización de la legislación civil de acuerdo con los estándares de calidad europeos: el ejemplo de Ucrania*

*Atualizar a legislação civil de acordo com os padrões de qualidade europeus: o exemplo da Ucrânia*

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## Abstract

The article is devoted to the study of European quality standards of the law to promote the effectiveness of the work begun in Ukraine on updating the civil legislation. The ability to achieve this goal depends on the quality of the process. Such a process primarily contributes to the assertion of the absolute value of the human person, freedom, democracy, equality, and the priority of man over the state; improving the mechanisms of protection and proper protection of human rights and freedoms, their equality before the law and justice. The latter especially in the context of counteracting the spread of the COVID-19 pandemic, which has led the state of Ukraine (as well as other states) to take steps to limit or reduce human rights and, accordingly, is not always compatible with the rule of law. General and special methods of scientific knowledge were used in this study, namely methods: Analysis and synthesis, systems analysis, formal-logical and structural-functional, along with some empirical methods. The practical significance of the study is that the materials summarized in the research and the conclusions reached by the authors are relevant for foreign legislators, regarding bringing national legislation to global trends in private law and its compliance with the rule of law, including the principle of legal certainty and legitimate expectations. Based on the analysis of the European Court of Human Rights (ECHR) practice and other European Union requirements for the quality of law in Europe, the authors made several conclusions and recommendations on the process of updating the civil legislation of Ukraine. At the same time, the update in its systemic manifestation should concern not only the quality of norms governing certain civil (private) relations, but also the quality of norms regarding acts of the causal interpretation of legal norms, based on the case-law of the ECHR for national legislation and special requirements.

**Keywords:** Pandemic COVID-19, principle of legal certainty, principle of rule of law, quality standards of law, re-codification.

## Resumen

El artículo está dedicado al estudio de las normas europeas de calidad de la ley para promover la eficacia del trabajo iniciado en Ucrania sobre la actualización de la legislación civil. La capacidad de alcanzar este objetivo depende de la calidad del proceso. Dicho proceso contribuye principalmente a la afirmación del valor absoluto de la persona humana, de la libertad, de la democracia, de la igualdad y de la prioridad del hombre sobre el Estado; a la mejora de los mecanismos de protección y de la correcta defensa de los derechos y libertades humanas, de su igualdad ante la ley y de la justicia. Esto último, especialmente en el contexto de la lucha contra la propagación de la pandemia de la COVID-19, que ha llevado al Estado de Ucrania (así como a otros Estados) a tomar medidas para limitar o reducir los derechos humanos, y en consecuencia, no siempre es compatible con el Estado de Derecho. En este estudio, se utilizaron métodos generales y especiales del conocimiento científico, a saber: métodos de análisis y síntesis, análisis de sistemas, formal-lógico y estructural-funcional, junto con algunos métodos empíricos. La importancia práctica del estudio radica en que los materiales resumidos en la investigación y las conclusiones a las que han llegado los autores son relevantes para los legisladores extranjeros, en lo que respecta a la adaptación de la legislación nacional a las tendencias mundiales en materia de derecho privado y su conformidad con el Estado de Derecho, incluido el principio de seguridad jurídica y de confianza legítima. Basándose en el análisis de la práctica del Tribunal Europeo de Derechos Humanos (TEDH) y otros requisitos de la Unión Europea para la calidad del derecho en Europa, los autores formularon varias conclusiones y recomendaciones sobre el proceso de actualización de la legislación civil de Ucrania. Al mismo tiempo, la actualización en su manifestación sistémica debe referirse no solo a la calidad de las normas que rigen determinadas relaciones civiles (privadas), sino también a la calidad de las normas relativas a los actos de la interpretación causal de las normas jurídicas, sobre la base de la jurisprudencia del TEDH para la legislación nacional y requisitos especiales.

**Palabras clave:** pandemia COVID-19, principio de seguridad jurídica, principio de Estado de Derecho, normas de calidad del derecho, recodificación.

## Resumo

O artigo é dedicado ao estudo dos padrões europeus de qualidade da lei para promover a eficácia do trabalho iniciado na Ucrânia na atualização da legislação civil. A capacidade de atingir este objetivo depende da qualidade do processo. Tal processo contribui principalmente para a afirmação do valor absoluto da pessoa humana, liberdade, democracia, igualdade e a prioridade do homem sobre o Estado; melhorando os mecanismos de proteção e proteção adequada dos direitos humanos e liberdades, sua igualdade perante a lei e a justiça. Esta última, especialmente no contexto do combate à propagação da pandemia da COVID-19, que levou o estado da Ucrânia (assim como outros estados) a tomar medidas para limitar ou reduzir os direitos humanos e, portanto, nem sempre é compatível com o Estado de direito. Neste estudo foram utilizados métodos gerais e especiais de conhecimento científico, a saber: Métodos de análise e síntese, análise de sistemas, formal-lógica e estrutural-funcional, juntamente com alguns métodos empíricos. O significado prático do estudo é que os materiais resumidos na pesquisa e as conclusões alcançadas pelos autores são relevantes para os legisladores estrangeiros, no que diz respeito a levar a legislação nacional às tendências globais do direito privado e sua conformidade com o Estado de Direito, incluindo o princípio da segurança jurídica e as expectativas legítimas. Com base na análise da prática da Corte Europeia de Direitos Humanos (CEDH) e outros requisitos da União Europeia para a qualidade do direito na Europa, os autores fizeram várias conclusões e recomendações sobre o processo de atualização da legislação civil da Ucrânia. Ao mesmo tempo, a atualização em sua manifestação sistêmica deveria dizer respeito não somente à qualidade das normas que regem certas relações civis (privadas), mas também à qualidade das normas relativas aos atos de interpretação causal das normas legais, com base na jurisprudência da CEDH, para a legislação nacional e exigências especiais.

**Palavras-chave:** Pandemia COVID-19, princípio da segurança jurídica, princípio do Estado de direito, normas de qualidade do direito, re-codificação.

## INTRODUCTION

Resolution of the Cabinet of Ministers of Ukraine of July 17, 2019, № 650 launched a course to update the civil legislation of Ukraine, which was called recodification. It has proved its worth in several European Union (EU) countries and provides for a revision not only of the norms of civil law, the return of the Civil Code of Ukraine to the status of the principal act of civil law, but also a revision of existing legal knowledge and legal concepts.

Currently, there is a question of objective and subjective determinants of the current recodification of civil law of Ukraine. This is necessary, firstly, to avoid previously made mistakes and the concept of its modernization, and secondly – to avoid temptations and misconceptions, blind following sustainable approaches despite their explicit contradictions.<sup>1</sup> This applies to global integration processes, and to the current challenges and threats posed by the COVID-19 pandemic and its consequences,

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1 Roman Shyshka. *Reflections on the codification of civil legislation*. PROBLEMS OF CIVIL LAW AND PROCESS: ABSTRACTS OF THE REPORT OF THE PARTICIPANTS OF SCIENTIFIC-PRACTICAL. Conference dedicated 95th anniversary of the birth of O. A. Pushkin. Pravo. (2020). P. 84.

including the prevention and spread of coronavirus disease and overcoming the results caused by it for the economy, humanitarian cooperation, and including the outcomes produced by restrictive measures of the state, which create obstacles for several individuals and legal entities in the realization of their private interests. At the same time, the above-mentioned measures of the state (in connection with the introduction in Ukraine, as well as in other states, of such a special regime as quarantine or emergency) have led to the fact that some basic human rights are not always justifiably limited or reduced in scope. Of course, the legal system of any state was not ready for these challenges.

Since the pandemic, the social sense has been a challenge to society as a whole and to each individual, it exacerbates the conflict of public and private interests: If the individual cares primarily about himself/herself, the community – about itself as a system.<sup>2</sup> Especially, given that in finding a balance between public safety and human health (public interests) and private interests of individuals and legal entities, the state does not always use adequate means and methods of legal influence on the behavior of individuals for the proper regulation of civil (private) relations. However, such methods and means are not always compatible with the principle of the rule of law, especially with the principles of legality, legal certainty, and proportionality.

As is well known, any interference with human rights must be provided for by domestic law<sup>3</sup>; pursue a legitimate aim<sup>4</sup>; be relevant, sufficient<sup>5</sup> and have the urgent public need for its application in a democratic society<sup>6</sup>; plus to be compatible with the rule of law<sup>7</sup>, to have a reasonable proportion in its application between the means employed and the aim pursued by the state in such a measure<sup>8</sup>; and the legal norms on

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2 Evgen Kharytonov, Olena Kharytonova, Denis Kolodin & Maxym Tkalych. *The Covid-19 Pandemic and the Rights of the Individual in Terms of Private and Public Law*. IUS HUMANI. LAW JOURNAL 2. October 2020. Pp. 225-250. Available at: <https://doi.org/10.31207/ih.v9i2.253>

3 ECHR. Tolstoy Miloslavsky v. the United Kingdom: Judgement on Applications no. 18139/91 (Jul. 13, 1995). § 37.

4 ECHR. Naït-Liman v. Switzerland: Judgement on Applications no. 51357/07 (Mar. 15, 2018). § 115.

5 ECHR. Animal Defenders International v. the United Kingdom: Judgement on Applications no. 48876/08 (Apr. 22, 2013). § 100.

6 ECHR. Fressoz and Roire v. France: Judgement on Applications no. 29183/95 (Jan. 21, 1999). §§ 44-45; ECHR. Lyashko v. Ukraine: Judgement on Applications no. 21040/02 (Aug. 10, 2006). § 47.

7 ECHR. Gorlov and Others v. Russia: Judgement on Applications nos. 27057/06, 56443/09 and 25147/14 (Jul. 2, 2019). § 85.

8 ECHR. Broniowski v. Poland: Judgement on Applications no. 31443/96 (Jun. 22, 2004). § 150; ECHR. Zosymov v. Ukraine: Judgement on Applications no. 4322/06 (Jul. 7, 2016). § 76.

which the intervention is based must be sufficiently accessible, precise and predictable in their practical application<sup>9</sup>; to provide adequate and effective safeguards against abuse.<sup>10</sup> Among other things, in deciding whether an intervention was "necessary in a democratic society", the ECHR's assessment always depends on the circumstances of the case, such as the nature, scope, and duration of possible measures, the grounds for deciding on their implementation, competent to authorize, carry out and control such actions against the types of remedies provided for by national law<sup>11</sup>.

Accordingly, any interference with human rights (including that related to the prevention and spread of coronavirus disease (COVID-19)), regardless of the purpose pursued by the state, must be convincing, sufficiently measurable, adequate, reasonable, and have safeguards against abuse.

Law arises with the emergence of the state, because an indispensable attribute of any legal norm is the possibility of using state coercion in case of non-compliance with its instructions. On the other hand, states are able to perform their functions properly with the help of legal norms.<sup>12</sup>

Hence, the recodification process should focus not only on the most crucial areas of private law, which require verification and search for the best legal norms or their revision in connection with the existence of various defects in civil law (gaps in law; conflicts of law; contradictions of one rule of law with other; confusion, blurring and vagueness of the legal norm, the insufficient balance of legal norms, defects of systemic nature, etc.), but also on checks of the civil legislation of Ukraine for the ability to respond appropriately to restrictive measures imposed by the state in connection with the spread of coronavirus disease (COVID-19).

It is noteworthy that one of the important aspects of today's recodification is to bring the norms of civil law to the requirements of legal certainty.<sup>13</sup> It is the legal

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9 ECHR. *Svit Rozvag, TOV and Others v. Ukraine: Judgement on Applications no. 13290/11* (Jun. 27, 2019). § 157.

10 ECHR. *Gorlov and Others v. Russia: Judgement on Applications nos. 27057/06, 56443/09 and 25147/14* (Jul. 2, 2019). § 85.

11 ECHR. *Hambardzumyan v. Armenia: Judgement on Applications no. 43478/11* (Dec. 5, 2019). § 61; ECHR. *Gorlov and Others v. Russia: Judgement on Applications nos. 27057/06, 56443/09 and 25147/14* (Jul. 2, 2019). § 85.

12 Maxym Tkalych, Oksana Safonchuk & Yuliia Tolmachevska. *Private Law and human rights: New realities*. DIXI 32. July 2020. Pp 1-12. Available at: <https://doi.org/10.16925/2357-5891.2020.02.04>

13 Oleksandr Shyshka. *Recodification (update) of the civil legislation of Ukraine as a way to legal certainty*. PROBLEMS OF CIVIL LAW AND PROCESS: ABSTRACTS OF THE REPORT OF THE PARTICIPANTS OF SCIENTIFIC-PRACTICAL. Conference dedicated 95th anniversary of the birth of O. A. Pushki. Pravo. (2020b). P. 229.

certainty that should be the primary reason for updating the civil legislation of Ukraine. Legislation that does not comply with the principle of legal certainty is not compatible with the rule of law. After all, it is the principle of legal certainty that aims to ensure stability in law and strengthen public confidence in an objective and transparent justice system. Uncertainty, whether legislative, administrative, or judicial, is considered by the ECHR to be a significant factor in assessing the conduct of the state<sup>14</sup>, and is considered a legal basis for the usurpation of state power and arbitrariness. And this does not contribute to the fulfillment of the obligations assumed by the state of Ukraine, in particular: To guarantee and ensure human rights and freedoms, decent living conditions; to develop and strengthen a democratic, social, legal state; to confirm the European identity of the Ukrainian people and the irreversibility of the European and Euro-Atlantic course of Ukraine.<sup>15</sup>

Therefore, against the background of European integration processes and intensification of international legal cooperation on guaranteeing and ensuring human rights and freedoms, today there is a need to address the quality of domestic legislation of Ukraine, especially in light of current European standards and challenges facing legal science in connection with the COVID-19 pandemic. Moreover, the problems (defects) of the modern civil legislation of Ukraine are a constant subject of discussion in the proper scientific literature, including manuscripts of dissertations, at various civil forums, conferences, or other dialogue platforms. The ECHR also draws attention to specific problems of the domestic legislation of Ukraine (law) in its decisions.<sup>16</sup> Although the quality of the law, as the court itself emphasizes, is a problem of any

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14 ECHR. *Beian v. Romania* (no. 1): Judgement on Applications no. 30658/05 (Dec. 6, 2007). § 33; ECHR. *Nejdet Şahin and Perihan Şahin v. Turkey*: Judgement on Applications no. 13279/05 (Oct. 20, 2011). § 56.

15 Law 1629-IV of 2004. On the National Program of Adaptation of Ukrainian Legislation to the Law of the European Union. March 18, 2004 (Ukraine). Available at: <https://cutt.ly/iT8He6E>

16 ECHR. *Svyato-Mykhaylivska Parafiya v. Ukraine*: Judgement on Applications no. 77703/01 (Jun. 14, 2007). §§ 112-152; ECHR. *Koretsky and Others v. Ukraine*: Judgement on Applications no. 40269/02 (Apr. 3, 2008). §§ 46-58; ECHR. *Yuriy Nikolayevich Ivanov v. Ukraine*: Judgement on Applications no. 40450/04 (Oct. 15, 2009). § 92; ECHR. *Shchokin v. Ukraine*: Judgement on Applications nos. 23759/03 and 37943/06 (Oct. 14, 2010). §§ 49-58; ECHR. *Serkov v. Ukraine*: Judgement on Applications no. 39766/05 (Jul. 7, 2011). §§ 36-44; ECHR. *Kharchenko v. Ukraine*: Judgement on Applications no. 40107/02 (Feb. 10, 2011). §§ 45-101; ECHR. *Oleksandr Volkov v. Ukraine*: Judgement on Applications no. 21722/11 (Jan. 9, 2013). §§ 165-187; ECHR. *Chanyev v. Ukraine*: Judgement on Applications no. 46193/13 (Oct. 9, 2014). §§ 22-35; ECHR. *Nedilenko and Others v. Ukraine*: Judgement on Applications no. 43104/04 (Jan. 18, 2018). §§ 75-77.

legal system<sup>17</sup>, however, each state, no doubt, should arrange everything in its power to ensure that its legal system and legal techniques have a high level of quality, efficiency, and accessibility because it depends on the stability and dynamism of legal regulation, inviolability of rights, and interests of civil relations, and if someone's rights and/or interests are violated as a result of the poor law, which is incompatible with the rule of law, the state must, both legally and in fact, be legally liable for the damage caused by it.

## I. METHODOLOGY

In this study, we used a set of methods of scientific knowledge, which allowed us to achieve our goals. Among several general-philosophical and special-legal methods, which are usually in the arsenal of every scientist, it is necessary to single out the methods of analysis and synthesis, system analysis, formal-logical and structural-functional methods. These methods were used more than others in this study.

The method of analysis, which consists in the process of decomposition of a whole complex phenomenon into its components, simpler elementary parts, and selection of individual parties, properties and connections, was used to understand a large array of ECHR's acts. However, analysis is not the ultimate goal of scientific research. This goal is achieved by such a method of research, which is to combine, reproduce the connections of individual elements, parties and components of a complex phenomenon, and thus to comprehend the whole in its unity of its components. This method is a method of synthesis, which consists in combining the components of a complex phenomenon. In fact, the method of synthesis allowed to draw clear conclusions about the application of the experience of the ECHR to update the civil legislation of Ukraine.

In addition, the method of systematic analysis allowed at a fundamental level to explore the principles of legal certainty and legitimate expectations that must be taken into account when improving the Civil Code of Ukraine. In turn, the formal-logical and structural-functional methods helped the researchers to properly analyze the empirical material and draw adequate conclusions about the possibility of applying the experience of the ECHR for application in Ukrainian legal realities.

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17 ECHR. P.G. and J.H. v. the United Kingdom: Judgement on Applications no. 44787/98 (Sept. 25, 2001). §§ 82-88; ECHR. X v. Finland: Judgement on Applications no. 34806/04 (Jul. 3, 2012). §§ 212-223; ECHR. Kononova v. Russia: Judgement on Applications no. 37873/04 (Oct. 9, 2014). §§ 42-50; ECHR. Jafarov and Others v. Azerbaijan: Judgement on Applications no. 27309/14 (Jul. 25, 2019). §§ 95-97; ECHR. Nejetet Şahin and Perihan Şahin v. Turkey: Judgement on Applications no. 13279/05 (Oct. 20, 2011). § 56.

## II. RESULTS AND DISCUSSION

For today, Ukraine is actively cooperating with the EU in the framework of the Eastern Partnership Program on the process of harmonization of Ukrainian legislation.<sup>18</sup> Ukraine's European and Euro-Atlantic course envisages bringing Ukrainian legislation and the practice of its application in line with the requirements of EU legislation. Thus, the Law of Ukraine "On the National Program of Adaptation of Legislation of Ukraine to the Legislation of the European Union" provides that the Ukrainian state policy on the adaptation of legislation is formed as part of legal reform in Ukraine and aims to ensure common approaches to rule-making, and mandatory compliance with the requirements of EU legislation during rule-making.<sup>19</sup>

All this is formalized by the fact that EU membership presupposes compliance of the candidate countries with the Copenhagen criteria, namely:

- Stability of institutions guaranteeing respect for human dignity, freedom, democracy, equality, and the rule of law, regard for and protection of human rights, including the rights of persons belonging to minorities, in a society dominated by pluralism, non-discrimination, tolerance, justice and solidarity and equality between women and men (political criterion).
- The existence of a functioning market economy, as well as the ability to withstand competitive pressure and market forces within the EU (economic criterion).
- Ability to commit to a membership, including a commitment to the purposes of political, economic and monetary union (other criteria).<sup>20</sup>

This shows that the current civil legislation of Ukraine in the European and Euro-Atlantic course must meet the above criteria, requirements, and values of the EU; be able to, both legally and practically, ensure proper and stable legal regulation of civil relations; to guarantee the protection and proper protection of human rights and freedoms, their equality before the law and justice; meet the requirements of economic

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18 Yuliia Pavlova, Olha Polunina, Maxym Tkalych, Volodymyr Mankovskyi & Akhmad Zubair. *International-legal standards of cooperation of ukraine in the field of environmental (climate) problems*. AMAZONIA INVESTIGA 25. January 2020. Pp. 295-301.

19 Law 1629-IV of 2004. On the National Program of Adaptation of Ukrainian Legislation to the Law of the European Union. March 18, 2004 (Ukraine). Available at: <https://cutt.ly/iT8He6E>

20 Ministry of Foreign Affairs of Ukraine. *The Copenhagen Criteria: The membership in the European Union*. 2019. Available at: <https://cutt.ly/TT8GJol>



freedom and dynamism of a market economy, be able to implement it. And civil law, both in essence and in substance, should not contradict the principle of the rule of law.

Regarding the compliance of the civil legislation of Ukraine with the rule of law, the checklist for assessing compliance with the rule of law, adopted at the 106th plenary session of the Venice Commission (Venice, March 11-12, 2016) and approved at the Meeting of the Committee of Ministers of the Council of Europe at the level of Deputy Ministers (September 6-7, 2016), the following is indicated:

- One of the most vital elements of the context in which the rule of law is implemented is the legal system as a whole;
- the fundamental elements of the rule of law (Rule of Law), as well as the rule of law (Rechtsstaat), are:
  1. Legality, including a transparent, accountable, and democratic process of law-making;
  2. legal certainty;
  3. prohibition of arbitrariness in decision-making;
  4. access to justice provided by an independent and impartial court, including the possibility to appeal administrative acts in court;
  5. respect for human rights; and
  6. non-discrimination and equality before the law;
- contextual elements of the rule of law are not limited to legal factors. The presence (or absence) of general legal culture in society, as well as how this culture relates to the current legal system, help to determine to what extent elements of the rule of law should be unambiguously enshrined in law; and
- the principle of the rule of law should be applied at all levels of government. With the relevant changes, the principle of the rule of law should also be applied to private legal relations.<sup>21</sup>

Compliance with these requirements for the EU is an indicator of the quality of the law and the assertion of the absolute value of the human person, freedom, democracy, equality, and the priority of man over the state. Simultaneously, the term "law" in the vision of the ECHR is not commensurate with the notion of "law", which is traditionally perceived by the legal doctrine of Ukraine and domestic law. In particular, the concept of "law", as noted by the ECHR, includes both statutory law and

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21 Council of Europe. *European Commission for Democracy through Law. Report CDL-AD(2011)003rev of 2011. On the Rule of Law*. Apr. 4, 2011. Available at: <https://cutt.ly/yT8HZyl>; Council of Europe. *European Commission for Democracy through Law. Checklist CDL-AD(2016)007 of 2016. Rule of Law*. Available at: <https://cutt.ly/qT8Acus>

means both the law expressed in legislative acts and case-law (“judicial law”). In this regard, the court always understands the term “law” in its “essential” rather than “formal” sense.

Therefore, the term covers both “written law”, which includes, in addition to the law, lower-level legislation, including regulations taken by professional regulators within the delegated independent rule-making powers by parliament, and “unwritten law”. Thus, as the ECHR notes, “law” is a provision that operates as interpreted by the competent courts<sup>22</sup> in the light of new practical changes<sup>23</sup>. In this case, case law is undoubtedly a very important source of law, but, as noted by such a court, is secondary, while the “law” (in the sense of statutory law) is the primary source of law<sup>24</sup>.

According to legal naturalism, the primary sources of law are the laws of social nature that are actually existing and in force in the society, which should be opened by people and implemented in the form of positive legislation.<sup>25</sup> Therefore, the quality of the law, as well as the quality of the legislation, should be considered in conjunction with the relevant acts of the causal interpretation of the law, which, based on the practice of the ECHR, also put forward certain quality standards.

## 1. Quality of legislation in the light of European standards and interpretations of the ECHR

It is necessary to say that “quality of law” is an autonomous concept. Requirements for the quality of law are well illustrated in various European sources, and its essence is as follows: One of the fundamental aspects of the rule of law is the principle of legal certainty<sup>26</sup>, which stipulates that legal rules should be clear, predictable, and accurate<sup>27</sup> and aimed at ensuring that situations and legal relations remain predictable.<sup>28</sup> And the state, in general, must abide by the law and certain obligations undertaken,

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22 ECHR. *Sanoma Uitgevers B.V. v. the Netherlands*: Judgement on Applications no. 38224/03 (Sept. 14, 2010). § 83.

23 ECHR. *Huvig v. France*: Judgement on Applications no. 11105/84 (Apr. 24, 1990). § 28.

24 ECHR. *Huvig v. France*: Judgement on Applications no. 11105/84 (Apr. 24, 1990). § 27.  
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26 ECHR. *Brumărescu v. Romania*: Judgement on Applications no. 28342/95 (Oct. 28, 1999). § 61.

27 ECHR. *Shchokin v. Ukraine*: Judgement on Applications nos. 23759/03 and 37943/06 (Oct. 14, 2010). § 51; ECHR. *Maksymenko and Gerasymenko v. Ukraine*: Judgement on Applications no. 49317/07 (May 16, 2013). § 53; ECHR. *Ruslan Yakovenko v. Ukraine*: Judgement on Applications no. 5425/11 (Jun. 4, 2015). § 58.

28 ECHR. *Sunday Times v. the United Kingdom*: Judgement on Applications no. 6538/74 (Apr. 26, 1979). § 49; Council of Europe (2011), *supra*, note 25.

perform certain functions assigned to it or make promises to people (the principle of legitimate expectations).<sup>29</sup>

The level of precision required by domestic law, which in no way can provide for all possible options, largely depends on the content of the normative document, the scope it is intended to cover, and the number and status of those for whom it is intended.<sup>30</sup> At the same moment, no norm can be considered a "law" if it is not formulated with an accuracy sufficient to enable a citizen to determine his/her behavior. The citizen should be able, if necessary, after appropriate consultation, to foresee (to the extent reasonable in the circumstances) the consequences which may result from his/her actions.<sup>31</sup>

The principle of legitimate expectations, as part of the general principle of legal certainty, was borrowed from the national legislation of the EU member states. The principle expresses the idea that public authorities must not only abide by the law and act following the law, but also keep their promises and live up to the expectations of citizens and organizations. That is, persons who act in good faith based on the law (as it is) should not be deceived in their legitimate expectations.<sup>32</sup>

Also, the quality of the law requires that it complies with the principle of accessibility for any person, and it can also anticipate the consequences of its application to it, and that the law does not contradict the principle of the rule of law, is compatible with this principle. This means that there must be a remedy in national law against arbitrary interference by public authorities with the rights guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter referred to as the Convention), i.e. adequate and effective mechanisms and safeguards against abuse. The law should contain sufficiently clear and concise wording that would give citizens a proper understanding of the circumstances and conditions under which

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29 Council of Europe (2011), *supra*, note 25.

30 ECHR. *Groppera Radio AG and Others v. Switzerland*: Judgement on Applications no. 10890/84 (Mar. 28, 1990). § 68; ECHR. *Hashman and Harrup v. the United Kingdom*: Judgement on Applications no. 25594/94 (Nov. 25, 1999). § 31; ECHR. *Hasan and Chaush v. Bulgaria*: Judgement on Applications no. 30985/96 (Oct. 26, 2000). § 84; ECHR. *Gillan and Quinton v. the United Kingdom*: Judgement on Applications no. 4158/05 (Jan. 12, 2010). § 77; ECHR. *Benedik v. Slovenia*: Judgement on Applications no. 62357/14 (Apr. 24, 2018). §§ 72-73.

31 ECHR. *Olsson v. Sweden* (No. 1): Judgement on Applications no. 10465/83 (Mar. 24, 1988). § 61; ECHR. *Feldek v. Slovakia*: Judgement on Applications no. 29032/95 (Jul. 12, 2001). § 56; ECHR. *Gawęda v. Poland*: Judgement on Applications no. 26229/95 (Mar. 14, 2002). § 39; ECHR. *Benedik v. Slovenia*: Judgement on Applications no. 62357/14 (Apr. 24, 2018). § 109.

32 Council of Europe (2016), *supra*, note 25.

public authorities are authorized to intervene in the law.<sup>33</sup> And the law should clearly define the limits of any discretionary powers conferred on the competent authorities, including how they are exercised, to ensure adequate protection of the individual against arbitrary interference.<sup>34</sup>

The above shows that the norms of the civil legislation of Ukraine in their static and dynamic manifestation must be sufficiently relevant, clear, distinct, consistent, accessible, predictable, and accurate. Concurrently, a significant aspect of compliance with the requirements of the rule of law by the civil legislation of Ukraine is that its internal content should be sufficiently predictable in its practical application. This applies not only to the fact that the state in law-making and law-enforcement activities must meet all requirements for compliance with the principle of legitimate expectations, provide adequate and effective safeguards against abuse, but also ensure the stability of existing and future legal relations.

## *2. Quality of acts of judicial interpretation in the light of European standards*

The essence of such standards is as follows. The interpretation and application of domestic law is primarily a matter for the national authorities, in particular, the courts.<sup>35</sup> Court decisions can establish, explain and clarify laws<sup>36</sup>, solve problems of

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33 ECHR. *Gawęda v. Poland*: Judgement on Applications no. 26229/95 (Mar. 14, 2002). §§ 36-50; ECHR. *Amann v. Switzerland*: Judgement on Applications no. 27798/95 (Jun. 14, 2007). § 56; ECHR. *Szabó and Vissy v. Hungary*: Judgement on Applications no. 37138/14 (Jan. 12, 2016). § 59.

34 ECHR. *Kruslin v. France*: Judgement on Applications no. 11801/85 (Apr. 24, 1990). § 30; ECHR. *Szabó and Vissy v. Hungary*: Judgement on Applications no. 37138/14 (Jan. 12, 2016). § 82.

ECHR. *Szabó and Vissy v. Hungary*: Judgement on Applications no. 37138/14 (Jan. 12, 2016). § 65

35 ECHR. *Serkov v. Ukraine*: Judgement on Applications no. 39766/05 (Jul. 7, 2011). § 36  
ECHR. *Maria Frimu contre la Roumanie*: Judgement on Applications no. 45312/11 (Nov. 13, 2012). § 43

ECHR. *Gorlov and Others v. Russia*: Judgement on Applications nos. 27057/06, 56443/09 and 25147/14 (Jul. 2, 2019). § 86

36 Council of Europe (2016), *supra*, note 25.

interpretation of national legislation<sup>37</sup>, and the accessibility of judges' decisions is part of the concept of legal certainty.<sup>38</sup>

Differences in approaches that may arise between courts are only an inevitable result of the process of interpreting legal provisions and adapting them to the legal situations they are intended to cover.<sup>39</sup> Therefore, possible differences in judicial practice are, of course, inherent in any state whose judicial system is built on a network of courts of first and appellate instances that have jurisdiction within their territorial jurisdiction. Such differences may also arise within the same court. This in itself cannot be considered contrary to the Convention.<sup>40</sup> However, differences in the courts can be allowed only when the domestic legal system can take them into account.<sup>41</sup>

The role of the Supreme Court is to ensure the uniform and holistic application of the law<sup>42</sup>, to provide guidance *pro futuro* (for the future)<sup>43</sup>, to correct inconsistencies/contradictions in the case-law of lower courts<sup>44</sup>, including the resolution of conflicts or differences of case-law<sup>45</sup>, the differences between the various chambers of the

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37 ECHR. *Weite and Kennedy v. Germany*: Judgement on Applications no. 26083/94 (Feb. 18, 1999). § 43; ECHR. *Miragall Escolano and Others v. Spain*: Judgement on Applications nos. 38366/97, 38688/97, 40777/98, 40843/98, 41015/98, 41400/98, 41446/98, 41484/98, 41487/98 and 41509/98 (Jan. 25, 2000). § 33; ECHR. *Nejdet Şahin and Perihan Şahin v. Turkey*: Judgement on Applications no. 13279/05 (Oct. 20, 2011). § 49; ECHR. *Serkov v. Ukraine*: Judgement on Applications no. 39766/05 (Jul. 7, 2011). § 36; ECHR. *Maria Frimu contre la Roumanie*: Judgement on Applications no. 45312/11 (Nov. 13, 2012). § 43.

38 Council of Europe (2016), *supra*, note 25.

39 ECHR. *Nejdet Şahin and Perihan Şahin v. Turkey*: Judgement on Applications no. 13279/05 (Oct. 20, 2011). § 86; ECHR. *Albu and Others v. Romania*: Judgement on Applications nos. 34796/09 (May 10, 2012). § 38.

40 ECHR. *Santos Pinto c. Portugal*: Judgement on Applications no. 39005/04 (May 20, 2008). § 41; ECHR. *Maria Frimu contre la Roumanie*: Judgement on Applications no. 45312/11 (Nov. 13, 2012). § 43; ECHR. *Nejdet Şahin and Perihan Şahin v. Turkey*: Judgement on Applications nos. 34796/09 and 63 other cases. (May 10, 2012). § 34; ECHR. *Sine Tsaggarakis A.E.E. c. Grèce*: Judgement on Applications no. 17257/13 (May 23, 2019). § 48.

41 ECHR. *Nejdet Şahin and Perihan Şahin v. Turkey*: Judgement on Applications no. 13279/05 (Oct. 20, 2011). § 87; ECHR. *Albu and Others v. Romania*: Judgement on Applications nos. 34796/09 (May 10, 2012). § 38.

42 ECHR. *Serkov v. Ukraine*: Judgement on Applications no. 39766/05 (Jul. 7, 2011). § 35.

43 Consultative Council of European Judges (CCEJ). *Opinion N° 20 on the Role of Courts with Respect to Uniform Application of the Law*. 2017. Available at: [www.vru.gov.ua/content/file/Висновок\\_КРЄС\\_20.pdf](http://www.vru.gov.ua/content/file/Висновок_КРЄС_20.pdf)

44 ECHR. *Zielinski and Pradal and Gonzalez and Others v. France*: Judgement on Applications nos. 24846/94 and 34165/96 to 34173/96 (Oct. 28, 1999). § 59; ECHR. *Sine Tsaggarakis A.E.E. c. Grèce*: Judgement on Applications no. 17257/13 (May 23, 2019). § 49.

45 ECHR. *Zielinski and Pradal and Gonzalez and Others v. France*: Judgement on Applications nos. 24846/94 and 34165/96 to 34173/96 (Oct. 28, 1999). § 59; ECHR. *Beian v. Romania* (no. 1): Judgement on Applications no. 30658/05 (Dec. 6, 2007). § 37; ECHR. *Ferreira Santos Pardal c. Portugal*: Judgement on Applications no. 30123/10 (Jul. 30, 2015). § 45-47.

Supreme Court and finally define the interpretation of the legislative provision, thus eliminating possible legal uncertainty in a particular area.<sup>46</sup> All this is aimed at ensuring the unity of judicial practice and thus maintaining public confidence in the judicial system<sup>47</sup>, and the inability of the higher court to cope with this task may lead to a violation of the rights and freedoms protected by the Convention.

Abolition or reversal (from the Latin *reversio* – reversal, return) of case-law by the highest court, in the absence of arbitrariness and when this is not clearly unfounded, falls under the discretion of such a court, especially in countries with written law (such as Croatia, Italy, Turkey, Malta) and which are not precedent.<sup>48</sup> By way of explanation, courts may deviate from their established case law provided that they have sufficient and compelling reasons to do so<sup>49</sup>, if the circumstances of the new case do not “significantly” differ from the previous one.<sup>50</sup> In this case, the effect of the legal standard (precedent) does not apply to the rule of *stare decisis* if the reasons given by the court are not convincing enough.

Court precedent may be revoked only in cases where consensus has been reached in the domestic legal systems of the member states of the Council of Europe on a particular legal issue<sup>51</sup>, or within the domestic legal order of the respondent

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46 ECHR. *Sine Tsaggarakis A.E.E. c. Grèce: Judgement on Applications no. 17257/13 (May 23, 2019). § 49.*

47 Consultative Council of European Judges (CCEJ). *Opinion N° 20 on the Role of Courts with Respect to Uniform Application of the Law*. 2017. Available at: [www.vru.gov.ua/content/file/Висновок\\_КРЄС\\_20.pdf](http://www.vru.gov.ua/content/file/Висновок_КРЄС_20.pdf); ECHR. *Albu and Others v. Romania: Judgement on Applications nos. 34796/09 (May 10, 2012)*; ECHR. *Sine Tsaggarakis A.E.E. c. Grèce: Judgement on Applications no. 17257/13 (May 23, 2019). § 49.*

48 ECHR. *S.S. Balıklıçeşme Beldesi Tarım Kalkınma Kooperatifi et autres c. Turquie: Judgement on Applications nos 3573/05, 3617/05, 9667/05, 9884/05, 9891/05, 10167/05, 10228/05, 17258/05, 17260/05, 17262/05, 17275/05, 17290/05 et 17293/05 (Nov. 30, 2010). § 28*; ECHR. *Borg v. Malta: Judgement on Applications no. 37537/13 (Jan. 12, 2012). § 111*; ECHR. *Torri and Others v. Italy: Judgement on Applications nos. 11838/07 and 12302/07 (Jan. 24, 2012). § 42*; ECHR. *Yiğit v Turkey: Judgement on Applications no. 39529/10 (Apr. 14, 2014). §§ 21-22*; ECHR. *Jureša v. Croatia: Judgement on Applications no. 24079/11 (May 22, 2018). § 44.*

49 ECHR. *Chapman v. the United Kingdom: Judgement on Applications no. 27238/95 (Jan. 18, 2001). § 70*; ECHR. *Hoare v. the United Kingdom: Judgement on Applications no. 16261/08 (Apr. 12, 2011). § 54.*

50 ECHR. *Cossey v. the United Kingdom: Judgement on Applications no. 10843/84 (Sept. 27, 1990). §§ 32-34*; ECHR. *Opinion of judge Paulo Pinto de Albuquerque in the case of Herrmann v. Germany: Judgement on Applications no. 9300/07 (Jun. 26, 2012).*

51 ECHR. *Chapman v. the United Kingdom: Judgement on Applications no. 27238/95 (Jan. 18, 2001). § 70*; ECHR. *Schalk and Kopf v. Austria: Judgement on Applications no. 30141/04 (Jun. 24, 2010). § 105*; ECHR. *Bayatyan v. Armenia: Judgement on Applications no. 23459/03 (Jul. 7, 2011). § 103*; ECHR. *Konstantin Markin v. Russia: Judgement on Applications no. 30078/06 (Mar. 22, 2012). § 140.*

state<sup>52</sup>, or after the adoption of specialized international instruments<sup>53</sup> there is a need to implement another legal standard<sup>54</sup>, or when new scientific knowledge emerges that influences the resolution of the dispute under consideration.<sup>55</sup>

Therefore, departing from established case law to comply with the principle of legal certainty, as required by the rule of law<sup>56</sup>, the Supreme Court must clearly justify its decisions to the extent that it will allow prospective plaintiffs to reasonably predict how new legal changes may affect their particular case.<sup>57</sup> After all, in the opposite case, i.e. when the decisions of such a court are not based on any valid reason, such a court becomes a source of legal uncertainty<sup>58</sup>, and with it the courts of lower instance, which, for the sake of legal certainty and predictability, are forced to be guided by the relevant standards of the highest court. Therefore, compliance with these requirements guarantees the real stability of legal situations and promotes public confidence in the courts, as judicial uncertainty can deprive applicants of a fair trial<sup>59</sup>, and create a state of legal uncertainty regarding special provisions of the law.

The ECHR may also interpret the national law of the state concerned but as an exception. This is possible only when it finds that the national courts have applied the law in a particular case manifestly erroneously, unjustifiably, or in such a way as

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52 ECHR. *Stafford v. the United Kingdom* [GC]: Judgement on Applications no. 46295/99 (May 28, 2002). §§ 69 i 79.

53 ECHR. *Demir and Baykara v. Turkey*: Judgement on Applications no. 34503/97 (Nov. 12, 2008). § 85; ECHR. *Scoppola v. Italy* (no. 2): Judgement on Applications no. 10249/03 (Sept. 17, 2009). § 105; ECHR. *Bayatyan v. Armenia*: Judgement on Applications no. 23459/03 (Jul. 7, 2011). §§ 104-107.

54 ECHR. *Chapman v. the United Kingdom*: Judgement on Applications no. 27238/95 (Jan. 18, 2001). § 70.

55 ECHR. *Christine Goodwin v. the United Kingdom*: Judgement on Applications no. 28957/95 (Jul. 11, 2002). §§ 83 i 92; ECHR. *Vo v. France*: Judgement on Applications no. 53924/00 (Jul. 8, 2004). §§ 82 i 84.

56 ECHR. *Brumărescu v. Romania*: Judgement on Applications no. 28342/95 (Oct. 28, 1999). § 61.

57 ECHR. *C.R. v. the United Kingdom*: Judgement on Applications no. 20190/92 (Nov. 22, 1995). § 34; ECHR. *Gorou v. Greece* (no. 2): Judgement on Applications no. 12686/03 (Mar. 20, 2009). § 38; ECHR. *Tripcovici v. Montenegro*: Judgement on Applications no. 80104/13 (Nov. 7, 2017). § 42

58 ECHR. *Ferreira Santos Pardal c. Portugal*: Judgement on Applications no. 30123/10 (Jul. 30, 2015). § 47; ECHR. *Uzinexport S.A. c. Roumanie*: Judgement on Applications no. 43807/06 (Mar. 31, 2015). § 30; ECHR. *Lupeni Greek Catholic Parish and Others v. Romania*: Judgement on Applications no. 76943/11 (Nov. 29, 2016). § 123.

59 ECHR. *Vinčić and Others v. Serbia*: Judgement on Applications nos. 44698/06, 44700/06, 44722/06, 44725/06, 49388/06, 50034/06, 694/07, 757/07, 758/07, 3326/07, 3330/07, 5062/07, 8130/07, 9143/07, 9262/07, 9986/07, 11197/07, 11711/07, 13995/07, 14022/07, 20378/07, 20379/07, 20380/07, 20515/07, 23971/07, 50608/07, 50617/07, 4022/08, 4021/08, 29758/07 and 45249/07 (Dec. 1, 2009). § 56; ECHR. *Ștefănică and Others v. Romania*: Judgement on Applications no. 38155/02 (Nov. 2, 2010). § 38.



to allow a conclusion to be drawn on clear signs of arbitrariness in the actions of the national court.<sup>60</sup> The same applies to cases where the executive branch of the state, acting at the highest level, interferes in the judicial process, which, despite their content and method of implementation, is incompatible with the concept of “independent and impartial court” within the meaning of paragraph 1 of Art. 6 of the Convention.<sup>61</sup>

However, the ECHR cannot compare different decisions of national courts, even if they are made in clearly similar procedures; the ECHR must respect the independence of such courts<sup>62</sup>, except in cases of denial of justice or overt arbitrariness on the part of national judges.<sup>63</sup> Additionally, granting two disputes different legal regimes cannot be considered as a product of conflicting case law if it is justified by a difference in the factual circumstances of the case.<sup>64</sup>

This is since, as a rule, the functions of the ECHR do not include the consideration of factual or legal errors allegedly committed by a national court, except to the extent that they may have infringed the rights and freedoms protected by the Convention.<sup>65</sup> The same applies in cases where two courts, each with its own jurisdiction, may, when considering different cases, reach divergent, however, rational and reasoned conclusions on the same legal issue which arose in similar factual circumstances.<sup>66</sup>

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60 ECHR. *Beyeler v. Italy*: Judgement on Applications no. 33202/96 (Jan. 5, 2000). § 108; ECHR. *Kushoglu v. Bulgaria*: Judgement on Applications no. 48191/99 (May 10, 2007). § 50; ECHR. *Rustavi 2 Broadcasting Company Ltd and Others v. Georgia*: Judgement on Applications no. 16812/17 (Jul. 18, 2019). § 310.

61 ECHR. *Sovtransavto Holding v. Ukraine*: Judgement on Applications no. 48553/99 (Jul. 25, 2002). §§ 71-82; ECHR. *Miroshnik v. Ukraine*: Judgement on Applications no. 75804/01 (Nov. 27, 2008). §§ 61-64.

62 ECHR. *Gregório de Andrade c. Portugal*: Judgement on Applications no. 41537/02 (Nov. 4, 2006). § 36; ECHR. *Nejdet Şahin and Perihan Şahin v. Turkey*: Judgement on Applications no. 13279/05 (Oct. 20, 2011). § 50; ECHR. *Šimunić v. Croatia*: Judgement on Applications no. 20373/17 (Jan. 22, 2019). § 21; ECHR. *Sine Tsagarakis A.E.E. c. Grèce*: Judgement on Applications no. 17257/13 (May 23, 2019). § 48.

63 ECHR. *Adamsons v. Lettonie*: Judgement on Applications no. 3669/03. (Jun. 24, 2008). § 118; ECHR. *Maria Frimu contre la Roumanie*: Judgement on Applications no. 45312/11 (Nov. 13, 2012). § 43.

64 ECHR. *Çelebi et autres v. Turquie*: Judgement on Applications no. 582/05 (Feb. 9, 2016). § 52; ECHR. *Lupeni Greek Catholic Parish and Others v. Romania*: Judgement on Applications no. 76943/11 (Nov. 29, 2016). § 116; ECHR. *Šimunić v. Croatia*: Judgement on Applications no. 20373/17 (Jan. 22, 2019). § 23.

65 ECHR. *Vučković and Others v. Serbia*: Judgement on Applications nos. 17153/11, 17157/11, 17160/11, 17163/11, 17168/11, 17173/11, 17178/11, 17181/11, 17182/11, 17186/11, 17343/11, 17344/11, 17362/11, 17364/11, 17367/11, 17370/11, 17372/11, 17377/11, 17380/11, 17382/11, 17386/11, 17421/11, 17424/11, 17428/11, 17431/11, 17435/11, 17438/11, 17439/11, 17440/11 and 17443/11 (Aug. 28, 2012). § 54.

66 ECHR. *Nejdet Şahin and Perihan Şahin v. Turkey*: Judgement on Applications no. 13279/05 (Oct. 20, 2011). § 86; ECHR. *Gorlov and Others v. Russia*: Judgement on Applications nos. 27057/06, 56443/09 and 25147/14 (Jul. 2, 2019). § 86.



The above shows that in the regulatory process of public relations, a major role is played by acts of the causal interpretation of civil law, to which within European standards also set specific requirements. Therefore, the update of civil law should also cover the issue of the quality of acts of the causal interpretation of civil law and guarantees against abuse, in the interpretation of such rules by the relevant authorities in the state. For example, the Civil Code of Ukraine does not prohibit non-business partnerships and institutions from conducting commercial activities, but provides that such activities should be carried out in conjunction with other principal activities, unless otherwise provided by law and if those activities are consistent with the purpose for which they were established and contribute to its achievement.<sup>67</sup>

Also, the imperfection of our legislation is that it does not contain any rules that would determine a particular algorithm for interpreting the law, including civil, and this, it seems to us, does not contribute to the legal certainty and predictability of the law in the state, will inevitably lead to arbitrariness in law enforcement. Since the absence of a unified algorithm of interpretation of the legal norm (and its specific rules) do not guarantee that the meaning of the signs that make up the content of a proper rule of law will have their correct understanding and application by relevant subjects of law to a particular case. The above stated can be confirmed by judicial practice, namely court decisions, which are not always in our country, an indicator of the perfect application of substantive and/or procedural law. The statement is especially true of the legal position of the highest court in the state, which often changes due to the incorrect application of the law to a particular case.<sup>68</sup>

### III. CONCLUSIONS

Summing up, it should be said that in the context of updating the civil legislation of Ukraine against the background of European integration processes and intensification of international legal cooperation, there is a need to bring the quality of national regulations in line with European standards, the rule of law. The criteria for quality assessment should be the consistency of domestic legislation with the principles:

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67 Maxym Tkalych, Iryna Davydova & Yuliia Tolmachevska, *supra*, note 17.

68 Oleksandr Shyshka. *Interpretation of the civil legislation of Ukraine: some directions of recodification of the Civil Code of Ukraine*. THE IMPACT OF INTEGRATION TRENDS ON THE DEVELOPMENT OF NATIONAL LAW: MATERIALS OF THE INTERNATIONAL SCIENTIFIC-PRACTICAL INTERNET CONFERENCE. Phoenix. (2020a).

- Legal certainty, which stipulates that legal norms must be clear, distinct, predictable, accurate and stable.
- Legitimate expectations, according to which public authorities must not only comply with the law and act following the law but also fulfill their promises and live up to the expectations of citizens and organizations.

Of course, this is ideally impossible to achieve, but civil law should have effective and efficient mechanisms to influence cases where the rule of civil law cannot be considered as "law". Meanwhile, the legislator's desire for legal certainty requires proper implementation and realization of the concept of legal expectations, which has not yet been properly implemented in our civil legislation. And to be more precise, the general norms and principles (although they allow the possibility of implementing the principle of legitimate expectations) do not work in practice.

Therefore, it seems that the Central Committee of Ukraine should provide special rules-guarantees for cases when the state does not keep its promises. Accordingly, the quality of civil law directly depends on the extent to which the state is politically and legally ready to bear civil liability for arbitrary (and in some cases lawful) interference by public authorities in the rights and freedoms protected by the Convention, the Constitution and civil law of Ukraine. In other words, the quality (or poor quality) of civil law depends on the availability (or absence) of adequate and effective mechanisms and guarantees against abuse or other actions by which the state interferes in the rights and interests of individuals.

The process of updating Ukraine's civil law should also focus on reviewing Ukraine's civil law for its ability to respond appropriately to restrictive measures imposed by the state, in connection with the spread of coronavirus disease (COVID-19). Work on updating the civil legislation of Ukraine should not be limited to the issue of the quality of civil law. Moreover, a vital component of the regulatory process is the acts of the causal interpretation of civil law, which, based on the European standard, are covered by the term "law". Since such acts provide additional clarity and clarity to civil law to adequately understand their content and facilitate the implementation of the legitimate expectations of citizens and organizations.

Accordingly, if we focus all efforts on the quality of civil law, then in the absence of adequate and effective mechanisms capable of dealing with arbitrariness by the authorities, which, according to the law, assigned a role in solving problems of interpretation and application of domestic law, such legislation will inevitably lead to arbitrariness, lawlessness in the state, and usurpation of state power, violation of the rights of citizens and organizations. And the latter is incompatible with the principle of the

rule of law. Therefore, domestic law should provide adequate and effective safeguards against abuse if the activities of the relevant public authorities, which are required by law to apply and interpret civil law, do not comply with the expressions "prescribed by law" and "according to the law".

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