

CONȚINUTUL PRINCIPIULUI OBIECTIVITĂȚII PROCEDURILOR JUDICIARE ÎN SISTEMUL DE OPTIMIZARE A PROCEDURILOR CIVILE

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Schimbările socio-politice din țară au impus adaptarea legislației la tendințele existente în dezvoltarea procedurilor civile. Principiile dreptului procedural nu se pot baza pe un set neschimbat de prevederi, ci trebuie modernizate și adaptate condițiilor de dezvoltare a relațiilor sociale moderne, menținând în același timp echilibrul corespunzător. Principiile dreptului procedural sunt prevederi fundamentale, al căror sistem generează un set de norme. O înțelegere clară, o interacțiune armonioasă și o aplicare practică a acestor principii permit protejarea eficientă a drepturilor și libertăților încălcate sau contestate în cauzele civile și consolidarea încrederii societății în sistemul judiciar. În legătură cu dezvoltarea dinamică a dreptului procesual civil, utilizarea tehnologiilor digitale în procedurile judiciare și dezvoltarea probelor electronice, problema adevărului este discutată în prezent din ce în ce mai des. Inovațiile legislative au făcut din problema rolului și locului instanței în procesul de stabilire a fondului cauzei o realitate, sporind simultan răspunderea părților în cauză pentru comportament de rea-credință. Referințele la obiectivitate se găsesc din ce în ce mai mult în literatura educațională și științifică. În teorie, obiectivitatea este considerată un criteriu calitativ asociat instanței, procesului decizional în cauză și calităților personale ale judecătorului.

Cuvinte-cheie: obiectivitate, corectitudine, discreție judiciară, imparțialitate, optimizare, convingere interioară.

CONTENT OF THE PRINCIPLE OF OBJECTIVITY OF JUDICIAL PROCEEDINGS IN THE SYSTEM OF OPTIMIZATION OF CIVIL PROCEEDINGS

Socio-political changes in the country have necessitated the adaptation of legislation to the existing trends in the development of civil proceedings. The principles of procedural law cannot be based on an unchangeable set of provisions, but must be modernized and adapted to the conditions of development of modern social relations, while maintaining the appropriate balance. The principles of procedural law are fundamental provisions, the system of which generates a set of norms. A clear understanding, harmonious interaction and practical application of these principles allows for the effective protection of violated or disputed rights and freedoms in civil cases, and to strengthen public confidence in the judiciary. In connection with the dynamic development of civil procedural law, the use of digital technologies in legal proceedings and the development of electronic evidence, the issue of truth is currently being discussed more and more often. Legislative innovations have made the issue of the role and place of the court in the

process of determining the merits of the case a reality, while simultaneously increasing the liability of the parties to the case for bad faith behavior. References to objectivity are increasingly found in educational and scientific literature. In theory, objectivity is considered as a qualitative criterion associated with the court, the decision-making process on the case and the personal qualities of the judge.

Keywords: *objectivity, fairness, judicial discretion, impartiality, optimization, inner conviction.*

CONTENU DU PRINCIPE D'OBJECTIVITÉ DES PROCÉDURES JUDICIAIRES DANS LE SYSTÈME D'OPTIMISATION DES PROCÉDURES CIVILES

Les changes sociopolitics of the pays off needless l'adaptation de la législation aux tendances actuelles in the process of procedures civiles. Les principes du droit procédural ne peuvent reposer sur un ensemble de dispositions immuables, mais doivent être modernisés et adaptés aux conditions de développement des relations sociales modern, all in maintain a free spirit approprié. Les principes du droit procédural sont des dispositions fondamentales dont le system génère un ensemble de normes. Une compréhension claire, une interaction harmonieuse et une application pratique de ces principes permettent une protection efficace des droits et libertés violets ou contestés dans les affaires civiles et renforcent la confiance du public dans le pouvoir judiciaire. Dans le contexte du développement dynamique du droit procédural civil, de l'utilisation des technologies numériques dans les procédures judiciaires et du développement de la preuve Electronique, la question de la verité it's plus in plus souvent débattue. Les innovations législatives ont concrétisé la question du rôle et de la place du tribunal dans le processus de détermination du fond de l'affaire, tout en renforçant la responsabilité des parties en house of mauvaise foi. Les références à l'objectivité sont de plus en plus nombreuses dans la littérature pédagogique et scientifique. En théorie, l'objectivite est consider like a critic quality associé au tribunal, au processus décisionnel et aux qualités personnel of the court.

Mots-clés: *objectivité, équité, pouvoir discrétionnaire judiciaire, impartialité, optimisation, conviction intime.*

СОДЕРЖАНИЕ ПРИНЦИПА ОБЪЕКТИВНОСТИ СУДЕБНОГО РАЗБИРАТЕЛЬСТВА В СИСТЕМЕ ОПТИМИЗАЦИИ ГРАЖДАНСКОГО ПРОЦЕССА

Социально-политические изменения в стране обусловили необходимость адаптации законодательства к существующим тенденциям развития гражданского судопроизводства. Принципы процессуального права не могут базироваться на неизменном наборе положений, а должны модернизироваться и адаптироваться к условиям развития современных общественных отношений, сохраняя при этом соответствующий баланс. Принципы процессуального права – это основополагающие положения, система которых порождает совокупность норм. Четкое понимание, гармоничное взаимодействие и практическое применение этих принципов позволяет эффективно защищать нарушенные или оспариваемые в гражданских делах права и свободы, укреплять доверие общества к судебной власти. В связи с динамичным развитием гражданского процессуального права, использованием цифровых технологий в судопроизводстве и развитием электронных доказательств в настоящее время все чаще обсуждается вопрос об истине. Законодательные нововведения сделали реальностью вопрос о роли и месте суда в процессе определения существа дела, одновременно повысив ответственность сторон дела за недобросовестное поведение. Ссылки на объективность все чаще встречаются в учебной и научной литературе. Теоретически, объективность рассматривается как качественный критерий, связанный с судом, процессом принятия решения по делу и личностными качествами судьи.

Ключевые слова: *объективность, справедливость, судебное усмотрение, беспристрастность, оптимизация, внутреннее убеждение.*

Introduction

At the present stage, the process of development of civil proceedings is carried out through the improvement of mechanisms of interaction between courts and participants in the process, modernization and optimization of the judicial system and its elements. These changes are caused by a combination of external and internal factors. External factors include the political situation in the country, global crises, epidemics and other processes. Internal factors include the introduction of electronic justice systems, the development of technologies and digital communications in legal proceedings.

The constitutional basis for conducting legal proceedings is the equality and adversarial nature of the parties. [8] This provision is also reflected in the Civil Procedure Code of the Republic of Moldova. [6] According to Article 26 of the Civil Procedure Code of the Republic of Moldova, the court, while maintaining independence, objectivity and impartiality, regulates legal proceedings, explains to the litigants their rights and obligations, warns them of the consequences of the execution or non-execution of a judicial act, assists them in the exercise of their rights and ensures the conditions for civil proceedings. When considering and resolving cases in civil proceedings, conditions are ensured for a comprehensive and complete examination of evidence, the establishment of facts and the correct application of the law.

Attempts to link objectivity with the principle of objective truth as it existed in Soviet history were achieved through the transition to adversarial proceedings involving active parties, which generated both support and opposition.

The choice of the research topic is especially important in the era of active reform and optimization of the justice system. It is the current civil procedur-

al legislation that requires a deep and comprehensive theoretical and legal study of the objectivity of civil procedural proceedings.

Findings and Discussion

Actions of the court to ensure the objectivity of judicial proceedings.

Scientific and educational literature emphasizes that the court is the main and obligatory participant in civil procedural relations, occupies a special place and plays an important role in the legal proceedings.

The activities of the court and its main task are to correctly consider and resolve cases within the timeframes established by law in order to fulfill the purpose of civil proceedings - to protect the violated rights and freedoms of interested persons.

At the same time, the administration of justice is based on the principle of equality of the parties, according to which the parties have equal powers and responsibilities to prove the claims and objections they have made. The role of the court in the evidentiary activities of the parties is regulated by the Civil Procedure Code, which ensures this activity through the powers of the court. G.L. Osokina in her book lists the following types of court activities: determining the rights and obligations of the parties to the case; assistance in collecting evidence; determining issues to be proven and distributing the burden of proof; evaluation of evidence; creation by the court of conditions necessary for the presentation of evidence by the parties. [17, p.46]

At the same time, the judge considering the civil case must clearly and distinctly understand not only the goals and objectives of civil proceedings, but also the mechanism for establishing the factual circumstances of the case. The elements of this mechanism are the numerous actions of the judge at all stages of the process.

At the stage of initiating a civil case, the interested party files an application/petition with the court, which must assess whether the application/petition complies with the requirements established by law. These requirements include the plaintiff's ability to conduct the trial, the right to appoint a representative to conduct the proceedings, requirements for the form and content of the claim, compliance with pre-trial procedures, jurisdiction, payment of state obligations, and the absence of a judgment on the dispute or an arbitration agreement. [3, pp . 159-162]

To ensure the integrity of the trial, the court should review the notices of service and other documents to confirm that copies of the statement of claim and its annexes have been sent as annexes to the other parties involved in the case. Sending these documents increases the likelihood of establishing the facts necessary to resolve the case, since all parties involved are aware of the plaintiff's claims in advance and can begin preparing for the trial.

The purpose of the stage of initiating a civil case is to decide on the possibility of initiating a civil case based on the materials submitted to the court. Based on the results of the review of the application, the judge must make a decision on accepting and initiating a civil case, on refusing to accept the application, on returning the application, or on leaving the application without consideration. Such actions of the judge do not depend on judicial discretion, but are subject to a number of strict conditions stipulated by the Code of Civil Procedure, as well as the timeframes for making such a decision, the form of the procedure, and the possibility of privately appealing the determination that impedes the proceedings on the case.

It should be noted that, according to the law, the court cannot refuse to accept a statement of claim due to the lack of evidence of the claim, incorrect determination of the defendant in the case, or discov-

ery of facts of abuse of rights at the stage of filing the statement of claim. These provisions seem reasonable, since the parties are obliged to prove the fact of violation of their rights by the persons specified in the statement of claim at the stage of consideration of the main proceedings. When considering the issue of admissibility of a statement of claim for proceedings, it is not possible to uniformly determine these circumstances.

It should be noted that at the stage of initiating a civil case, establishing the factual situation in the case comes down to clarifying the plaintiff's demands and the nature of the dispute described in the supporting documents. The main source of information, the statement of claim, is assessed by the court for compliance with the formal requirements for its preparation and is analyzed for further consideration of the issue of the validity and confirmation of the claim. When reviewing the statement of claim and the documents attached to it, judges form a first impression of the general circumstances of the case. However, formal criteria have unconditional priority, and the validity of the claim is verified at the stage of the trial.

Kosycheva noted that the timely adoption of appropriate procedural measures at this stage is necessary and sufficient material for the consideration and resolution of the main case. [11, p.87]

This provision emphasizes that the objectivity of legal proceedings is fully realized at the stage of trial. On the other hand, the personal behavior of the judge at the stage of initiating a civil case and preparing the case for trial creates the necessary conditions for the subsequent establishment of the necessary factual circumstances of the case.

In accordance with the objectives of the preparatory stage of the trial, the court's conduct in determining the issues to be proven, the applicable law and the composition of the parties involved in the

case, as well as in explaining to the parties involved in the case their procedural rights and obligations, is of great importance for ensuring the objectivity of the trial.

The importance of determining the subject of proof in a case is that an unfair decision may be made if all the facts necessary to resolve the case are not established, or if facts irrelevant to the case are examined. In the science of civil procedure, there are different points of view on determining the subject of proof. A broad approach to the subject of proof is applied, i.e. including procedural facts, auxiliary facts, evidentiary facts and verified facts. [15, p.19]

The position of N.I. Altashkina seems to be justified, which indicates that the subject of proof in the procedure of judicial proof includes situations that have legal significance. The procedure of judicial proof is based on the norms of procedural law, which includes certain procedural situations. From this, the author concludes that procedural rules and the procedural circumstances contained in them, together with the subject of proof, constitute part of the process of proof. [2, p.102]

The position of A.G. Kovalenko is interesting in that it differs from the main arguments of the narrow and broad approaches. The author suggests using the concepts of plaintiff, defendant, third party and subject of proof of the court. [12, p.24] From a practical point of view, such a position seems to be successful for the participants in the process, since it allows one to define the framework of a situation that is significant for all parties. In this case, the subject of proof of the court should be understood as the facts included in the subject of proof of the plaintiff, defendant and third party, as well as other circumstances that are significant for the case. From this provision, one can conclude that the subject of proof of the court is a broader concept, which also includes the subject of proof of other participants in the civil process.

M.K. Treushnikov describes the objective difficulties in determining the subject of proof, arising in connection with the presence of a large number of situational norms in substantive law. The special position of the court in civil legal relations allows it to provide the necessary assistance to the parties in this matter. [25, p.27]

The source of determining the subject of proof in a case is undoubtedly the legal norms underlying the stated claims and counterclaims. The legal norms applicable to a specific case indicate the circumstances subject to proof in the abstract case defined by them. In all such cases, these circumstances must be proven. At the same time, the grounds for the claims and counterclaims indicate the facts subject to proof in the case. However, it is necessary to take into account that the grounds for the claim are formed exclusively by individuals and do not always comply with the rules of procedural and substantive law, which also determines the importance of the judge's role in determining the subject of proof to establish the factual circumstances necessary for resolving the case.

Therefore, it is necessary to distinguish the judge's behavior when determining the applicable law in a particular case. The court's task is to compare the ideal legal relationship with the one that actually exists, and to identify and eliminate violations.

It should be noted that the legal qualification of a case at the stage of preparation for a trial is of a purely preliminary nature and is ultimately determined by the court when rendering a decision. Incorrect determination of the rules applicable to the case, failure to apply the necessary rules and application of rules that should not have been applied may lead to the cancellation of the decision as illegal. Incorrect application of the rules of substantive and procedural law is interpreted by higher courts as a judicial error. [14, p.434] The possibility of appeal to a

higher court and correction of errors guarantees the objectivity of the trial.

In order to establish all the necessary factual circumstances of the case, the court must determine the necessary composition of the parties to the case. The law grants the court the right to decide on the issue of involving co-plaintiffs, co-defendants and third parties in the case without independent claims. Such participation may be regulated by the rules of substantive law, for example, in cases of joint liability or joint ownership. This is due to the fact that the absence of one of the participants narrowed the range of required factual information and affected the objectivity of the trial.

The court shall explain the procedural rights of the parties and facilitate their exercise. These rights include the basic general powers and special powers of the parties provided for in the articles. For example, a refusal to bear the burden of proof shall result in a refusal to satisfy the claim. In addition, if there is insufficient evidence in the case, the court shall require the party to present additional evidence, and if it is impossible to present evidence on its own, the court shall grant the party's motion.

Conclusion of a settlement agreement is a special and exclusive right of the parties, which deserves special attention. At each stage of the civil process, the judge must persuade the parties to a settlement agreement. This task of the court is one of the most important. It consists of the adoption by the court of measures aimed at encouraging the parties to conclude a settlement agreement, which is the desired result for the termination of the dispute in a specific civil case. [21, p.72]

In such cases, the court must take all necessary steps within the judge's discretion to find a solution that best suits the legislator's intentions. In this process, the judge may, to the extent possible, analyze and determine the particular circumstances of the case. [10, p.113]

At the same time, the law requires that the settlement agreement be approved by the court. If the rights or legitimate interests of another person are violated or the settlement agreement does not comply with the law, the court will not approve the settlement agreement and will indicate to the parties the need to change it. Similarly, the court will not approve the parties' admission of a fact if it is aimed at concealing the actual circumstances of the case. If the settlement agreement meets all the requirements, the court approves it and explains to the parties the legal consequences of the impossibility of re-applying to the court with the same demands, on the same grounds and with the same participants. It should be noted that the procedure for concluding a settlement agreement has its own procedural requirements, the requirements and consequences of which are explained to the parties by the court.

Therefore, all court activities should be aimed at establishing the necessary factual circumstances of the case, in which all parties should participate. By its nature, court proceedings should be aimed at restoring the true picture of what happened. If the parties, for subjective reasons, are not prepared to disclose the facts and circumstances relevant to the case, other dispute resolution procedures should be used.

The objectivity of the trial may also be achieved through procedures such as interviews and preliminary hearings. Interrogation is conducted at the discretion of the judge and involves questioning the persons involved in the case in order to clarify the circumstances of the case that are directly related to the legal characteristics of the dispute and to determine the issues to be proven. Pre-trial proceedings, in contrast to inquiry, are conducted in the form of a separate procedural action only in cases expressly provided for by law and require the preparation of a protocol. The purpose of pre-trial proceedings is to

record the behavior of the parties when making decisions, establish legally significant circumstances, determine the sufficiency of evidence in the case and establish the fact of exceeding the deadline without good reason, if there are grounds for suspension, termination or non-consideration of the case.

In this regard, it is worth sharing the opinion of Yu.Kh. Bekov that a preliminary court hearing is the final stage of preparation for a trial and, at the same time, a special form of consideration of individual procedural issues, which allows achieving the goals of the above-mentioned stages, which indicates the dual nature of a preliminary court hearing. [19, p.59]

A.G. Pleshanov, whose point of view should be supported, notes that the pre-trial system was introduced into the Civil Procedure Code in order to increase the efficiency, competitiveness and procedural economy of judicial proceedings. [18, p.46]

Thus, all the thoughtful behavior of the judge is aimed at achieving the goal of preparation for the trial, which is to ensure the correct and timely consideration and resolution of the case. At the same time, the Code of Civil Procedure clearly distinguishes the behavior of the court and the parties at the stage of preparation for the trial, which is also a reflection of the principles of adversarial and objective trial in civil proceedings.

A trial is the central stage of civil proceedings aimed at resolving the dispute on its merits. After a decision has been made to schedule a trial, the court is obliged to notify the parties of the date, time and place of the trial. Participation in the trial is a means of exercising the procedural rights that the parties to the case are entitled to. Therefore, the court must observe the proper procedure when notifying the participants in the process.

Proper notice shall be deemed to have been given in accordance with the terms of the preliminary no-

tice, the established form of judicial notice, the rules of delivery and service established by law, and the protocol on the results of the notice.

According to the impartial commentary of G.A. Kushnir, failure to notify the parties of the date, time and place of the court hearing or violation of the notification procedure deprives the parties of the opportunity to exercise their general and special rights and defend their position in the case. This violates the procedural principles of protection, fairness and discretion, as well as the right to judicial protection. [13, p.73] After all, the absence of the necessary participants in the process directly affects the court's ability to establish the factual circumstances of the case. Failure to notify the parties to the case of the time and place of the trial or insufficient notification is an obstacle to achieving objectivity in the trial.

At the preparatory stage of the trial, the main task of the court is to determine the possibility of holding a court hearing. To do this, the court resolves organizational issues of the following nature: the court confirms the appearance in court of persons participating in the case and assisting in the administration of justice, establishes their identity and competence, resolves issues related to the tasks assigned to them, explains to the participants in the process their rights and obligations, resolves petitions of persons participating in the case, assesses the possibility of considering the case based on the available evidence, etc.

The hearing of the case on the merits is the most extensive part of the trial, the purpose of which is a full, comprehensive, objective and direct consideration and resolution of the case on the merits. The main actions of the judge are: clarification of issues to be proven in the court session, taking into account the possible disposition of the parties and examination of evidence (this includes the plaintiff's right to increase or decrease the amount of the claim, the

right to change the subject of the claim or its basis, confirmation of the circumstances on which the claim is based, etc.); verification of statements about the falsity of evidence (appointment of a forensic examination or submission of additional evidence by the parties), presentation of additional evidence to the judge to verify the falsity of evidence. judge to verify the falsification of evidence. or submission of additional evidence by the parties), presentation of additional evidence by the judge and verification of evidence. [16, p.157]

The issues of proof in the judicial process are not immutable and may change, including at the stage of the trial. These changes are related to the process of discovery of evidence and the dispositive behavior of the parties. Each of these circumstances is capable of changing the disputed legal rights, and judges must quickly respond to these changes. Judges directly study all materials and evidence presented in the case. Each method of proof has its own research methodology. When considering the main proceedings, despite strict formalism, the court carries out extensive and active work, including analyzing the factual circumstances of the case, assessing the relevance, admissibility and reliability of evidence, as well as compliance with the criteria of relevance, admissibility, reliability and their combined sufficiency in order to correctly resolve the issues in the main proceedings.

Along with the existing rules for assessing evidence, the law stipulates that this process must be based on the judge's inner conviction and, in some cases, on direct judicial discretion. The objective reasons for judicial discretion include the infinite variety of life circumstances and the individual uniqueness of a person, the untimeliness and shortcomings of the legislator in formulating legal norms, the impossibility of prescribing in law the behavior of a judge in all cases without exception, etc.

Thus, the process of assessing evidence by the judge is of decisive importance in the process of establishing the factual circumstances of the case. At the same time, excessive prescription of the process of assessing evidence by the court does not solve operational difficulties, since a certain degree of freedom is necessary in this activity. The authors note that judicial discretion is necessary for the court to exercise its powers to protect human rights and freedoms. [20, p.8] The right of the court to assess evidence according to its internal convictions makes the judicial system more flexible and, along with the principle of establishing the truth in the case, allows us to speak about the identity of objective truth and the validity of the court's decision. [1, p.97]

The final part of the trial is the pleadings and announcement of the court's decision. Judges base their decisions on the materials of the case considered and on their own internal convictions. If the established facts are not enough to make a decision on the case, the court may resume the hearing and ask the parties to present additional evidence.

A fair remark by E.I. Denisova points to the special nature of courts as subjects possessing two qualities: participants in civil procedural relations and authorized state bodies to exercise judicial functions. [9, p.105]

At each stage of civil proceedings, the judge performs a number of procedural actions necessary for further consideration of the case. These actions are not exhaustive and should be interpreted broadly.

The performance of these actions constitutes the proper performance of the duties imposed on the judge and is necessary for the implementation of the principle of judicial objectivity considered here.

Thus, it can be concluded that the activities of the courts are directly related to the establishment of circumstances that are significant for the case and ensuring the objectivity of the trial. Judges, due to their

disinterestedness, their judicial tasks and the broad procedural powers conferred on them by law, play a certain role in ensuring the objectivity of the trial.

Good faith behavior of persons participating in the case as a component of the objectivity of judicial proceedings.

In an adversarial process, it is impossible to establish facts without the activity of the litigant. The procedural code grants the litigant broad powers, including the right to make a decision, while it is obliged to prove the legitimacy of the assertions and counter-assertions made. This provision raises questions about its integrity in judicial activity due to the lack of legal regulation and the practical difficulties of taking measures of responsibility in the event of a rejection.

A.V. Volkov notes that in Roman law there is a principle: *qui jure suo use, no matter laedit* (he who correctly exercises his rights is inviolable). [28, p.138] The behavior of the parties affects the achievement of the ultimate goal of civil justice - the protection of the rights and legitimate interests of the participants in the process.

Article 61 of the Civil Procedure Code of the Republic of Moldova speaks of good faith, but does not specify the content of the concept of good faith and the consequences of its violation. It states that the participants in the case must exercise all procedural rights belonging to them in good faith. [6] Since this norm is mentioned as the right of the participants in the case, it is difficult to recognize good faith as their obligation without stipulating liability for bad faith.

Scholars have attempted to fill this gap by defining the concepts of fair conduct and abuse of rights and analyzing specific forms of behavior within these definitions.

With regard to the abuse of procedural rights, the following observations were made by scientists. Tretyakova T.O. examining civil law norms, came to the

conclusion that abuse of procedural rights is an unfair application of civil procedural rules. [24, p.419] Tretyakova T.O. classifies as unfairness misleading a party, refusing to receive a summons from the post office, unexplained failure to appear at a court hearing, failure to provide information at the request of the court or provision of false information, as well as other similar selfish attitude. Fairness must be based on the conscience and honesty of the subject of the civil process, as well as on the prevention of deception and unfairness in legal relations.

Thus, one can agree with the conclusion of Yu. V. Vede that in modern legal theory there is no single opinion on the legal nature of good faith in civil proceedings, nor a consensus on the abuse of judicial rights. [27, p.21]

This is due to the fact that until there is a criterion of good faith and a framework for determining good faith, it is impossible to talk about the nature of good faith and the consequences of deviation from it.

In addition, there are difficulties in proving such actions, since the person who committed the malicious act takes defensive measures to avoid adverse consequences for himself. In the absence of sufficient legislative competence, the courts are unable to effectively combat malicious behavior of participants in the trial. Therefore, it is necessary to conduct scientific research to establish the concept of good faith behavior of participants in the trial. This process includes determining the elements of good faith behavior that directly affect the objectivity and fairness of the trial, as well as the consequences of failure to comply with good faith behavior. The expectations of some legal scholars, in particular A. Berlin [5, p.7], about the development of this concept through judicial practice seem unfounded, since it is not recognized as a source of law.

Abuse of rights refers to the use of pre-existing legal norms, circumvention of legislative norms, de-

ception of judges, etc. with the intention of infringing the rights of the other party. In other words, abuse of rights is behavior that goes beyond the actual content of the law.

Integrity implies a model of behavior based on mutual honesty, trust, integrity, frankness, and positivity. Such a model can be developed and formulated, providing for measures of responsibility for failure to fulfill obligations. At the same time, abuse of rights is a form of dishonest behavior, a positive and harmful form of dishonesty.

In some foreign countries, the requirements for integrity are revealed through such categories as loyalty, honesty, fairness and correctness [4, pp.44-47].

T.V. Solovieva's position offers an understanding of good faith based on three elements: honesty, thrift, and legality. Legality implies behavior in accordance with legal norms, while malicious intent does not at all imply illegality. [22, pp.64-65] On the contrary, malicious intent implies a moral distortion of a person's behavior. For example, within the framework of the law, it was possible to challenge the court, reapply with a request, or use other rights of the litigant in order to delay the process or deceive the court.

The effect of honesty and economy as an expression of the good faith behavior of the parties involved in the case is as follows. The honesty of the parties is directly related to their interpretation in the process: the means of proof listed in the Code of Civil Procedure are assessed by the court according to four criteria - authenticity, relevance, admissibility and general sufficiency. As for other means of proof, the law allows for verification of authenticity, for example, confirmation of the authenticity of a document, identification of a person's handwriting, supplementation or repetition of an expert's conclusion if necessary. However, personal evidence, one of which is a description of

the person in question, is not subject to verification of authenticity.

In conclusion, it should be noted that the mechanisms for counteracting the unfair behavior of litigants provided by the civil procedural law allow us to speak about the necessity of this requirement and make its observance one of the criteria of fair behavior. The latter is a necessary element of the objectivity of judicial proceedings.

As for saving the parties' money, in our opinion, it lies in a reasonable approach to the two systems of civil proceedings - time and expenses.

Currently, courts are faced with the problem of delays in legal proceedings due to the parties' display of bad faith behavior during the proceedings. At the same time, there is no effective mechanism for influencing such behavior. Such attitudes by participants in legal proceedings give rise to social tensions and concerns about abuse of judicial rights.

The scientific community agrees that the application of damages in practice is ineffective and inappropriate due to the lack of criteria for the application of this sanction. [23, p.62] In addition, the parties identified the following unfair economic practices: filing a claim with the aim of interrupting the consideration of another case, untimely filing of motions, filing a large number of objections to the court, untimely filing of objections and evidence, filing appeals against judicial acts that should not be appealed, sending on the last day of the term established by law or the court, and the mechanism of appellate proceedings.

Activity and diligence are also considered necessary elements of good faith behavior of the parties. Activity should be understood as the desire of the parties to the case to assist in establishing the factual circumstances of the case, to exercise their procedural rights and fulfill their obligations, to attend court hearings, including through their representa-

tives, and to participate in conciliation procedures. Scientific and educational literature notes that persons participating in the case have the right to actively participate in the court's consideration of all material and procedural issues arising in the case. [7, p.88] From the point of view of achieving objectivity of the trial, their active participation should be considered as a manifestation of good faith behavior. This is good practice. At the same time, if this group of participants exhibits procedural passivity, this may lead to tragic consequences - the issuance of a reasoned decision in favor of the other party to the dispute.

The possibility of appealing a judicial act, on the one hand, guarantees the objectivity of the trial, and on the other hand, increases the burden on the judicial system. Therefore, motivation as an element of honest behavior on the part of casuists is aimed at reducing the number of appeals against decisions of courts of first instance.

Compliance should be understood as the timely and high-quality execution by the parties involved in the case of legal and judicial orders, in particular, the presentation of additional evidence or clarification of certain circumstances of the case, as well as other actions, primarily the execution of the final court decision.

As regards the good faith conduct of a party, the most pressing issues are the difficulty of proving and establishing the fact of such conduct and the ability of the judge to independently determine whether a party acted in bad faith, in the absence of such a statement from the opposing party or the failure to provide relevant evidence.

A number of authors point out the difficulties of achieving good faith in the sphere of procedural law. They are related to the possibility of the court basing its decisions on evaluative characteristics and the impossibility of the existence of a procedural princi-

ple of priority of defense. At the same time, the court is not obliged to prove bad faith; its procedural role consists of examining and evaluating the evidence presented. [26]

Thus, the good faith behavior of a participant in the process is a set of actions or inactions that establish the factual circumstances of the case and allow the court to make a lawful, reasoned and fair decision. Such behavior includes not only compliance with regulatory provisions, but also compliance with rights and interests, including in terms of interaction with other participants in the process and access to information. The standard of proper behavior is compliance with certain norms of good faith, thrift, energy and diligence.

The criterion of good faith behavior must be disclosed in the Resolution of the Plenum of the Supreme Court of Justice of the Republic of Moldova, similar to the requirements of legality and validity of court decisions.

It is proposed to express it as follows: "Good faith is expressed in the truthfulness of statements and the reliability of the information provided to the court.

Economy is demonstrated by prudence regarding the duration of proceedings and legal costs, as well as by taking all necessary measures.

Initiative is defined as an active clarification of the circumstances of the case and a willingness to interact with the court and the participants in the process both directly and through their representatives.

"Executiveness means responsible and timely compliance with procedural law or court orders and the execution of final decisions."

The mechanism for implementing the standard of good faith behavior of persons involved in the case can be presented as follows: it is necessary to normatively enshrine in

- Article 185 of the Civil Procedure Code of the Republic of Moldova requires the judge to explain

to the parties the requirements of good faith conduct during the trial. This obligation consists of truthfully stating and answering questions, not concealing facts necessary for the trial, not delaying the trial and not using rights to the detriment of others, and actively participating in the trial;

- in order to prevent the negative consequences of the unfair behavior of the parties, the provisions of Article 95 of the Civil Procedure Code of the Republic of Moldova should also provide for punishment for the state if its behavior impedes the proper consideration or timely resolution of the case, or the improper exercise of rights or performance of duties;

- legal norms that grant the court the right, at its own discretion, to apply measures of responsibility for the bad faith behavior of the litigants, depending on the individual characteristics of the dispute.

In this form, the good faith of the person considering the case is a necessary element of the objectivity of the judicial process. The application by the court of the criterion of good faith in the behavior of the participants in the case contributes to the achievement of the goal of the judicial process, which is to establish in practice the factual circumstances of the case and ensure effective and timely protection of rights and legitimate interests. By applying this element of judicial objectivity and forcing the participants in the process to comply with the rules of civil procedure, the judge must exercise his powers reasonably.

Conclusion and Recommendations

1. Based on the actions taken by the judges to ensure the objectivity of the trial, the following conclusions are made in the work:

- actions taken by the court to ensure the objectivity of the trial must be carried out by the court or at the discretion of the court. Actions at the discretion of the court are of direct importance for establish-

ing the factual circumstances of the case and its objectivity. Such actions include requesting additional evidence from the parties, referring for consultation circumstances not specified by the parties, and providing expert opinions if there are doubts about the reliability of the evidence.

- the actions of the judge in terms of their influence on the objectivity of the trial can also be presented in the form of two groups:

- compliance with the procedural form - mandatory actions provided for by imperative norms that a judge must perform to comply with the form of civil proceedings. These include all actions at the stage of initiating a civil case (at which compliance with the form requires unconditional priority), as well as similar procedural actions performed by the court at each subsequent stage. Thus, resolving the issue of the admissibility of a statement of claim, explaining to the parties to the process their rights and determining the participants in the process are the first stage of the process. These actions are performed by the court in the context of the inevitable establishment of law. It is proposed to call this series of judicial acts formal acts.

- establishing the factual circumstances of the case - the right to perform certain actions that contribute to the clarification of the necessary facts and circumstances of the case. Such actions may be performed by the court on its own initiative or at the request of the participants in the process. These actions are related to the ultimate goal of civil proceedings - the court's direction of the process to protect violated or disputed rights and freedoms, which directly depends on the establishment of facts that are important for the trial. An example is sending motions to the court to present evidence, involving third parties in the process and recommending that the parties present additional evidence. This series of actions involves the judge's analysis of the legal

status of the case, its participants and the materials submitted to the court. Judges themselves decide on the adequacy of their actions, so it is proposed to call them a substantive group.

According to the classification proposed in this work, it is clear that the first category of judge's behavior is necessary to ensure the objectivity of the trial, and the second category of behavior is the direct conduct of the process.

As bearers of judicial power, judges have a wide range of powers conferred on them by law, which are expressed in procedural rights and obligations in relation to other participants in the process, in order to achieve the main goals of civil proceedings.

2. The fairness of the decision, as a judicial act on the case, must be guaranteed. Therefore, it is necessary to introduce the category of impartiality into Article 239 of the Civil Procedure Code of the Republic of Moldova and to increase the status of judicial discretion. The reasons for introducing the norm of fairness when passing a judicial sentence are as follows:

- justice is a principle of legal proceedings at the constitutional level.

- judging by the established practice of appeals to the European Court of Human Rights, the needs of interested parties for fair judicial conduct are not met at the national level.

- normative support and regulation of impartiality in the form of official interpretations of the highest judicial bodies for the correct application of legal norms and justification of judicial discretion; amendments to the Constitution are justified by the tendency towards uniformity and the special role of the principle of justice.

3. A lawful, fair and reasoned decision in the course of judicial proceedings, in the context of the activities of the court and the parties to establish the facts of the case, is one of the necessary compo-

nents of the element of objectivity of judicial proceedings. Each of the requirements of a judicial decision fully reflects the essence of the principle of objectivity of judicial proceedings. Thus, legality means compliance with the norms of substantive and procedural law, guaranteeing the correctness of the legal characterization of the dispute and compliance with the procedural form. Validity guarantees quantitative and qualitative compliance with the factual circumstances of the case, and fairness - the individuality of each specific case and compliance with society's expectations regarding justice as a whole.

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