

SUMMARY

Key Words: judicial acts, review of judicial acts

Subject matter: Revision of judicial acts in civil proceedings: problems of theory and practice

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The supervising organization: -

The relevance of the research topic: The system of judicial review in civil proceedings is a very difficult phenomenon to study due to the fact that, first, in each state, this system has its own characteristics and, secondly, it is constantly changing.

In the context of the chosen topic, the system of reviewing judicial decisions in civil proceedings is considered as a subspecies of judicial activity, the organization of which directly depends on the level of development of state judicial and power relations in society. In this perspective, the researcher will inevitably encounter at least two dependent variables (society, represented mainly in the form of state courts, and participants in civil proceedings), which influence each other through a system of procedural legal relations, both fixed in the official regulations and outside of them.

The purpose of the work: The purpose of the study is to assess the effectiveness of the Institute of judicial acts review in terms of ensuring the final decision of justice, a comprehensive analysis of the problems that arise when reviewing judicial acts in civil proceedings, as well as to develop on this basis specific recommendations for improving the current procedural legislation in the field under study.

Objective: - to identify the place of the Institute of review in the system of guarantees of the right to judicial protection;

- determine the legal nature of judicial review in civil proceedings;

- to identify organizational and procedural characteristics of proceedings for the review of judicial acts on new and newly discovered circumstances in the context of their development;

- to separate the proceedings for the review of judicial acts from the proceedings for their appeal and verification;

to distinguish new facts from new circumstances and miscarriages of justice;

- analysis of procedural institutions similar to the Russian revision in foreign countries;

- develop proposals for improving the legislation governing this type of review in civil and arbitration proceedings.

The theoretical and practical significance of the research: The theoretical significance of the work consists in a comprehensive and systematic coverage of the issues of judicial acts review.

The practical significance lies in the fact that the conclusions formulated by the results of the research allow us to solve a number of scientific theoretical issues of civil procedure law and can serve as a basis for developing a unified approach to the problems associated with the revision of judicial acts.

Results of the study: Proceedings for the review of court decisions on newly discovered or new circumstances are located in the same section of the CPC of the Russian Federation with verification proceedings - proceedings in cassation and Supervisory instances. The legislator placed them in one section of the CPC of the Russian Federation, based on the status of the judicial decisions under consideration - entry into force. However, the legal nature of proceedings to review court decisions on newly discovered or new circumstances differs significantly from the legal nature of verification proceedings in civil proceedings. These differences are related to the fact that the revision of judicial decisions on again opened or new circumstances, in contrast to the testing stages, does not mean that the judge when making judicial rulings erred and violated the norms of substantive or procedural law, because you cannot admit mistakes, a failure by the court when making a ruling on the case circumstances, the existence of which the court for objective reasons, could not know. Significant differences in

the legal nature of proceedings for the review of court decisions on newly discovered or new circumstances from the nature of the verification stages of the civil process lead to the question of clarifying and optimizing the structure of the CPC of the Russian Federation.

As additional arguments to the proposal expressed in the special literature on the allocation of proceedings for the review of judicial decisions in an independent section of the civil code of the Russian Federation we give the following:

in cassation and nadzor proceedings court orders are checked for possible errors and irregularities in the enforcement process by the lower courts, and in the production of prescribed by Chapter 42 GPK of the Russian Federation, they are reviewed, i.e., we are not talking about errors and violations, you may have made on previous stages of the proceedings, and there is a judicial investigation of new or newly emerged circumstances affecting the merits of earlier court rulings;

- the review of judicial decisions differs significantly from the verification stages of civil proceedings on the grounds of review, in the circle of persons initiating proceedings, in the bodies authorized to review, in the order of review;

- in contrast to verification proceedings, judicial decisions are reviewed not by higher courts, but by the courts that issued the disputed court decision.

Thus, differences in the legal nature of proceedings for the review of judicial decisions from the legal nature of verification proceedings in civil proceedings should be clearly reflected in the structure of the CPC of the Russian Federation, since otherwise the essence of these proceedings is mixed. Based on the specifics of the proceedings for the review of court decisions that have entered into force for newly discovered or new circumstances, it should be placed in a separate section in the unified CPC of the Russian Federation.

Recommendations: Thus, differences in the legal nature of proceedings for the review of judicial decisions from the legal nature of verification proceedings in civil proceedings should be clearly reflected in the structure of the CPC of the Russian Federation, since otherwise the essence of these proceedings is mixed. Based on the specifics of the proceedings for the review of court decisions that have entered into force for newly discovered or new circumstances, it should be placed in a separate section in the unified CPC of the Russian Federation.

In a single GPK of the Russian Federation it is necessary to reflect that the revision of judicial decisions on new circumstances in connection with the alteration or definition of the practice of application legal norms by decree of the Presidium or Plenum of the Supreme Court of the Russian Federation for example, if in the judgment of the Supreme Court contains a reference to the possibility of revision of judicial decisions, in making which the legal norm was applied by the court differently than indicated in the decree of the Presidium or Plenum of the Supreme Court of the Russian Federation. The ban on the deterioration of the subordinate party's position in a public legal relationship when reviewing a court decision in connection with a new interpretation of legal norms should be reflected in the unified CPC of the Russian Federation. When applying this provision of the law, the time factor is important: court decisions can be reviewed on this basis, if they have entered into legal force no later than three years from the date when the reason for review arose.