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РЕКОДИФІКАЦІЯ ЦК УКРАЇНИ ТА МОДЕРНІЗАЦІЯ ЦК РЕСПУБЛІКИ КАЗАХСТАН: ПОРІВНЯЛЬНИЙ АНАЛІЗ ОСНОВНИХ ІДЕЙ

Анотація. *Системне оновлення цивільного законодавства України, як і модернізація цивільного законодавства Республіки Казахстан, є потребою часу, про що свідчить аналіз змін, які були внесені у цивільні кодекси України і Республіки Казахстан, та їх правозастосовна практика. Робота з оновлення цивільного законодавства потребує оцінки поточного стану та перспектив соціально-економічного розвитку українського суспільства і держави, зокрема розвитку такого важливого компонента, як національна правова система, що представлено в Концепції оновлення Цивільного кодексу України. Надзвичайно важливо, що основні напрями Концепції орієнтують розвиток цивільного права України з урахуванням сучасного досвіду рекодифікації цивільних кодексів інших держав у межах континентальної правової сім'ї. З огляду на те, що в Республіці Казахстан також проводиться модернізація цивільного законодавства, метою цієї статті є порівняльний аналіз основних ідей рекодифікації Цивільного кодексу України та модернізації Цивільного кодексу Республіки Казахстан задля напрацювання системного підходу та єдиної концепції розвитку цивільного права й формування чіткого орієнтиру розвитку цивільного законодавства. У статті на підставі як загальних (історичного, порівняльного, системного аналізу), так і спеціальних (конкретно-соціологічного, формально-юридичного, юридико-технічного тощо) методів аналізуються напрями оновлення цивільного законодавства України та Республіки Казахстан. Одним із найбільш обґрунтованих з боку забезпечення наступності правового регулювання цивільних відносин та забезпечення модернізації правової основи для розвитку сфери соціально-правових відносин на довгострокову перспективу є підхід, за яким мають бути збережені всі досягнення чинних цивільних кодексів з урахуванням сучасних європейських підходів та специфіки цивільного і ділового обороту*

Ключові слова: *оновлення цивільного законодавства, Концепція оновлення Цивільного кодексу України, зміна Цивільного кодексу України, реформа цивільного законодавства, скасування Господарського кодексу України*

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RECODIFICATION OF THE CIVIL CODE OF UKRAINE AND MODERNISATION OF THE CIVIL CODE OF THE REPUBLIC OF KAZAKHSTAN: A COMPARATIVE ANALYSIS OF THE MAIN IDEAS

Abstract. *Systematic updating of the civil legislation of Ukraine and modernisation of the civil legislation of the Republic of Kazakhstan are time-consuming tasks as evidenced by the analysis of changes that were made to the civil codes of Ukraine and the Republic of Kazakhstan and their law enforcement practice. Work on updating civil legislation requires an assessment of the current state and prospects of socio-economic development of Ukrainian society and the state, in particular the development of such an important component as the national legal system, which is presented in the concept of updating the Civil Code of Ukraine. It is crucial that the main areas of the concept orient the development of civil law in Ukraine, considering the current experience of recodification of civil codes of other states within the continental legal family. Considering that civil legislation is also being modernised in the Republic of Kazakhstan, the purpose of this study is to compare the main ideas of recodification of the Civil Code of Ukraine and modernisation of the Civil Code of the Republic of Kazakhstan to establish a systematic approach and a unified concept for the development of civil law and form a clear guideline for the improvement of civil legislation. The study analyses the areas of updating the civil legislation of Ukraine and the Republic of Kazakhstan based on both general (historical, comparative, system analysis) and special (specific-sociological, formal legal, legal-technical, etc.) methods. One of the most reasonable ways to ensure continuity of legal regulation of civil relations and ensure the modernisation of the legal basis for the development of the sphere of social and legal relations in the long term is the approach that should preserve all the achievements of existing civil codes, considering modern European approaches and the specific features of civil and business turnover*

Keywords: *updating of civil legislation, the concept of updating the Civil Code of Ukraine, amendment of the Civil Code of Ukraine, reform of civil legislation, abolition of the commercial code of Ukraine*

INTRODUCTION

Since the adoption and entry into force of the Civil Code of Ukraine (hereinafter referred to as the CC of Ukraine), considerable changes have taken place both in the development of public relations and in their legal regulation. Recodification of the civil legislation of Ukraine and modernisation of the Civil Code of Kazakhstan are aimed at systematically updating the relevant legal array. The work on updating civil legislation is aimed at developing such an important component as the national legal system, as stated in the concept of updating the CC of Ukraine (hereinafter referred to as the concept of updating the CCU) [1]. It is worth emphasising the conditionality of *"European integration orientation of all components of society"* which allowed the authors of the concept of updating the CCU to adhere to the unambiguous logic of the proposed legal reform (considering the logic of transformation of the entire society) and to determine reasonable and clear guidelines and methods of reform [1].

The concept of updating the CCU is characterised by validity, deep content, and logical construction. Its main areas outline the development of civil law in Ukraine within the continental legal system, that is, as a system of the Civil Code, considering the modern experience of recodification of the civil codes of France and Germany. European models of legal regulation of private law relations are also considered, including the "principles, definitions, and model rules of European private law" Draft Common Frame of Reference (DCFR), Lando principles – Principles of European Contract Law (PECL), Principles of European Tort Law (PETL), etc. This approach allows preserving the integrity of the national legal system and ensuring the validity and prospects of further development of legal culture in accordance with the cultural and legal development of Western European states.

The prepared concept of updating the CCU and the format of recodification of civil law are based on a comprehensive analysis of the experience of the CC of Ukraine, the results of judicial and business practice,

civil doctrine, and the approaches developed by private law are the main factors and prerequisites for recoding. The concept of updating the CCU is based on the audit of all civil legislation, studying the experience of codification of continental law countries. The Republic of Kazakhstan is also conducting an audit of civil legislation. This process is called "modernisation of the Civil Code of the Republic of Kazakhstan" or "main areas of development of civil legislation". Proposals for improving the civil legislation of the Republic of Kazakhstan were developed as part of the preparation of the draft concept of legal policy of the Republic of Kazakhstan for the period 2021-2030. This draft concept of legal policy was developed by the Institute of legislation of the Republic of Kazakhstan. The section "Civil Law" was prepared jointly with the Research Institute of Private Law [2].

The development and improvement of the CC of the Republic of Kazakhstan (hereinafter referred to as the CC of the Republic of Kazakhstan) is an urgent task. Therewith, the factors and prerequisites for such modernisation, in general, are the same circumstances present in the concept of updating the CCU, called prerequisites for recodification of the CC of Ukraine. As a task of modernising Ukrainian civil law, it is advisable to specifically emphasise the need for: (i) a final rejection of certain legal structures and approaches inherited from the Soviet legal system and still available in Ukrainian civil legislation, and (ii) rapprochement with the legislation of developed legal orders in continental Europe. Firstly, it is worth emphasising once again that there is no need to adopt a new CC of the Republic of Kazakhstan or considerably redraw the current one. The current CC of the Republic of Kazakhstan over the past 25 years has proved its effectiveness in regulating civil law relations, withstood numerous attacks on it (one of the recent unsuccessful provocations is covered in: [3]).

For example, such an attempt was the presentation in 2020 by a group of young people "the new CC of the Republic of Kazakhstan" to the leadership of the Ministry of Justice. However, all this was quite reasonably described as *"a pacifier wrapped in a beautiful packaging"* [3], *"shameless actions of beginners and, frankly, unsuccessful scientific and pedagogical workers of KAZGUU" and "unsuccessful circus performance"* [4]. Given that both Ukraine and the Republic of Kazakhstan have a lot in common in their public and legal spheres, conducting a parallel comparative analysis of updating civil legislation is extremely relevant and timely. A considerable number of changes and additions were made to the CC of the Republic of Kazakhstan, which can be characterised in different ways in the context of their validity and quality of processing. Attempts were repeatedly made to improve the CC of the Republic of Kazakhstan on a more or less large scale, but not all of them were completed successfully. Not well-thought-out and reasonable additions and changes are made to the CC of the Republic of Kazakhstan to this day.

Moreover, there is no systematic modernisation of the Kazakhstan CC, which was proposed by the collective body of the Institute of Private Law [2]. The main factors of such an unfavourable situation (which distinguish the situation in the development of Kazakhstan's civil legislation from the process of recodification of the CC of Ukraine) are the following interrelated and interdependent circumstances: (i) lack of a systematic approach; (ii) lack of a unified concept for the development of civil law; (iii) lack of clear guidance in the development of civil legislation; (iv) lack of support for state institutions in performing work on the modernisation of Kazakhstan's legislation on a systematic basis, including using the scientific potential of national private law science.

The purpose of this study is a comparative analysis of the main ideas of recodification of the CC of Ukraine and modernisation of the CC of the Republic of Kazakhstan to develop a systematic approach and unified concept of civil law development and the establishment of a clear guideline for the improvement of civil legislation.

1. MATERIALS AND METHODS

The essence of the studied phenomena and processes determines the choice of principles, techniques, means, and methods of research activity. During the comparative analysis of the main ideas for recodification of the CC of Ukraine and modernisation of the CC of the Republic of Kazakhstan, a set of general scientific, special methods and techniques of research were used. To ensure the comprehensiveness, completeness, and objectivity of research, correctness and consistency of conclusions, these methods were used in interrelation.

In conducting this study, the main methodological tool was the comparative analysis, which was used to study the legal systems of Ukraine and the Republic of Kazakhstan by comparing the relevant legal provision, institutions, principles, etc. and the practice of their application. Upon using the logical method of comparison, the similarity and difference between updating the civil legislation of these states are covered, their similar stages and connection with other phenomena are determined, the general and special in their development. It is the opportunity to identify common features and features that are manifested in updating civil legislation in Ukraine and in the Republic of Kazakhstan that is quite an effective tool for solving complex

problems of improving legal mechanisms for regulating civil relations. The study also applies system analysis, the methodological basis of which is dialectics. The purpose of this method is to systematically study the civil legislation of Ukraine and the Republic of Kazakhstan, provided that the system of legislation is considered in general, considering its purposes and functions, structure, and all external and internal relations. This method was used in the study of individual institutions of civil law, in particular the law of rights and obligations, institutions of the general part (objects, transactions, the statute of limitations, representation, etc.) that require systematic updating. The method of system analysis allowed determining the interrelationships between individual legal constructions in the legislation of Ukraine and the Republic of Kazakhstan and the interdependence of their influence. The historical method allowed studying the features of legal regulation of private law relations in Ukraine and the Republic of Kazakhstan, identifying the prerequisites, and establishing the factors of updating the Civil Code of Ukraine and modernising the Civil Code of the Republic of Kazakhstan.

A certain place in the study of legal phenomena is occupied by special methods: specific-sociological, formal-legal, legal-technical etc. The specific-sociological method, which is expressed in considering the state and law not at the level of abstract concepts, but based on actual social facts, rules established in society, was used to identify contradictions between the current civil legislation and the needs of social development. Such techniques as the analysis of the Civil Code of Ukraine and the Civil Code of the Republic of Kazakhstan, the concept of updating the Civil Code of Ukraine allowed concluding that the ideas of modernisation of the Civil Code of Ukraine, which are presented in the concept, facilitate adapting it to the present realities, in particular dictated by modern European approaches and the level of civil and business turnover. The formal legal method was used to analyse the legal provision of relevant legal regulations that define certain concepts that are given in the civil legislation of Ukraine and the Republic of Kazakhstan, provide a list of principles of civil legislation, determine the list of organisational and legal forms of legal entities, etc. Upon using the legal and technical method, external, obvious aspects of legal phenomena, in particular objects of civil rights, the statute of limitations, etc. were identified to formulate their definition in a concise form and indicate the signs of these phenomena.

2. RESULTS AND DISCUSSION

An important condition for the systematic updating of the civil legislation of Ukraine (not only the CC) is the complete abolition of the commercial code of Ukraine; this thesis is clearly substantiated in the concept of updating the CCU [1]. In 2015, the Republic of Kazakhstan adopted the Commercial code. This code, being compiled from dozens of different special laws that were in force even before its adoption, which affected the validity or integrity of the legal regulation of certain aspects, in reality, causes confusion, creating difficulties for entrepreneurs and the state (state bodies and courts), for example, when applying the rules prohibiting a dominant position in the market.

In this regard, in a monographic publication *"Legal regulation of entrepreneurial activity in the post-Soviet period"* Ukrainian and Kazakh specialists in civil law analysed in detail the texts of the commercial code of Ukraine and the Republic of Kazakhstan and clearly showed all the harmfulness and danger to the economic turnover of parallel regulation by two codes, one of which is based on an erroneous methodological reference [5]. Therefore, the abolition of the commercial code in Kazakhstan will contribute to a more effective and reasonable modernisation of the private law system.

A positive conclusion, which is substantiated in the concept of updating the CCU, is the provision on the need to clarify the range of relations regulated by civil legislation and ***recognition of the sphere of corporate relations*** as one of the *"spheres of social reality in which private law relations are located, regulated by civil legislation"* [6, p. 41]. It is fundamentally important to indicate in the CC of the Republic of Kazakhstan that corporate relations are regulated by civil legislation and no other. This should be enshrined in Article 1 of the CC of the Republic of Kazakhstan. Therewith, it is necessary to determine with a proper level of unambiguity that corporate relations are those related to the establishment of corporations, participation in corporations and their management.

As a rule, corporations are established by the free expression of the will of private entities (including in cases where they are established by the state and public legal entities to take part in civil and commercial turnover) for independent performance of commercial or other activities that are not prohibited by law. In this regard, corporations with independent legal capacity are also private entities that take part in civil turnover. Accordingly, disputes between participants in corporate relations (corporate disputes) can only be resolved in civil proceedings or through alternative dispute resolution.

Therewith, it is important to have a clear understanding of who can be recognised as a subject of corporate relations. These include the corporation itself, its members, and officials. Only they can act as

parties to a corporate dispute, can be subject to criminal and administrative-legal prosecution measures provided for in the law for socially dangerous acts committed in the course of corporate governance. Attribution of a person to participants in corporate relations is based on the legal definition of corporate relations, as proposed above. The legal definition of subjects of corporate relations is impractical from the standpoint of generally recognised legal techniques. However, the development of a unified position is possible (and even appropriate) in judicial practice and/or based on the results of its generalisation. The above position is reflected in the recommendations for improving the corporate legislation of the Republic of Kazakhstan and *"aimed at improving the legal regulation of corporate legal relations, corporate governance, activities of corporate groups and the legal status of holding companies"* [7].

The approach reflected in the CCU update concept deserves support, according to which ***the principles of civil law*** enshrined in the CC should cover not only the law but also "*the functioning of the entire private law system or its defining parts".* Therewith, the concept of updating the CCU suggests that ***list of basic principles*** of civil legislation was not finalised [1]. Both proposals are explained by the fact that this approach will increase the legal tools for judicial practice. If the validity of the definition of general principles of private law is not in doubt, then giving the courts the opportunity to define new principles of private law (and even the assumption that such principles are established by legal acts other than the CC) seems inappropriate in view of the fact that objectivity in determining other general principles of the private law system will not be respected. An interesting and rather promising proposal is that the current principle of freedom of contract should be formulated as a broader one – ***the principle of freedom of agreement*** [1]. Therewith, it is proposed to consider further expanding the content of this principle in such a way as to generally declare freedom to enter civil law relations (admittedly, while meeting the requirements for reasonable and fair behaviour of the subjects of legal relations). The proposal to include ***"conscious and responsible human interaction with autonomous robots and artificial intelligence"*** among the principles important for modern civil society also attracted attention [1].

However, it is worth remembering that only persons and subjects of law can interact with each other. The above should be considered when consolidating this principle to prevent the recognition of civil legal personality for robots and artificial intelligence [8]. This can have far-reaching and not always favourable consequences for humanity. Neither robots nor artificial intelligence should be recognised as subjects of law. At the level of the Civil Code, it is advisable to fix their legal regime as a separate category of objects of civil rights, exclude human interaction with them, allowing only human influence on them. Regarding individuals as subjects of law, it is crucial to include general provisions in the CC of Ukraine ***on legal entities under public law*** and recognise them as participants in civil legal relations. The thesis that in this case *"there is no need to preserve the vast majority of provisions of the current chapters of the CC of Ukraine on the legal forms of their* [i.e., state, Autonomous Republic of Crimea, and territorial communities] *participation in civil relations, including their responsibilities according to obligations"* [1].

The construction of legal entities under public law deserves to be included in the CC of the Republic of Kazakhstan. Moreover, it is advisable to characterise such novelties as a special component of the proposed reform of the system of legal entities [9]. In this way, considering the experience of Germany, other developed countries (including those that are members of the OECD) and a number of countries of the former USSR, the Civil Code of the Republic of Uzbekistan is currently being reformed, and such development [10]. It is worth noting that even the concept of legal policy of the Republic of Kazakhstan for the period from 2010 to 2020 raises the issue of the possibility of *"resolution of the issue of dividing public and private law into legal entities"* [11]. In this regard, the study conducted in the Republic of Kazakhstan on the legal status and activities of legal entities under public law in foreign legal orders is of interest. A report on this work was prepared in 2018 [12]. An important area of recodification of civil legislation is the updating of real law regulations. In this context, the proposal contained in the CCU update concept to provide the CC of Ukraine with ***provisions on the social function of property should be supported***: *"Property obliges, and the owner is obliged to exercise due regard for common interests, and individual interests"* [1].

In general, the recognition of the existence of the common good and/or public interest, the possibility for everyone to enjoy the objects of the common good, and for the relevant entities – the opportunity and/or obligation to act for the purpose of fulfilling the public interest is a condition for the creation and operation of legal entities under public law. In turn, compliance with the general (public) interest is a condition and limit for performing certain legal actions in relation to property that is in public or private ownership or conducting activities by a subject of public interest.

Very important points of the CCU renewal concept are the ***"abandonment of archaic constructions of legal entities*** (*primarily enterprises*)" and the "***abandonment of the right of economic management and the right of operational management and their replacement by market constructions***" [1]. The need for

a considerable revision of these two institutions – a legal entity and property rights – is the main reason and area of the processes of modernisation of civil legislation in all post-Soviet republics. The initial focus on the development of a new civil law in accordance with the European tradition allowed from the very beginning abandoning the mentioned legacy of Soviet law and adopting generally recognised (substantiated and promising) institutions of modern law and order or take time to move to the use of appropriate models for regulating civil law relations. However, the position formulated by Professor O.L. Makovsky on the tasks to be solved by the modernisation of the Civil Code of the Russian Federation is subject to approval: "*the two main and most difficult tasks in all respects ...– development in the national civil legislation based on the supplemented and changed provisions of the CC of two full-fledged branches – corporate and property law*". [13].

The focus on solving these problems was formulated during the preparation of the concept for the development of civil legislation of the Russian Federation in 2009 [13]. It is also clearly manifested both in the draft updated CC of Uzbekistan 2020 [10] and in the concept of updating the CCU discussed in this study. The same two most important tasks are also relevant for Kazakh law. It is necessary to agree with the characteristic contained in the concept of updating the CCU, according to which state-owned enterprises, which are characterised in the concept of updating the CCU as "*Soviet framework*", "*in the interests of economic growth, they should be replaced by market instruments in the form of organisational and legal forms of joint-stock and other companies*" [1]. Equally substantiated is the position formulated in the concept of updating the CCU that the right of economic management and the right of operational management are "*relics of the socialist past, artificially created for the needs of the state economy, limited real rights that have no analogues in developed legal systems and do not correspond to the concept of real law*" [1].

The proposal for a complete rejection of these legal frameworks is an organic and necessary element of a comprehensive perception of the concept of updating the CCU of the entity subject to public law, including the regulation of transparent mechanisms for monitoring the activities of the entity subject to public law, and will also eliminate ambiguous practices in the activities of state bodies for managing state assets. Returning to the main ideas regarding the institution of persons in civil law, it is advisable to express full support for the proposal contained in the concept of updating the CCU that the CC of Ukraine should define as ***an exhaustive list of organisational and legal forms of legal entities*** [1]**.** Determining the list of such forms, at least for commercial organisations, based on the numerus clausus principle is the standard of modern legal regulation. This is not a task for Kazakh law, since the list of acceptable organisational and legal forms for commercial organisations enshrined in civil code is finalised.

Therewith, the establishment of not only an exhaustive but also a reasonably defined list of organisational and legal forms of non-profit organisations seems to be an urgent problem for Kazakhstan's civil law. In general, the modernisation of Kazakhstan's corporate law, the reform of legislation on non-profit organisations, including the revision of the criteria for distinguishing these two types of legal entities, seem to be important components of the proposed general reform of the institution of subjects of civil law relations and the system of legal entities [2; 9]. The proposal to ***critically revise the provisions of the Law of Ukraine "On Business Associations"*** [1] is reasonable. As already noted, the same task of modernising corporate legislation is relevant for Kazakh law. An important place in the concept of updating the CCU is occupied by provisions on objects of civil rights.

Regarding objects of civil rights, the concept of updating the CCU suggests:

"§1.12. Expanding the list of objects of civil rights. The regulation of the CC on objects of civil rights is proposed to be expanded considering the development of civil turnover and the appearance of objects unknown at the time of the creation of the CC. Firstly, it refers to the following objects: information products, information resources, information systems, etc.; objects of rights that are created and located on the Internet; cryptocurrencies; personal data, personal information, autonomous robots, artificial intelligence, digital content, etc. It is advisable to expand the list of objects of civil rights to include corporate rights, which in practice have long become a turnover object of civil turnover, and objects of personal non-property rights, which, having been embodied in an objectified form, have acquired signs of turnover, and are used in commercial activities (see §2.7). It is also worth analysing the expediency of including in the list of objects of civil rights a number of objects, the appearance of which is due to the development of medicine (in particular, biological material)" [1].

Therewith, the position regarding objects should be reasonable. In the proposals of the Research Institute of Private Law, the idea of ordering a disorderly set of objects of civil rights is given, as is now in Article 115 of the CC of the Republic of Kazakhstan [2]. A conceptual revision of the issues of determining the legal nature and classification of objects of civil rights and clarifying their legal regime is required, determining the place in this classification of such objects as rights of claim and objects of intellectual property rights. In the proceedings on the claims of the Paul brothers [14] against the Republic of Kazakhstan, there were attempts

to foreclose on the Kazakhstan National Fund. The main argument that allowed rejecting these claims was the proof that there is no right of ownership at the expense of the National Fund, but there is a right of claim. Therewith, during the procedures, the theoretical study of the right of claim as an object of civil rights happened to be insufficient [14].

As a general rule, all objects of civil rights should be subject to the rules on the turnover of things. However, it is necessary to clearly distinguish between the legal regimes of different types of objects, having a turnover within the same market with a similar purpose, but in different forms (for example, in the areas of circulation of securities, financial instruments, making payments). To simplify the turnover of various types of property and recognise rights to them, it is necessary to introduce the concept of a single object, not only for land plots and other objects related to them functionally and (or) physically but also for other objects of civil rights. It is necessary to distinguish the "land" as an object of real law of the state from the public law concept "territory", a sphere of the sovereignty of the Republic of Kazakhstan.

As already noted, the concept of updating the CCU proposes to expand ***the list of objects of civil rights***, providing (among other things) cryptocurrency, personal data, "digital content", and corporate rights in the CC of Ukraine. These proposals correspond to the relevant problems [1].

Therewith, the question ***of the recognition of cryptocurrencies as an independent type of object of civil rights*** is quite ambiguous and quite controversial. Such recognition will require an unambiguous legal qualification of the cryptocurrency as a special object of civil rights, the inclusion in the CC of a legal definition that allows identifying special qualification features of such a cryptocurrency, and the establishment of a legal regime of the cryptocurrency (just as the provision of the CC reflect the legal regime of money, securities, real estate, and other property goods). This is hardly reasonable at the moment. If cryptocurrency is defined as a form or digital form of money, or the concept of digital currency and/or a separate form of money, that is, the national currency is extended to cryptocurrency (similar to the declared approaches of the Central Bank of Russia [15] and the National Bank of Kazakhstan [16]), it is advisable to include the corresponding warnings in the article devoted to money as objects of civil rights. In this case, a special definition of cryptocurrencies as a separate type of civil rights object seems impractical.

It is not considered reasonable to define ***personal data as a special type of object of civil rights.*** Personal data cannot be the object of trade or the subject of civil transactions. On the contrary, personal data is subject to legal protection, and the rights to personal data are an object of special use and special legal protection. In general, this approach is quite reasonably reflected in the concept of updating the CCU, according to which it is reasonably recommended in the provision of the CC to ensure civil protection of personal data rights and strengthen privacy rights [1]. The proposal requires additional substantiation ***on the definition of digital content as a separate type of civil rights object***. Perhaps the groundlessness of such a proposal is due to difficulties in understanding what this definition means in the concept of updating the CCU. The question of what should be updated legislation in the field of regulating relations related to the right to information, in the context of the development of virtual systems and networks, is now quite actively studied by researchers [17].

The concept of content (i.e., certain content or information) refers to a certain entity that can undoubtedly be recognised as an object of civil rights. Such an entity can have various forms, including paper, electronic, digital, etc. If the content is considered a separate object of civil rights as a certain set of information that has a market or other value, the recognition of content in general (regardless of its objectified forms) as a separate type of civil rights seems substantiated. If digital content is only one of the forms of existence of a special object of civil rights and this form does not entail the establishment of a separate legal regime for it of a specific type of objects of civil rights, the recognition of digital content as a special object of civil rights (as opposed to any other content or content available in any other form) seems unsubstantiated. A separate legal regime should be established in relation to the essence, that is, the object of civil rights, and not the form of existence of such an object.

The influence of European law was reflected in the sections of the concept of updating the CCU ***on contractual obligations***. Proposals for recoding these sections are based entirely on European documents (mainly DCFR, and PECL, GISG), which have their own theoretical basis [18]. Therewith, the UNIDROIT principles were almost not used. It is advisable for the Republic of Kazakhstan to accept such examples of the implementation of European treaty law. Although, in the draft of the new concept of legal policy [19] and in the proposals of the Research Institute of Private Law [2], only fragmentary proposals were used (on the purchase and sale of real estate, on concessions, on insurance, on framework and subscription contracts, on the purchase and sale of securities, etc.). Changes in the statute of limitations proposed in the concept of updating the CCU seem promising. Especially important is the actual need to correct the ***concept of a statute of limitations***, which is contained in the CC of Ukraine. It should be agreed that the definition of the statute of limitations as the period within which a person can apply to the court with a claim to protect their civil right

or interest is erroneous. The expiration of the statute of limitations may not be an obstacle to applying to the court for protection of the violated right. It is more correct to consider the statute of limitations the period during which a claim that has arisen due to violations of a person's right or a legally protected interest can be satisfied, while the claim for the protection of the violated right should be accepted for consideration by the court regardless of the expiration of the statute of limitations.

The proposal contained in the CCU renewal concept on *"**The definition of prolonged statutes of limitations** for especially valuable for the whole society environmental objects – valuable lands, natural monuments, natural parks, water and forest lands, etc." is also worthy of support* [1]. This recommendation is also relevant for Kazakh law. Notably, it may be possible to set longer statutes of limitations for certain requirements in legal regulations than their general term of three years. Moreover, there may even be claims that are not covered by the statute of limitations. Therewith, civil codes may not directly indicate an increase in the statute of limitations in connection with the protection of objects of public interest or other objects that constitute the so-called "common good".

However, the establishment of longer limitation periods for the protection of a public (that is to say, a general) interest appears important because of at least two circumstances: (i) the need for a comprehensive and most complete perception by the national legal system of the concept of a legal entity under public law, and (ii) the expediency of creating additional barriers to corrupt activities and other abuses by public authorities and officials in managing state property and objects of national or other public importance, misappropriation of objects of public importance, and the development of more favourable legal conditions for the return of objects of public importance under public and state control. Ideas on contract and inheritance law, personal non-property rights of subjects of civil law, regulation of the results of creative activity, civil liability, the theoretical substantiation of which is given in a number of modern publications [20-22], are also fixed in the concept of updating the CCU [1].

CONCLUSIONS

The CCU updating contains a huge number of ideas and suggestions for the development and improvement of the CC and civil legislation of Ukraine. This study provides a comparative analysis of only a small part of these ideas and offers the way they can be used in modernising Kazakhstan's civil law. It is impossible to analyse the entire content of the concept of updating the CCU (or thoroughly react to all the ideas proposed in it) in one study.

It is advisable to draw attention to a very important point reflected in the entire content of the concept of updating the CCU and which was consolidated in its section on the expected results of modernisation: the implementation of the proposed concept will allow, on the one hand, preserving all the achievements of the current CC of Ukraine, and on the other - adapting it to the present realities, including dictated by modern European approaches and the level of civil and business turnover. This approach, as the most reasonable, can also be applied in modernising the Civil Code of the Republic of Kazakhstan. It seems to be one of the most reasonable from the standpoint, on the one hand, of ensuring continuity of legal regulation of civil relations, on the other hand, of ensuring the modernisation of the legal basis for the development of the sphere of social and legal relations in the long term.

The above does not refer to a complete rejection of the current CC of Ukraine, on the contrary – each of its provisions is subjected to deep analysis and assessment of its relevance in the context of the purposes that are set regarding the reform and its content. Considering the commonality of factors and prerequisites, including the tasks of modernising the civil legislation of Ukraine and the Republic of Kazakhstan, it is essential to note that a radical restructuring of the Civil Code of the Republic of Kazakhstan and the Civil Code of Ukraine are not required, while their modernisation should consist in clarifying the current provisions and clearly fixing the provision that reflect new phenomena for civil law and socio-economic realities and changes in public relations regulated by this code. For that purpose, firstly, it is necessary to conduct an audit of the entire Civil Code of the Republic of Kazakhstan, as is happening in Ukraine, and eliminate inaccuracies and factual errors that still occur.

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