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LEGAL REPRESENTATION AS A FORM OF LEGAL ASSISTANCE IN CIVIL PROCEEDINGS

Development of a national judicial system and the effectiveness of justice in civil cases depend on the improvement of legal regulation of individual institutions of civil procedure and complex solution of problems existing in the modern procedural science and jurisprudence. One of these institutions is a legal representation, the issues of which have been considered by Ukrainian and foreign representatives of science of civil procedural law, including E.V. Gusiev, O.H. Drizhchana, V.M. Ivakin, I.A. Pavlunyk, Y.A. Rozenberh, S.O. Khalatov, S.A. Chvankin, V.M. Sherstiuk, M.Y. Shtefan.

According to Article 59 of the Constitution of Ukraine everyone has the right to legal assistance and is free to choose the defender of his or her rights. This constitutional requirement has a general nature and applies to the protection of the rights in criminal and in civil, commercial and administrative proceedings. European Court of Human Rights has repeatedly drawn attention to the fact that the effect of item "c" claim 3 Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms is not limited to criminal proceedings and is subject to an expansive interpretation, because the right to legal assistance is part of the right to a fair trial, which may induce the state to provide compulsory

legal assistance in civil cases because of the complexity of the process or in cases where assistance of a lawyer is necessary to ensure effective access to justice.

In the theory of civil procedural law and judicial practice the possibility of participation in civil proceedings of foreign lawyers has been the subject of long-term discussion. Given the rules of civil procedure law, defining the range of persons who may be members of the court (Art. 39, 40 of the Civil Procedure Code of Ukraine), subject to statutory restrictions on the right to perform representative functions in the courts and the lack of any restrictions based on citizenship (Article 41 of the CPC), participation of foreign lawyers in civil proceedings is admissible. This approach to resolve this issue is introduced in the Law of Ukraine "On the Bar and Legal Practice". Status of foreign attorney determines certain characteristics of legal practice of such persons in Ukraine. Thus, the lawyer of a foreign state may exercise legal profession in Ukraine, if he/she is included in the Unified Register of Advocates of Ukraine in the manner prescribed by law (Part 4 of Article 4 and Article 59 of the Law of Ukraine "On the Bar and Legal Practice"). Foreign attorney without registration in that register is not allowed to practice law in Ukraine.

In summary we note that in terms of the constitutional right of individuals and legal entities to receive effective legal assistance actually important is priority development of legal representation in court on a professional basis, which serves as the basis for its classification into professional and non-professional. Based on the content of legal assistance, its provision in the form of legal representation in court should be exercised by lawyers, including foreign ones, and other experts in the field of law.