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СОДЕРЖАНИЕ И ПРОЯВЛЕНИЕ ПРИНЦИПА СОСТЯЗАТЕЛЬНОСТИ В ГРАЖДАНСКОМ ПРОЦЕССЕ РЕСПУБЛИКИ МОЛДОВА И ЗАРУБЕЖНЫХ СТРАН

CONTENT AND MANIFESTATION OF THE PRINCIPLE OF COMPETITION IN THE CIVIL PROCEDURE OF THE REPUBLIC OF MOLDOVA AND FOREIGN COUNTRIES

CONŢINUTUL ŞI MANIFESTAREA PRINCIPIULUI CONCURENŢEI ÎN PROCEDURA CIVILĂ A REPUBLICII MOLDOVA ŞI A ŢĂRILOR STRĂINE

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ABSTRACT:
CONTENT AND MANIFESTATION OF THE PRINCIPLE OF COMPETITION IN THE CIVIL PROCEDURE OF THE REPUBLIC OF MOLDOVA AND FOREIGN COUNTRIES

The principle of adversarial law is one of the fundamental functional principles of civil procedural law that creates favorable conditions for clarifying all the circumstances that are significant for the case and for the court to make a reasoned decision.

Analysis of the organization and functioning of modern civil proceedings on the basis of adversarialism and equality of the parties is of great importance for resolving the issue of directions for the development of this principle at all stages of the civil process.

Taking into account the importance of the adversarial principle, the author reveals the features of the content and implementation of the adversarial principle in the civil process of the Republic of Moldova and foreign countries.

Keywords: *civil process, principle, competition, equality, justice, functional, stage.*

JEL Classification: K40
Universal Decimal Classification: 347.91/.95

REZUMAT:
CONŢINUTUL ŞI MANIFESTAREA PRINCIPIULUI CONCURENŢEI ÎN PROCEDURA CIVILĂ A REPUBLICII MOLDOVA ŞI A ŢĂRILOR STRĂINE

Principiul contradictorialității este unul dintre principiile funcționale fundamentale ale dreptului procesual civil, care creează condiții favorabile pentru clarificarea tuturor împrejurărilor semnificative pentru cauză și pentru ca instanța să ia o hotărâre motivată.

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Analiza organizării și funcționării procesului civil modern pe baza contradictorialismului și egalității părților este de mare importanță pentru soluționarea problemei direcțiilor de dezvoltare a acestui principiu în toate etapele procesului civil.

Ținând cont de importanța principiului contradictorialității, autorul relevă trăsăturile conținutului și implementării principiului contradictorialității în procesul civil al Republicii Moldova și al țărilor străine.

Cuvinte cheie: *proces civil, principiu, competiție, egalitate, justiție, funcțional, etapă.*

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РЕЗЮМЕ:

СОДЕРЖАНИЕ И ПРОЯВЛЕНИЕ ПРИНЦИПА СОСТЯЗАТЕЛЬНОСТИ В ГРАЖДАНСКОМ ПРОЦЕССЕ РЕСПУБЛИКИ МОЛДОВА И ЗАРУБЕЖНЫХ СТРАН

Принцип состязательности – один из основополагающих функциональных принципов гражданского процессуального права; он создает благоприятные условия для выяснения всех имеющих существенное значение для дела обстоятельств и вынесения судом обоснованного решения.

Анализ организации и функционирования современного гражданского судопроизводства на основе состязательности и равноправия сторон имеет большое значение для решения вопроса о направлениях развития этого принципа во всех стадиях гражданского процесса.

Учитывая значимость принципа состязательности автором в статье раскрываются особенности содержания и реализации принципа состязательности в гражданском процессе Республики Молдова и зарубежных странах.

Ключевые слова: *гражданский процесс, принцип, состязательность, равноправие, правосудие, функциональные, стадия.*

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The problems of civil procedure, both in the Republic of Moldova and in foreign countries at different stages of its development, were considered quite extensive, scientists focused their attention on almost every existing issue. One of the main issues is related to the operation of the adversarial principle in civil proceedings. The recent discussion about the role of the court in the process of collecting evidence in a case is relevant, since ambiguous and sometimes diametrically opposed points of view on this issue (especially if this divergence of views concerns different judicial authorities) leads to significant costs in the administration of justice. The relevance of the work also lies in the fact that the principle of adversarialism – one of the fundamental principles of civil procedural law - creates favorable conditions for clarifying all the circumstances that are significant for the case and for the court to make a legal and informed decision. By virtue of the adversarial principle, the parties and other persons involved in the case, if they wish to achieve the most favorable decision for themselves or the persons in defense of whose rights the claim is brought, are obliged to inform the court of the legal facts that are significant for the case, indicate or present to the court evidence confirming or refuting these facts, as well as perform other procedural actions provided for by law aimed at convincing the court of their correctness.

This principle is closely related to the principle of legality and dispositivity. The condition for the implementation of the principle of competition is the procedural equality of the parties, since the parties can compete in defending their subjective rights and interests only in the same legal conditions using equal procedural means.

The principle of adversarial and equal rights of the parties is one of the most important areas of judicial reform and, due to the above, being new and little-studied, it needs improvement - deep, systematized, and not fragmentary.

Analysis of the organization and functioning of civil proceedings on the basis of adversarialism and equality of parties in the modern Republic of Moldova is of great importance for resolving the issue of directions for the development of this principle in all stages of the civil process.

The adversarial principle creates favorable conditions for clarifying all the circumstances that are significant for the case and for the court to make a reasoned decision.[1]

The principle of competition is one of the guarantees of justice, which at the same time serves as a tool for protecting the individual.

Being a very capacious principle of legal proceedings, adversarialism is at the same time a way of researching and evaluating evidence, a way for participants in the process to defend their own or represented interests, and a way to implement three independent procedural functions: prosecution, defense, and resolution of the case.

Adversarialism is only a tool of judicial knowledge that provides far from unambiguous results. It all depends on whose hands the instrument is in, i.e. from judges, their will, initiative, activity.[2]

Due to the adversarial principle, the parties and other persons involved in the case, if they wish to achieve for themselves or the persons in defense of whose rights the claim is brought, the most favorable decision, are obliged to inform the court of the legal facts that are significant for the case, indicate or present to the court evidence confirming or refuting these facts, as well as perform other procedural actions provided for by law aimed at convincing the court of their correctness.[3]

The procedural position of the parties is characterized by providing them with ample opportunity to defend their point of view through active participation in the trial using procedural remedies.[4]

The adversarial principle is primarily implemented in the process of proof, i.e. establishing the presence or absence of circumstances justifying the demands and objections of the parties, as well as other circumstances relevant for the proper consideration and resolution of the case, i.e. associated with the factual side of the case (resolving issues of fact).[5]

Due to the onset of "adversarial action," the parties convince the court of the correctness of each of their cases by presenting evidence, citing facts and citing legal reasoning.

The principle of adversarialism is not so much the right of a participant to prove that he is right by presenting his opinions and proving their credibility before the court, but rather:

- the right of each party to challenge any statement of its procedural opponent;
- the obligation of the parties to submit their evidence to the court in advance to ensure the right of other participants to refute it
- prohibition for the court to decide the case in the absence of the party to whom the legal force of the court decision will be extended;
- prohibition for the court to use in its decision arguments that are not used by the parties to assert their legal position before the court;
- prohibition for the court to refer in its decision to the arguments of one of the parties, unknown to the procedural opponent, who is thus deprived of the opportunity to challenge them;
- the right of a party absent during any procedural action taken by the court to appeal its results.[6]

In accordance with the adversarial form of civil proceedings, not only the presentation and examination of evidence, but also all civil proceedings as a whole take place in the form of a dispute, competition between the parties and other persons involved in the case.[7]

The principle of competition occupies a central place in the system of ensuring fair justice. The constitutional consolidation of this principle largely predetermined its special role in the judicial process and its influence on the rules of legal proceedings. The main idea of the principle under

[1] Arseni I. The principle of competition in the civil process of the Republic of Moldova and foreign countries. Kishinev. In : Law and Life, 2014, No. 2, p. 32.

[2] Boykov A.D. The third power in Russia. Essays on justice, legality and judicial reform 1990-1996. M., 2002, p. 65.

[3] Reshetnikova I. V. Adversarial nature of civil proceedings through the prism of judicial practice // Law . - 2005. No. 3, p. 17-18.

[4] Civil process. Textbook for universities. Rep. editors prof. K.I. Komissarov and prof. Yu.K. Osipov. Second edition, revised and expanded. M.: BEK Publishing House, 2003, p. 31.

[5] Civil process. Textbook. 3rd ed., rev . and additional Ed. M.K. Treushnikova . M.: Gorodets- izdat LLC, 2002, p. 58.

[6] Arseni I. The principle of competition in the civil process of the Republic of Moldova and foreign countries. Conference „Abordări Europene in cercetare şi inovare". Chisinau. Vector European, No. 1, 2014, p. 137.

[7] Civil process. Textbook for universities. Ed. M.S. Shakarian . 2000, p. 43.

consideration is the parity of the burden of proof on the persons involved in the case. It instructs participants in the process to defend their case by presenting evidence, participating in their research, and also expressing their thoughts on any issues raised at the court hearing.

The principle of competition is proclaimed by Art. 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms of November 4, 1950. and is a fundamental element of the right to a fair trial[1]. In Art. Article 6 states that everyone has the right to a fair trial. This formulation includes many aspects of the due process of justice, namely the right of access to justice, the right to a trial in the presence of the accused, freedom from compulsion to testify adversely to oneself, equality of arms, adversarial nature of the trial and a reasoned judgment. Each party to the proceedings must be guaranteed a reasonable opportunity to present its case in conditions that do not place it in a substantially less favorable position in comparison with its opponent, the position of the parties in the proceedings must be fairly balanced, as well as the fundamental opportunity for the parties, as in in both criminal and civil cases, be informed of all evidence presented or observations recorded and have the opportunity to comment on them. In this context, it is necessary to attach special importance to the external attributes of the fair administration of justice[2] Any actions of the parties that meet their substantive and (or) procedural interests should be considered a manifestation of adversarial behavior. IN In the case of Van Orshoven v. Belgium, in which the plaintiff in disciplinary proceedings before the Belgian courts did not have the opportunity to respond to written submissions made during the hearing before the Attorney General, the Court concluded that there had been a violation of the right to adversarial proceedings.[3] Thus, the European Court of Human Rights, in its decision of December 15, 2002 in the case "Cañete de Goñi v. Spain"[4], declared the complaint of Mrs. Cañete de Goñi admissible on the basis of paragraph 1 of Art. 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms due to the fact that the applicant did not receive a summons to court as an interested party and the result of the trial adversely affected the interests of the applicant.

The adversarial principle means that the parties to the process have the right to familiarize themselves with all the evidence and comments attached to the case, and to express their opinion in connection with the specified evidence and comments (see, among other sources, court decisions rendered in the following cases, taking into account the relevant amendments: "Vermeulen v. Belgium", "Nideröst-Huber v. Switzerland" [5].

With the adoption of new civil procedural legislation in the Republic of Moldova, the adversarial process is a process in which interested parties are active in protecting their rights and interests from the beginning to the end of judicial activity. The materials necessary for the legal and fair resolution of the case are formed by the parties and other persons participating in the case; The powers of the court are to examine and evaluate evidence, subsequently apply rules and issue an enforcement act.[6] What does the principle of competition include? In many civil procedural codes of foreign countries there is no justification for the content of this principle.

In Art. 12 of the Civil Procedure Code of the Russian Federation stipulates that "justice in civil cases is carried out on the basis of competition and equality of the parties"[7].

According to Part (1) of Art. 10 of the Civil Procedure Code of Ukraine, "civil proceedings are carried out on the basis of adversarial proceedings between the parties."[8] In Art. 8 of the Civil Procedure Code of Uzbekistan stipulates that "legal proceedings in civil cases are carried out on the

[1] European Convention for the Protection of Human Rights and Fundamental Freedoms. Adopted on November 4, 1950 in Rome. Came into force on September 3, 1953.

[2] European convention O protection rights person And main freedom _ The right to a fair trial: Precedents and comments // Nula Mou, Katarina Harby , L.B. Alekseeva . 2002, p. 74-75.

[3] Judgment of the European Court of Human Rights in the case "Van Orshoven v. Belgium" dated June 25, 1997.

[4] ECtHR ruling on the case Cañete de Gonyi against Spain (Canete de Goni - Spain (N 55782/00) dated October 15, 2002, issued by Section IV.

[5] Council of Europe / European Court of Human Rights // Review of the judicial practice of the European Court of Human Rights: the role of the prosecutor in cases not related to criminal law. 2011, p. 21.

[6] Civil law procedures. General part/Alexandru Prisac. Chisinau: Cartier, 2013, p. 110-111.

[7] The Civil Procedure Code of the Russian Federation was adopted by the State Duma on October 23, 2002 No. 138-FZ]. Northwestern Russian Federation. — 2002, No. 46. - Art. 4532.

[8] Civil Procedure Code of Ukraine dated March 18, 2004 No. 1618-IV came into force on September 1, 2005.

basis of adversarial and equal rights of the parties." [1] In Art. 4 of the Civil Procedure Code of Georgia also stipulates that "legal proceedings are conducted on an adversarial basis."[2]. According to Part (1) of Art. 10 of the Civil Procedure Code of the Kyrgyz Republic, "justice in civil cases is carried out on the basis of adversarial and equal rights of the parties."[3]. From the above, it can be noted that this principle is only proclaimed, and does not reveal its content. In such cases, the content of the principle is revealed by scientists directly in comments to codes and in doctrines.

It should also be noted that there are a number of states in the Civil Procedure Code that do not have the adversarial principle at all, in particular the Civil Procedure Code of the Republic of Estonia[4], the Civil Procedure Code of Turkmenistan, as well as the Civil Procedure Code of the People's Republic of China[5].

Some Civil Procedure Codes directly establish the content of the adversarial principle: According to Art. 9 of the Civil Procedure Code of the Azerbaijan Republic, "justice is carried out on the basis of adversarial law, equality of parties and facts. A dispute in court cannot be considered without summoning and interrogating the persons participating in the case. The parties involved in the case are obliged to provide each other with information about the evidence, evidence and legal conclusions on which they base their claims so that the other party can build its defense against them."[6] In Art. 15 of the Civil Procedure Code of the Republic of Kazakhstan stipulates that "Civil proceedings are carried out on the basis of adversarial and equal rights of the parties. The parties enjoy equal procedural rights and bear equal procedural responsibilities. During civil proceedings, the parties choose their position, methods and means of defending it independently and independently of the court, other bodies and persons. The court is completely exempt from collecting evidence on its own initiative in order to establish the factual circumstances of the case, however, upon a reasoned request of the party, it assists it in obtaining the necessary materials in the manner prescribed by this Code."[7] In Art. 8 of the Bulgarian Civil Procedure Code states that "Every participant has the right to be heard by the court before a decision that is important for his rights and interests. The parties state the facts on which the request is made and provide evidence for them. The court provides the parties with the opportunity to become familiar with the demands and arguments of the other side of the subject and its movement and to express an opinion about them"[8]. In accordance with Art. 10 of the Civil Procedure Law of Latvia, "The parties exercise their procedural rights in the form of competition. The competition takes place in the form of the parties giving explanations, providing evidence, statements addressed to the court, participating in the interrogation of witnesses and experts, checking and evaluating other evidence, participating in judicial debates and performing other procedural matters.

In our opinion, the content of this principle is most fully revealed by the Civil Procedure Code of the Republic of Moldova in Art. 26: "adversarialism presupposes organizing the process in such a way that the parties and other participants in the process have the opportunity to formulate, argue and prove their position in the process, choose methods and means of defending it independently and independently of the court, other bodies and persons, express their position on factual and legal issues relevant to the case under consideration, and express their point of view on the initiatives of the court"[9].

Historically, the civil process of foreign countries has moved from "pure" adversarialism to strengthening the role of the court, which was endowed with the right to intervene in the competition

[1] Civil procedural code of the Republic of Uzbekistan. Approved by the Law of the Republic of Uzbekistan dated August 30, 1997 No. 477-I.

[2] Civil Procedure Code of Georgia dated November 14, 1997 No. 1106-Ic.

[3] Civil Procedure Code of the Kyrgyz Republic dated December 29, 1999 No. 147. Entered into force on January 1, 2000.

[4] Code of Civil Procedure of the Republic of Estonia, adopted by the State Assembly on May 19, 1993.

[5] Civil Procedure Code of the People's Republic of China. Adopted at the 4th session of the Seventh National People's Congress of China on April 9, 1991. Published by Decree No. 44 of the President of the People's Republic of China dated April 9, 1991. Entered into force on April 9, 1991.

[6] Civil Procedure Code of the Azerbaijan Republic Approved by Law No. 780-IQ dated December 28, 1999. Came into force on September 1, 2000.

[7] Civil Procedure Code of the Republic of Kazakhstan dated July 13, 1999 No. 412-1.

[8] Civil Procedure Code of Bulgaria from 1952.

[9] Civil Procedure Code of the Republic of Moldova No. 225- XV dated May 30, 2003 // Monitor Oficial No. 130-134 dated June 21, 2013].

of the parties. However, the increasing role of the court is considered by foreign scientists as an addition to the improvement of legal proceedings, and not as a contradiction to the adversarial principle. Thus, this judgment allows us to conclude that modern civil process in foreign countries has retained its adversarial nature.

In France, civil proceedings were considered adversarial. In 1965, the position of "case preparation judge" was introduced, whose functions included: monitoring the development of the process, by establishing appropriate deadlines for the parties to perform individual procedural actions; study of the actual circumstances of the case[1]. As a result, the court becomes an active participant in the civil process. The current French Code of Civil Procedure (CCP of France) has given the judge greater powers in the trial and has significantly strengthened his role. The court may, at the request of a party, request a document held by the other party or a third party, may, on its own initiative, order an examination, etc. In addition, the unlimited powers of the court are provided for in collecting evidence, where the court does not participate in the collection of evidence, however, if the presentation of the necessary evidence is difficult for the parties and other persons participating in the case, at their request, it assists in the collection and collection of evidence. then the French court has the right, at its own discretion, to initiate any legal actions aimed at obtaining evidence. The French Court of Cassation, in its interpretation of this article on June 3, 1998, gave the courts complete freedom in collecting evidence: trial judges are not required to explain the reasons why they requested evidence.

German courts have the broadest powers in collecting evidence[2]. In accordance with the original version of the German Code of Civil Procedure of 1877 (German Civil Procedure Code), the process was controlled primarily by the parties. Subsequently, their dominant position gradually weakened and was replaced by the active role of the court. The modern German Civil Procedure Code contains rules regulating the right of the court to oblige a party or a third party to provide documents and other materials in their possession, to which one of the parties referred[3], as well as official documents in their possession that relate to the consideration and resolution of the case. In addition, activity is manifested in the right of the court, on its own initiative, to interrogate a party regarding an established fact, if the evidence available in the case is not sufficient to convince the court of its presence or absence. Currently, changes are being made to German civil procedural legislation, the purpose of which is to expand the powers of the court in civil proceedings.

Thus, we believe that the German civil process should be classified as investigative rather than adversarial, however, some provisions of the law still give reason to consider it mixed.

Increasing the activity of the court in civil proceedings was one of the main tasks of recent reforms in England, which until the early 80s of the last century remained a country where "pure" competition dominated in justice: the process was conducted by the parties, the activity of the courts was minimal, which gave rise to a number of defects process.[4] The reason for the revival of scientific discussion on the problems of civil justice is the publication in July 1995 of Lord Woolf of the interim report on problems of access to justice (the Interim Report on "Access to Justice"), which contained conclusions and recommendations regarding the restructuring of the civil process. It was recommended to transfer control over the progress of the case to the judge before the hearing, and not leave this issue almost completely, as was previously, in the power and disposal of the parties.

The solution to the problem was the establishment in the Rules of Civil Procedure of 1998 of the main goal of the proceedings – achieving justice, and the method of achieving this goal – judicial management of the process. As a result of these changes, responsibility for the administration of justice is assigned to judges.

[1] Adversarial nature in the legal proceedings of continental European countries // Civil process: author's. URL: http://spb5.ru/sostyazatelnost-v-sudoproizvodstve-stran-kontinentalnoj-evropy (Visited on: 11.10.2022).

[2] Vedeneev E.Yu. The role of the court in proving a case in Russian civil and arbitration proceedings / E.Yu. Vedeneev // Arbitration and civil process. 2001. No. 2, p. 36.

[3] Maleshin D.Ya. "Limited activity" of the court in the process of collecting evidence as a distinctive feature of the Russian civil process // Legislation. 2009. No. 2, p. 33.

[4] Kudryavtseva E.V. Civil Procedure Code of England (legal status and basic concept) / Legislation. 2003 No. 6, p. 45.

English lawyers note that these changes do not abolish the adversarial model; lawyers (advocates) will continue to perform their functions, but within the limits regulated by the courts and subject to certain conditions.

Similar changes can be observed in the doctrine and lawmaking not only of England, but also of other common law countries. The increased activity of the court in the process of collecting evidence is one of the trends in the development of civil proceedings in the Anglo-Saxon legal family[1]

In the United States, civil justice reform receives much attention both in the works of scientists and in legislative work. In its current form, the civil justice system has been functioning since the mid-30s of the last century, and many of its institutions are not effective enough in modern conditions[2] Therefore, according to many lawyers, significant changes are needed.

One of the main directions of future reforms in the United States, many procedural scientists indicate strengthening the position of the court, which is aimed at achieving the main goal of civil proceedings - achieving objective truth. In US civil proceedings, the court has the right to provide, on its own initiative, assistance to persons who independently represent their interests in the process. In addition, at the stage of pre-trial disclosure of evidence, the court, on its own initiative, can limit the amount of information disclosed, participates in direct or cross-examination of witnesses, and makes decisions on issues that the parties did not submit for its consideration (issues of subject jurisdiction, issues of determining the subject of the dispute)[3]

In the Republic of Moldova, the civil process is adversarial, implying the activity of the parties and the passivity of the court. Its main task is to evaluate the evidence presented by the parties. The main functions of the court in an adversarial process are also to manage the process, explain to the persons participating in the case their rights and obligations, warn about the consequences of committing or not committing certain actions, creating conditions for a comprehensive and complete examination of evidence, establishing factual circumstances on the case, the correct application of the law when considering and resolving the case. The court determines what circumstances are important for the case, which party must prove them, and brings the circumstances up for discussion, even if the parties did not refer to any of them. The court has the right to invite the parties to present additional evidence. If it is difficult for the parties to provide the necessary evidence, the court, at their request, assists in collecting and requesting evidence. Reducing the role of the court in collecting evidence in civil cases does not at all mean reducing its role in civil proceedings in general. Everywhere, countries with an investigative type of legal proceedings are increasingly gravitating towards an adversarial type of process, which is accompanied by the activation of the parties. Moreover, the latter inevitably leads to strengthening of the organizing principle of the court. The adversarial type of legal proceedings focuses the process of proof on the final result – the ability to resolve the case (the standard of "evidence"). In an adversarial process, persons participating in the case are given broad powers to collect, present and examine evidence[4]. The court, on the contrary, with all its desire to help the party, it can only offer to present evidence in the case, but cannot collect it itself, and also has no right to oblige the party. Hence, the standard of proof in an adversarial process should depend on the fulfillment of the obligation of proof by the parties: if the party proved the correctness of its position, it means it won the case. The role of the court in conducting a truly adversarial process has now increased and become more complex. During the trial, the court performs exclusively the function of an arbitrator of the case, without expressing in advance during the entire process, including in the judicial debates of the parties, its attitude to the outcome of the case. In this case, the court is not bound by the arguments of the parties, is free to evaluate the collected evidence and is independent of any extraneous influences. The activities of the court to consider controversial issues are intended exclusively for persons interested in resolving a legal dispute. This nature of it corresponds to the idea

[1] Kudryavtseva E.V. Civil Procedure Code of England (legal status and basic concept) / Legislation. 2003 No. 6, p. 320.

[2] Medvedev I.R. Civil procedure in England and the USA: Increasing the responsibility of the parties for their explanations and actions / Jurisprudence. 2007. No. 1, p. 42.

[3] Kleymenov A.Ya. Adversarialism in civil proceedings of the United States of America [Electronic resource]. URL: http://www.dissercat.com (Visited on: 11.10.2022).

[4] Reshetnikova I. V. Adversarial nature of civil proceedings through the prism of judicial practice // Law. - 2005. No. 3, p. 80-82.

that various subjects of legal relations themselves must show some concern about the fate of the dispute and make every effort to defend their rights and legitimate interests.[1]

To summarize what has been said, it should be noted that the reform of civil procedural legislation in the Republic of Moldova and in foreign countries has taken different paths. In foreign procedural legislation, the emphasis was placed on strengthening the powers of the court when considering and resolving a case. However, the system retained its adversarial principle and did not transform into an investigative one; in a number of cases it became mixed. In the Republic of Moldova, the legislator took the path of eradicating the investigative principle in the process, gradually reducing the powers of the court and placing the responsibility for collecting evidence on the parties. This is due to the fact that, on the one hand, the performance of investigative functions unusual for the court delayed the process, and on the other hand, it turned the judge into an assistant to one of the parties, as a rule, the plaintiff. All this excluded equal confrontation between the parties in civil proceedings. As a result, a system of adversarial process was created, involving "limited" activity of the court and the parties, characterized by its uniqueness and without analogues.

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