SCIENTIFIC RESEARCH OF THE SCO COUNTRIES: SYNERGY AND INTEGRATION

上合组织国家的科学研究：协同和一体化

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这些会议文集结合了会议的材料 – 研究论文和科学工作者的论文报告。 它考察了职业化人格的技术和社会学问题。一些文章涉及人格职业化研究问题的理论和方法论方法和原则。
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MEDICAL SCIENCES

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简化民事司法程序作为现代程序政策的一部分
SIMPLIFIED PROCEEDINGS IN CIVIL JUSTICE AS A PART OF MODERN PROCEDURAL POLICY

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抽象的。 简化民事程序是世界各地现代程序立法的一个组成部分。 简化程序发展的关键问题是其适用范围，即简化审理的索赔类别，以及该类别案件的索赔价格（价格门槛）。 改革呈现出提高价格门槛的趋势，以及通过纳入新的索赔类别来扩大简化程序的范围。 然而，这种发展可能会引发关于这些修改的合理性的问题，即可以实现哪些结果以及如何影响公众对司法机构的信心。

关键词：民事诉讼程序、简化程序、民事法院、民事司法、民事诉讼程序改革。

Abstract. *Simplified civil procedure is an integral element of modern procedural legislation around the world. The key issues in the development of simplified proceedings are the scope of its application, namely the category of claims considered in a simplified manner, and the price of the claim (price threshold) for this category of cases. The reforms show the trend to increase in the price threshold, as well as the expansion of the scope of simplified procedure by including new categories of claims in its scope. However, such development can raise questions regarding justification of these modifications in terms of which results can be achieved by it and how can it influence the public confidence to the judiciary.*

Keywords: *civil procedure, simplified proceedings, civil court, civil justice, civil procedure reforms.*

One of the modern trends in the field of procedural law is the differentiation of legal proceedings - the search for the most optimal and effective ways of considering and resolving cases, taking into account the nature of the dispute, the typicality of the case, the legal and factual complexity, the price threshold and other factors that can predetermine the need for a “full” litigation procedure in each particular case. In this context, simplified proceedings are actively developing, which represent such forms of administration of justice that characterized by a deviation from the basic, traditional models (the operation of the principles of legal proceedings

is narrowing; shortened terms for the consideration of cases, submission of procedural documents are established; court sessions, oral hearings, etc. are limited) [1]. More globally, legislators ans scholars are seeking the balance between the inherent formalism of legal proceedings and the need for its adequate simplification in accordance with the requirements of the dynamism of current society [2]. Asian countries are also looking for new ways to simplify civil litigation. Thus, Chinese researchers previously noted the need for less formal court hearings and proceedings, as well as the development of simplified procedures similar to those used in foreign countries. [3, p. 930] .

Simplified forms of legal proceedings are a general concept that includes both special procedures for resolving disputes in cases with a small claim value, as well as "writ" type proceedings on indisputable claims ("order for payment" procedure) and other procedures. Despite the difference in national models, the typology of simplified proceedings, the essential features, goals and objectives of such procedures are largely coincide [4, 5, 6]. This is explained by the fact that procedural systems are designed to respond to similar problems - the length of the process of considering and resolving cases, the high costs of justice for the persons participating in it and for the state, the overload of the courts.

Quite a long time ago, in European normative acts and scientific literature, was emphasized that the judicial procedure should be simpler and less costly in most cases, and the general (ordinary) procedure should be used for more significant disputes [7, p. 157-159]. Later this ideas were followed by Recommendations of the Committee of Ministers of the Council of Europe No. R (81) 7 of May 14, 1981 on measures facilitating access to justice and No. R (84) 5 of February 28, 1984 on principles of civil procedure designed to improve the functioning of justice.

ECHR also spoke out that the existence of an essentially single, complex and extensive legal procedure for considering and resolving most civil cases is nothing more than ignoring the existing objective features of the latter, which cannot but affect the procedure for protecting civil rights and modify it. The desire to resolve all cases according to the same procedure without taking into account their specific features can introduce a dysfunction between the ultimate goal of legal proceedings and the methods for achieving it.

It would not be an exaggeration to say that practically all judicial reforms in world history took place under the slogan "to make justice simpler, faster and less costly." These goals are universal: the development of legal proceedings both in Russia and in foreign countries shows that almost all reforms - both modern and past - are aimed at speeding up, simplifying, reducing the cost of legal proceedings and eliminating excessive formalism.

The legislative changes and statistical data of recent years show that today, in fact, a simplified procedure in many cases replaces the general way of han-

dling cases and thus becomes a new standard of ordinary procedure. In part, these changes are can be explained by the increasing number of consumer disputes: in the European supranational procedural law the consumer and the protection of his rights is one of the top priorities in legal regulation. ADR mechanisms as well as online dispute resolution are also developing (EU Regulation of 05.21.2013 No. 524/2013, EU Directive of 05.21.2013 No. 2013/11/EU).

Although the trend towards the simplification of legal proceedings has been manifested for a long time, the development of simplified proceedings is still far from complete. The procedural rules of simplified proceedings are constantly being improved, and the proceedings themselves are strengthening their positions among other procedures for considering cases and occupy a dominant position in the system of procedures for considering cases. Further reform of simplified procedures takes place in a number of directions, but to a large extent they are developing along a similar path in the world practice.

The first direction is the expansion of the use of simplified proceedings by raising the price threshold for "insignificant" cases (cases with a small claim value) considered in a simplified manner. In the EU, in cases with a low value of the claim (EU Regulation of 11.07.2007 No. 861/2007), from 14.07.2017 the amount of the claim has been increased from 2,000 to 5,000 euros (EU Regulation of 12.16.2015 No. 2015/2421), while initially discussed option was to increase this amount to 10,000 euros. In Ontario (Canada), from 01.01.2020, changes came into force, according to which a simplified procedure in ordinary courts will be available in civil cases for claims up to 200,000 CAD (the previous rules provided for an amount up to 100,000 CAD), and to the competence of the courts small claims now include cases with a claim value of up to 35,000 CAD instead of the previously existing limit of 25,000 CAD (Ontario Regulation No. 344/19 dated 23.10.2020). In Russia, the threshold for cases has also been raised (although not as radically as originally proposed) and there is epy reason to believe that the threshold will continue to be raised, as evidenced by the latest initiatives of the Supreme Court of the Russian Federation.

This situation gives rise to a number of serious questions, both practical and theoretical in nature. The consequences of such a development of legal proceedings also require reflection: to what extent can this threshold be raised, how many cases should be considered in simplified manner? Where exactly in numerical terms lies the line of "insignificance", "small price" of the claim, what should the legislator rely on when fixing one or another price threshold? Is it an automatic consequence of raising the price threshold to increase the number of cases that will actually be dealt with in a simplified manner? In addition, discussions are absolutely meaningful not only about determining the quantitative (price of the claim), but also about determining the qualitative characteristics of those cases (claims)

that deserve consideration in a simplified manner, taking into account real social relations, the state of economic development, civil relations, sociocultural aspects.

Attention should also be paid to the issues of preventing abuses when using simplified proceedings. A simplified procedure for the consideration of the case may create the illusion among the participants that it is possible to mislead the court or achieve the desired decision without drawing the attention of the opposite side. Therefore, legislation should contain tools aimed both at preventing potential abuses and at responding to and suppressing bad faith procedural behavior. As a preventive measure, for example, quantitative restrictions can be used. In particular, such a rule is formulated in Japan. The use of the simplified procedure is allowed no more than ten times during the year (when the applicant applies to the court, information on the number of applications of this person under the simplified procedure for the past year must be indicated). At the same time, this count includes the actual number of applications submitted, and not the actual use of the procedure [8]. Despite the fact that quantitative restrictions are not applied in European countries, and, as it may seem, represent a very simple and even primitive way of regulation, this example shows potential ways of regulation that are recognized as acceptable and, to a certain extent, are designed to stimulate lawful behavior.

As it was mentioned, almost everywhere the development of simplified proceedings is accompanied by an increase in the price threshold (price of a claim) for cases of simplified proceedings. In fact, the meaning of the amounts previously chosen by legislators, which served as the basis for the application of summary proceedings and served as a criterion of “insignificance”, has acquired an illusory character: at the current threshold values, “insignificant cases” already imply very significant rate.

When setting a price threshold - especially in conditions of economic instability, crisis phenomena in the economy, or in conditions of objectively existing regional differentiation (in terms of living standards and incomes of the population and other economic factors) in federal states - it is possible to use not a flat price scale, but put it in dependence on other indicators: this can save you from endless changes in the price threshold in changing conditions, as well as smooth out possible disproportions and inequalities (for example, if for one region, the threshold value is very small, taking into account average incomes, while for another they are in principle unattainable, etc.).

From this point of view, the experience of procedural regulation in the PRC is of interest, the legislator of which, for the purposes of the applicability of simplified proceedings in Art. 162 of the Code of Civil Procedure established the price of the claim “up to 30% of the average wage of the working population for the previous year in the province, autonomous region, city of central subordination” [9, p

.130-131]. It is known that since January 1, 2022, changes have been made to this system aimed at increasing this threshold to 50% and establishing the possibility of applying simplified proceedings at the initiative of the parties themselves, if the threshold is above 50%, but below 200%, however, the proportionality approach itself with the average annual income of the population, was retained [10]. Such a system of "floating" claim price for simplified proceedings is also found in the European space (for example, in Sweden the price threshold is tied to the base amount, which is annually indexed by the Government) [11, p. 273].

By itself, the establishment of a high price threshold does not always mean that more cases will be considered by the courts in this simplified procedure, since the procedural system is a dynamic system of interrelated and interacting procedural mechanisms and institutions. For example, Norway among the Scandinavian states has the highest price threshold for cases with a "low value of a claim", but at the same time, fewer cases are considered in the country in a simplified manner than in neighboring states (Denmark, Sweden). The reason for this, as the authors point out, is the development of mechanisms for alternative methods of resolving disputes, the obligation to use them [11, p. 275] . Thus, it is precisely a set of measures that is an effective way to unload courts, and not just the path of an endless increase in the price threshold for cases of simplified proceedings.

It must be realized that an insufficiently justified and sharp increase in the price threshold, as well as the expansion of the scope of simplified procedure by including new categories of requirements in its scope - without taking into account a qualitative analysis of existing social relations and economic life - will not only fail to achieve the stated goals introduction of simplified procedures, but it can also provoke an increase in the already existing crisis of confidence in the judicial system among the population.

In general, it should be noted that the problems of determining the most appropriate procedure for considering minor cases or indisputable claims continue to be in the field of view of scientists and are studied in a comprehensive manner, i.e. not only from a legal point of view, but also using the methodology of other sciences [12]. This gives hope that in the end an effective, fair and not violating the rights of participants mechanism for resolving such cases will be developed.

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