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CONCEPTS AND TYPES OF CIVIL RELATIONS IN THE FIELD OF PROVISION OF REHABILITATION SERVICES TO PARTICIPANTS OF COMBAT ACTIONS AS A RESULT OF THE MILITARY AGGRESSION OF THE RUSSIAN FEDERATION AGAINST UKRAINE

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Kozolys A. Concepts and types of civil relations in the field of provision of rehabilitation services to participants of combat actions as a result of the military aggression of the Russian Federation against Ukraine.

The article is devoted to the study of the peculiarities of legal regulation of relations in the field of provision of rehabilitation services to participants in hostilities in connection with the full-scale invasion of the Russian Federation on the territory of Ukraine. It has been established that relations for the provision of rehabilitation services, focused on determining non-property goods – life and health, arise on the basis of a contract for the provision of rehabilitation services (a contract for medical care of the population), and therefore have a civil law nature. The author's definition of the concept of «civil relations in the field of provision of rehabilitation services to combatants» has been formulated.

The division of civil relations for the provision of rehabilitation services to participants in hostilities was carried out on the basis of both general classification criteria, specific for the differentiation of civil-legal relations, and special criteria taking into account the peculiarities of the studied legal relations, including the specifics of their subject composition.

The author established that the field of health care, in particular the segment of provision of rehabilitation services, is in a permanent state of transformation, and the implementation of medical reform in this field requires significant joint efforts on the part of the domestic legislator, as well as representatives of the legal scientific community. Attention is drawn to the fact that, despite the existence of a number of regulatory and legal documents in Ukraine, which determine the basic principles for creating legal, socio-economic, and organizational conditions in the field of implementation of rehabilitation measures, the normalization of relations related to the provision of rehabilitation services to combatants remains outside the attention of the legislator actions as a result of the military aggression of the Russian Federation against Ukraine. It has been established that the effective implementation of the right to health care by the specified subjects presupposes a primary need for proper legal regulation of civil legal relations in the field of rehabilitation services, and a modern approach to the rehabilitation of combatants should be based on both state support and scientific reasonable concept.

Key words: rehabilitation, rehabilitation services, combatant, agreement on the provision of rehabilitation services.

Козолис А. Поняття та види цивільних відносин у сфері надання реабілітаційних послуг учасникам бойових дій внаслідок військової агресії Російської Федерації проти України.

Статтю присвячено дослідженню особливостей правового регулювання відносин у сфері надання реабілітаційних послуг учасникам бойових дій у зв'язку із повномасштабним вторгненням Російської Федерації на територію України. Встановлено, що відносини з надання реабілітаційних послуг, орієнтовані на визначальні немайнові блага – життя та здоров'я, виникають на підставі договору про надання реабілітаційних послуг (договору про медичне обслуговування населення), а відтак мають цивільно-правовий характер. Сформульовано авторське визначення поняття «цивільні відносини у сфері надання реабілітаційних послуг учасникам бойових дій».

Здійснено поділ цивільних відносин з надання реабілітаційних послуг учасникам бойових дій на підставі як загальних класифікаційних критеріїв, властивих для диференціації цивільно-правових відносин, так і спеціальних критеріїв з врахуванням особливостей досліджуваних правовідносин, в тому числі й специфіки їх суб'єктного складу.

Автором встановлено, що сфера охорони здоров'я, зокрема сегмент надання реабілітаційних послуг, перебуває в перманентному стані трансформацій, а впровадження медичної реформи у зазначеній галузі потребує значних спільних зусиль з боку вітчизняного законодавця, а також представників юридичної наукової спільноти. Акцентовано увагу, що попри наявність в Україні низки нормативно-правових документів, які визначають основні засади для створення правових, соціально-економічних, організаційних умов у сфері здійснення реабілітаційних заходів, поза увагою законодавця залишається унормування відносин, пов'язаних з наданням реабілітаційних послуг учасникам бойових дій внаслідок військової агресії Російської Федерації проти України. Констатовано, що ефективна реалізація права на охорону здоров'я зазначеними суб'єктами зумовлює першочергову потребу в належному правовому регулюванні цивільних правовідносин у сфері надання реабілітаційних послуг, а сучасний підхід до реабілітації учасників бойових дій повинен ґрунтуватися як на державній підтримці, так і на науково-обґрунтованій концепції.

Ключові слова: реабілітація, реабілітаційні послуги, учасник бойових дій, договір про надання реабілітаційних послуг.

Formulation of the problem. In connection with the military aggression of the Russian Federation against Ukraine, a considerable number of people in need of rehabilitation appeared, and the possibility of receiving rehabilitation services does not always seem possible due to the lack of an effective system of their provision. The current outdated medical system does not take into account modern recommendations for disease prevention, but focuses only on diagnosis, and services are provided fragmentarily in different institutions. It is aimed at supporting people who suffered during the armed conflict by provision of medical services and provision of benefits in various areas. And the modern system of rehabilitation services should also focus on restoring the vital functions of the patient's body, which should move to a full independent life without outside help as soon as possible.

Despite the existence in Ukraine of a number of regulatory and legal documents that determine the basic principles for creating legal, socio-economic, and organizational conditions in the field of implementation of rehabilitation measures, the normalization of relations related to the provision of rehabilitation services to participants in hostilities remains outside the attention of the legislator in connection with the full-scale invasion of the Russian Federation on the territory of Ukraine (*then – a participant in hostilities [1]*). In view of the above, the study of the issues of the legal nature of civil legal relations regarding the provision of rehabilitation services to the specified entities, their classification is important from the point of view of both the science of civil law and law enforcement practice.

Research status. The sphere of health care, in particular the segment of the provision of rehabilitation services, is in a permanent state of transformation, and the implementation of medical reform in this field requires significant joint efforts on the part of the domestic legislator, as well as representatives of the legal scientific community.

At the current stage of the development of medico-legal opinion, the study of legal relations in the field of provision of rehabilitation services is carried out by scientists in a fragmented manner in the context of scientific investigations within the scope of their own scientific interests. Therefore, A. A. Gerts, within the scope of the dissertation study, which is devoted to the development and comprehensive analysis of theoretical and practical civil legal problems of contractual obligations in the field of provision of medical services, an important place is taken by the analysis of the content of the contract on the provision of rehabilitation services. The works of I.I. Senyuta, S.B. Buletsa, R.A. Maidanyk, O.V. Krylova, and others are no less valuable in the outlined field of research. At the same time, it should be noted that there is a lack of deep scientific research on the concepts and types of civil-law relations in the field of provision of rehabilitation services, including with the participation of a specific patient – a participant in hostilities, and therefore there is an urgent need to fill the gaps in the private law doctrine in the aspect the essence of civil-law relations in the researched field at the current stage, to find out the criteria for their classification, taking into account the specifics of the subject composition of the specified relations.

Presenting of main material. According to Art. 3 of the Constitution of Ukraine, human life and health are recognized as the highest social value [2]. According to the provisions of Part 1 of Art. 201, Part 1 of Art.

283 of the Civil Code of Ukraine (hereinafter – the Civil Code of Ukraine) [3] life and health are personal non-property goods that are protected by civil legislation and are the most important among such goods, since in their absence all other goods and corresponding rights arising in relation to them lose its meaning. Implementation of the right to health care and medical care is ensured by the systematic activities of state and other organizations, provided for by the Constitution of Ukraine and the law.

As R.A. Maidanyk points out, all relationships regulated by health care legislation and meeting the requirements of Art. 1 of the Civil Code of Ukraine (that is, built on the principles of legal equality), should be classified as civil law [4, p. 13]. Relations for the provision of rehabilitation services, focused on defining non-property goods – life and health, arise on the basis of a contract on the provision of rehabilitation services (a contract on medical care of the population), and therefore have a civil law nature.

In order to clarify the essence of civil-law relations in the field of provision of rehabilitation services, it seems necessary to start with the interpretation of the term «rehabilitation». The World Health Organization defines rehabilitation (from the Latin words «re» – restoration and «habilis» – ability) as a set of measures designed to ensure that persons with impaired functions as a result of diseases, injuries and congenital defects adapt to new conditions of life in society. in which they are [5, p. 175].

It is worth noting that the relationships that arise during the provision of rehabilitation services are complex and multifaceted. Therefore, the problem of classification of civil legal relations, and therefore the belonging of the investigated relations to the corresponding classification group according to one or another type of criterion, is of significant theoretical and practical interest.

Depending on the purpose, functions and tasks that civil law faces as a «private» branch of law in its essence, civil legal relations are divided into regulatory and protective ones. Regulatory relations are such legal relations through whom direct regulation (ordering) of social life is carried out - establishment of civil rights and obligations, etc. Protective legal relations «regulate» civil liability and the application of other legal sanctions, which are applied in case of violations and to prevent them, and are limited to this [6, p. 138]. Taking into account the fact that the right to health care is implemented within the relations aimed at the provision of rehabilitation services, the investigated relations belong to the category of regulatory.

According to the definition of subjects, civil legal relations are divided into absolute and relative. In absolute legal relations, only the bearer of the right is clearly defined, the bearer of duty is «everyone and everyone». Relative legal relations are those in which the entitled subject is opposed by one or more specifically defined obligated persons.

In the field of provision of rehabilitation services, civil-law relations arise between customers of such services, which can be the state, local self-government body, legal entity or individual, including the patient - a participant in hostilities, as well as the executor – a rehabilitation institution, a rehabilitation institution, a security institution health, by other business entities that have the right to provide rehabilitation assistance in accordance with the law. In view of the above, civil legal relations in the field of rehabilitation services belong to the category of relative legal relations.

It is traditional in legal doctrine to divide civil-law relations depending on the nature of duties into active and passive. Therefore, legal relations of an active type have as their content the implementation of certain positive active actions, and legal relations of a passive type are those where it is assumed to refrain from performing certain actions [6, p. 137]. In turn, in case of non-fulfilment of a passive duty, it is about the implementation of active behavior, which causes the emergence of civil legal relations as a result of the commission of an offense.

At the same time, within the framework of relations that arise during the provision of rehabilitation services, their participants, as a rule, commit to both active and passive behavior (for example, a rehabilitation specialist is not only obliged to provide a patient with a quality rehabilitation service, but and has an obligation not to disclose medical secrets, which is a passive type obligation), and therefore it is possible to talk about mixed legal relations – complex legal relations in which active and passive legal relations are combined [7, p. 386].

The specified, at first glance, purely theoretical classification of legal relations is of significant importance for the study of civil legal relations at the «civilistic» level, as it allows focusing attention on the peculiarities of the rights and obligations of their participants, taking into account the nature of the norm that became the basis for their emergence – authorization or prohibitions [6, p. 137].

At the same time, taking into account the peculiarities of civil-law relations in the field of rehabilitation services, as well as the specificity of their subject composition, it seems appropriate, based on the analysis

of current legislation, as well as taking into account current developments in the field of medical and legal science, the classification of the studied relations, based on special classification criteria.

Analyzing the provisions of Art. 27 of the Law of Ukraine «On rehabilitation in the field of health care» [8], we consider it appropriate to propose the division of legal relations regarding the provision of rehabilitation services depending on the level of medical care provision into: a) legal relations for the provision of low-volume rehabilitation services in outpatient settings at the primary level medical assistance; b) legal relations for the provision of rehabilitation services in acute, post-acute and long-term rehabilitation periods in inpatient and outpatient conditions at the specialized level of medical care.

Depending on the form of provision of rehabilitation services, it is possible to talk about the researched legal relations that arise under the conditions of provision of rehabilitation services: a) inpatient; b) on an outpatient basis, including through on-site service; c) remotely.

Given the multifaceted nature of rehabilitation tasks, it is divided into so-called types or components. In view of the above, taking the type of rehabilitation measures as a criterion, it is possible to carry out an appropriate classification of civil-law relations for the provision of rehabilitation services. Therefore, according to V.V. Turban, the rehabilitation of combatants is reduced to the main types – medical/physical, psychological, social, ethical, which can be combined with each other, forming new subtypes (social-psychological, ethical-psychological, medical-psychological, professional-psychological, etc.) depending on the object of rehabilitation, its psycho-emotional state, factors and conditions affecting the implementation of rehabilitation measures. So, according to the author, medical/physical rehabilitation is a system of measures aimed at prevention of decline and loss of working capacity, restoration of impaired functions, prevention of complications and relapses of diseases of military personnel, participants in hostilities and their early return to professional activity [9, p. 341].

A serious challenge today is the problem of psychological rehabilitation of combatants, the purpose of which is to preserve, restore or compensate for disturbed mental functions, qualities, personal and social status of a person, to promote psychosocial adaptation to a changed life situation, to make sense of the experience gained in an extreme situation, and its application in life [10].

Social rehabilitation, as a system of measures aimed at restoring the social status of combatants, the opportunity to become a full-fledged participant in the social process [9, p. 340-341], in combination with psychological rehabilitation forms a separate subtype of rehabilitation - social-psychological (psychosocial). Social and psychological rehabilitation helps in the socialization of the individual and restoring it to the former standard of living, which includes not only health, but also the social status of the individual, moral and psychological balance, self-confidence [11, p. 101].

Rehabilitation strategies should be aimed at the implementation of the «mental resilience training model», which forms and strengthens the stress resistance of combatants. In Ukraine, there is no modern system of psychosocial rehabilitation of combatants. However, the rehabilitation available today is rather medical, which is carried out in accordance with current legislation by a doctor, and in most cases for a short time in a medical institution. The development of psychosocial support is limited by the regulations surrounding mental health treatment, which impose certain limitations in later life on that receiving mental health treatment.

Ethical rehabilitation is a complex of measures aimed at rethinking the situation, forming a positive self-esteem, motivation to achieve, providing individual assistance, developing moral ideas, developing adequate behavior and communication skills, increasing the level of self-regulation [9, p. 340-341].

Equally important for combatants is professional rehabilitation, which is aimed at the rapid restoration of professionally important qualities of wounded, psychologically traumatized servicemen and disabled military personnel, their professional reorientation and retraining, employment and professional adaptation, relief of fatigue and restoration of physical capacity [12, with. 101].

Taking into account the above, the conclusion follows that the rehabilitation of combatants is an integral complex of medical, physical, psychological, and social measures aimed at restoring the health, psycho-emotional state and working capacity of patients. This goal is achieved by identifying reserve hidden capabilities of the body and stimulating physical, psychological and professional abilities [13, p. 58].

At the same time, despite the wide range of rehabilitation measures, it is worth noting that the implementation of not all of their varieties requires the conclusion of civil law contracts on the provision of rehabilitation services. Through the prism of the researched question, it is worth agreeing with A. A. Hertz, who singles out a number of contracts depending on the types of rehabilitation into: medical rehabilitation contracts; psychological rehabilitation contracts; physical rehabilitation contracts [14, p. 271]. In view of the above, it is possible to assert the existence of civil legal relations regarding the provision of: a) medical

rehabilitation services to participants in hostilities; b) psychological rehabilitation services; c) physical rehabilitation services.

The provision of rehabilitation services is ensured by the activities of a number of authorized entities. Therefore, civil legal relations arise in the field of rehabilitation services, which are expediently separated, depending on the specifics of the legal status of the providers of the specified services, into: a) legal relations provided by rehabilitation institutions, which, according to part 1 of Art. 11 of the Law of Ukraine «On rehabilitation in the field of health care», represented, in particular: rehabilitation hospitals, rehabilitation centers, outpatient rehabilitation facilities, regardless of the form of ownership; psychological rehabilitation and/or trauma therapy centers; complex rehabilitation institutions, including medical and psychological rehabilitation institutions; b) legal relations provided by rehabilitation departments, subdivisions, which include: acute rehabilitation wards, inpatient and outpatient departments of post-acute and long-term rehabilitation in hospitals of various profiles of the health care system, regardless of the form of ownership; inpatient departments of post-acute and long-term rehabilitation, created on the basis of sanatorium-resort institutions regardless of the form of ownership (Part 2, Article 11 of the Law of Ukraine «On Rehabilitation in the Health Care Sector»); c) legal relations provided by other business entities that have the right to provide rehabilitation assistance in accordance with current legislation [8].

I.O. Logvynenko, N.E. Nesterchuk, researching the problems of improving the system of medical rehabilitation of military personnel participating in hostilities, point out that there are currently three stages of medical rehabilitation in the Armed Forces of Ukraine: hospital – military medical centers, military hospitals; outpatient polyclinic – military polyclinics (polyclinic departments of hospitals) and medical centers of units; sanatorium-resort – specialized military sanatoriums of a single specialty or specialized departments of multi-specialty sanatoriums [15, p. 37].

The classification of civil legal relations in the field of provision of rehabilitation services is not exhaustive, but serves as a basis for conducting further scientific investigations in the researched field of relations.

On the basis of the conducted research, taking into account the provisions of the current civil legislation, as well as significant scientific achievements in the researched area, we can propose a definition of «civil legal relations in the field of provision of rehabilitation services to combatants» as social relations regulated by the norms of civil law, which arise on the basis of an agreement on the provision of rehabilitation services services (contract on medical care of the population) between customers of such services, which can be the state, local self-government body, legal entity or natural person, including the patient – a participant in hostilities, and the executor – a rehabilitation institution, a rehabilitation institution, a health care institution, another business entity that has the right to provide the specified services in accordance with the law, and aimed at restoring health, psycho-emotional state, working capacity, improvement of the process of socialization and adaptation to the conditions of peaceful life through the use of a comprehensive set of medical, physical, and psychological rehabilitation measures.

Conclusions. Today, the issue of rehabilitation of combatants in connection with the full-scale invasion of the Russian Federation against Ukraine is given a special place. The effective implementation of the right to health care by the mentioned subjects presupposes a primary need for proper legal regulation of civil legal relations in the field of rehabilitation services, and a modern approach to the rehabilitation of combatants should be based on both state support and a scientifically based concept.

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