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SERVICES AS OBJECTS OF OBLIGATION LEGAL RELATIONSHIPS

Summary

In the article the problematic questions are considered in relation to the services as an object of obligatory legal relationships. Judgments of legal scholars and scientists-economists are analysed as to the problems viewed in the article.

Key words: services, criteria, customer, performer, consumption, realized and unrealized result.

Problem formulation. The need to study the legal category of services is due to an increase in the current conditions of their significance. The relevance of the research problems related to the definition of services as an object of obligations relations determined by the development of property relations that arise in connection with the provision of services.

Analysis of recent research and publications. Theoretical problems associated with the definition of services as an object of obligations relations have been the subject of academic research as a jurist: A.U. Kabalkin, L.V. Sannikov, D.I. Stepanov, E.A. Sukhanov, E.D. Sheshenin, L.V. Shchennikova and others.

The purpose of the article. The aim of this study is to determine the place of services within the facilities of obligations relations, defining features of services as an object of obligations relations.

Statement of the basic material. In today's world, the relations connected with the provision of services to occupy one of the first places. This is primarily due to the

increase in the consumer need for a particular type of service. And, because these relations are governed by civil law, it should consider the current issues related to the characteristic obligation to provide services. As correctly indicated AY Kabalkinym 'prominent place in the obligatory relations, which are an integral part of the subject of civil-law regulation by the services. Their role is essential in the present conditions ... when increasingly civilian circulation, development of entrepreneurship and competition is based on commodity-money relation and the law of value [4, 1].

The h. 1, Art. 901 Civil Code of Ukraine determines that the contract for services, one party (contractor) undertakes to the other party (the customer) to provide a service that is consumed in the course of committing certain acts or implementation of certain activities, and the customer agrees to pay the executor of these services, unless otherwise established by law. The literature clearly defines the legal nature of a contract for services, it is consensual, for compensation, two-sided. For a proper understanding of contractual obligations, aimed at the provision of services should be made of their basic characteristics.

E.M. Romanov proposes to recognize the obligation to provide services in the presence of the following: "a) the subject of the contract is a useful effect in the form of facilities for contractors (saving time, money, additional guarantees ...); b) service as the activity is consumed in the process of providing" [7, 12].

E.D. Sheshenin singled out the following characteristics: "a) ... is an activity the person (natural or legal) that provide services to ... b) the provision of services do not leave the real result ... c) beneficial effect services (activities) consumed in the provision of services, and consumer cost of the service disappear ... "[11. 356]. The service in the legal literature is regarded in most cases as a result of an activity.

So S.S. Alexeyev pointed out that "service - is not in itself the activity, a certain result" [1,267]. It should be clearly understood that we are not talking about any result, both positive and negative. In this case, the object of the civil service as the obligation should be worn only positive. OS Ioffe in his work, wrote that in the contracts to provide services is to be determined "about the activities of these species, which do not

receive or should receive embodied in materialized, and even more in the objective result" [3, 234]. Among the many judgments of the signs as objects of service obligations are the following features: a) the inherent features so-called "stealth"; b) quality of service is differentiated and is closely linked with the personality of the person who has it; c) the service is inexhaustible; d) unlike the works and services it has no tangible material results and is fully consumed in the process of care. In legal science distinguish features such services: a) it is always vigorous activity of the performer; b) the activity is aimed at providing or receiving certain benefits; c) the service is provided on the basis of a specific task of the customer; d) services related to the personality of the customer, both through the services met their needs.

This feature can be illustrated quote D.I. Stepanova: "customer enter into a specific agreement on the provision of the service, pursues a simple goal - to meet personal needs. Artist ... performing a specific operation, always pursuing a common goal - a means of obtaining material (compensatory service contracts), or to achieve the moral, spiritual or otherwise meet (gratuitous contracts ...) "[9, 178].

Considering services as objects debt relationship, should pay attention to their unity with the concepts of "need" and "good." So, Dictionary S.I. Ozhegova defines the word "need" as the need, the need for something that requires satisfaction, and synonymous with "good" is the word "good." So N.N. Ivanov pointed out that "by the need to understand the need, the need for something that requires satisfaction for good - something that meets the need. Based on these interpretations, the service is defined as the activities aimed at satisfying needs through the provision of appropriate ... that need good material and immaterial " [2, 145]. In our judgment, this approach to the definition of service is acceptable, as a person who wants to satisfy their need through the provision of services, eventually reaching this result, that person as a necessary good. A. Marshall pointed out that the benefits of "desired us a thing or things that satisfy human needs" [5, 145].

Menger called "... useful items, which have the ability to be delivered in a causal relationship with the satisfaction of human needs" [6, 236]. From the foregoing, it

follows that the action aimed at the provision of services can be regarded as a kind of link between those (needs) and the end result, that is a blessing (of the service). T.N. Sofina writes that "the services are as good relations between people, immaterial beneficial effect of direct interaction of economic agents, ie, the result of financial activities, irrespective of the acquisition of this result (effect) material form "[10.124]. Otherwise adheres N.V.Mironova judgment that under the service understands the "economic benefit in the form of activity, this action (or sequence), whose purpose - improving the usefulness of the object Services consumer, and the problem - the impact on the object services. After analyzing the citations authors T.N. Sofina, N.V. Mironova, it can be concluded that the first author defines services as a result of the actions, and the second author sees itself as a service activity. Legal scholar A.Yu. Kabalkin pointed out that "... the service along with the works are considered as a commodity, ie, product activities intended for the free exchange of manufactured goods equivalent " [4,3].

Karl Marx in his work, wrote that "the work of providing services, not as things, but as an activity." As you can see, science services regarded as the activity itself, and as a result of this activity. In our opinion, the service should be viewed as an activity that is inseparable from the personality of a service, as well as the final result of such activities. The activity itself and its result, the positive effects are inseparable. In the economic literature, can be found the following characterization services. Thus, the service can not be displayed as long as it will be provided. Goods might consider, compare it with other products prior to its acquisition. A person who needs a service that does not have such a possibility.

L.V. Sannikova legal scholars, in his work on the analysis of service writes that "... the degree of intangibility of services is different. Tangible services, the result of which is to change (improve) things or manufacture new things quite tangible. The consumer of such services formed a relatively clear picture of the qualitative characteristics of the result of a similar product. Result of intangible services can be assessed by the consumer only after receiving it and only at the level of subjective perceptions and sensations ..." [8, 5].

Analyzing this statement, we can conclude that when it comes to financial services, that its customer before the conclusion of the service agreement has a clear understanding of what should be the result, ie subjective opinion about the quality of customer service made up before run-time services. If the services are intangible, the assessment of the consumer about the quality of services (for example, treatment of a disease) develops after the provision of such services. Thus, examining the issues relating to services and their qualitative characteristics, we can conclude that if a service is the material, the subjective assessment of the result of the service provided before the contract is formed. If the service is immaterial, the subjective assessment of the result of the service rendered is formed after the provision of the service. As correctly indicated L.V. Sannikova "... the failure to form a single concept of services related primarily to the fact that in the service sector is too wide a range of public relations" [8, 5].

And, as if echoing the judgment of L. Sannikova, V.P. Bulgakov writes: "The breadth and diversity of the service industry makes it difficult to determine the possibilities for different sectors of services of general regularities characteristic for services" [8, 25]. On this issue, he expressed N.V. Mironova, which clarifies why it is impossible to give a clear and unambiguous definition of "services", ".. services are all of the economic benefits that can not be attributed to agriculture or industrial production; services are many and varied actions aimed at a variety of facilities; These many and varied activities are the existing official statistics to the same class of economic benefits "service - a flexible object, whose boundaries are easy to change" [8.79.].

Summarizing these statements it can be determined that, despite the differences of some services from others, it is still possible to separate the individual attributes that are common to all services. Firstly, it is a sign inseparable from its results service performer. Secondly, the result of the services consumed at the time of its delivery. Third, despite the fact that the result of the services is closely linked to the personality of the artist, for him (contractor) does not matter how the service provided will be consumed by the customer. In the legal literature have the following statements

Since N.A. Barinov, A.Y. Kabalkin services characterized as "efforts to meet the needs of citizens" [8, 18]. Diametrically opposite opinion was expressed O.S. Ioffe, O.S. Krasavchikovum, E.D. Sheshenin that "... the service in question as a matter of obligation for the provision of services" [8, 18].

Considering services as a matter of obligation for the provision of services, it is necessary in the context of this article, submit statements of some legal scholars on this matter. So, O.S. Joffe states that "...in the contract services in question" about the activities of such species that do not get or do not have to get translated into materialized, and even more so in the materialized result of "[8, 19]. E.D. Sheshenin defined the following features of services as a matter of obligation for the provision of services: "... it is an activity the person (natural or legal), the service provider; ... The provision of services does not leave a real result; ... services useful effect (activity) is consumed in the provision of services and use-value services disappear " [8a, 19].

For a complete understanding of the concept of service is necessary to point out opposing views regarding the nature of services. So Yu.Kh. Kalmykov believed that a row is a variety of services. Such judgments adhered to A.U. Kabalkin, who wrote "... seems valid to consider works as a kind of obligation to provide services based mainly on the fact that any service is not possible without performing a certain work" [4, 11].

Conclusions. Having considered the individual judgments about the place, concept and features of services in the civil law science, it can be concluded that at present there is no single approach to the definition of services, their characteristics, as well as the qualification of services on the well-established criteria. The solution of this problem will allow not only legal scholars, and practitioners to consider issues relating to the definition of conflict of existing services without problems. In addition, you must specify that the concept of quality of services as an object of obligations relations can be seen following its definition: the service - a kind of objects of civil legal relationship is expressed in the form of a certain legitimate transactions, ie as a series of Executive action or activity that is the obligation of the object that has an intangible effect.

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