



FEATURES OF THE LEGAL REGULATION OF THE MISSING ABSENCE OF INDIVIDUALS IN CIVIL LAW OF THE REPUBLIC OF UZBEKISTAN: THE CONCEPT AND BASIS FOR ESTABLISHING THE FACT OF THE OBSESSIVE ABSENCE

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ABSTRACT

In the light of the development of the draft new edition of the Civil Code of the Republic of Uzbekistan, the relevance and scientific novelty of legal regulation and grounds for establishing the fact of the missing absence are determined. Agricted on specific situations the role and importance of the Institute of Studyless Absence. An exploded lack of person as an optimal legal phenomenon that generates certain problems of a legal nature is considered: the marriage, family, civil, labor, social and others, whose participants acted as a missing citizen.

I. Introduction

The implementation of civil-legal relations implies that an individual is involved in it. But, there are cases at which there are no information about the face within a long time at its permanent residence. The long-term absence of a person at its place of residence, when an unknown place where it is located is important both for legal entities and individuals with which such a person is in relations regulated by law.

Attempts by searching for such a

person may not bring any result. In view of this, an ambiguous position arises - uncertainty appears in relation to the subject as a participant, including civil legal relationship, and from this side such a subject is specifically designated, and if approaching such a situation on the other side, the person that is absent, it is impossible to detect. In order for such a uncertainty, which is undesirable for all participants in the relationship, the law provides for special provisions that form a civil legal institution of a missing absence.



Applying the rules that are included in this Institute, persons who are interested in resolving the situation have the opportunity to apply to the relevant state-based bodies, and thus eliminate the uncertainty of legal relations in which the missing person is a member, and thereby minimizing the unwanted consequences of this uncertainty. . In extreme situations, the importance of the Institute of Study Absence is increasing. So the situation during military conflicts, man-made and natural disasters arising in the interethnic and ethnic soil of conflicts. To eliminate such uncertainty, which may occur, including in civil relations, it is necessary to use the legal structures of the Institute of Study Near the Face. The importance and role of the institute of missile lack of lack of importance and in demand during periods in which social turmoils arise.

In the Republic of Uzbekistan, much attention is paid to legal regulation of the Institute of Study Absence. First of all, these are the norms of the Civil Code of the Republic of Uzbekistan, which was adopted on December 21, 1995 No. 163-1 as amended. From 24.05.2019 No. 03/19 / 542/317 /, in Chapter 3, "citizens (individuals)" of which the legal status of recognition is determined, as well as the consequences of the recognition of a citizen missingly absent (Article 33.34). To eliminate the legal uncertainty of a position that is caused by the absence of a person during a long period of time, and in order to be eliminated to be eliminated, the law has been eliminated as a property and personal nature, the law has been used to apply a special legal state for such persons - recognition His unlucky missing.

Listening absence of a citizen - this is a legal phenomenon that belongs to the fate of the missing citizen, generates certain problems of a legal nature, on the solution of which the solution of relations arising in many life areas, such as: marriage, family, civil, labor, social, retirement , whose participant was the missing citizen. The fact of a unavailable absence of a person is important as theoretical and practical, as they cease to exist as civil society, but also human rights that are regulated by other branches of law.

Thus, the consideration of legal regulation of the recognition of the person is missingly missing is intended to fulfill a certain role in the regulation of civil legal relations, which determines the relevance of this study.

II. Research methodology

In the study, the general scientific method of knowledge, a number of private research methods, such as a logical, systemic, comparative legal entity were used.

III. Literature review

In the Republic of Uzbekistan, some provisions, a commentary to the Civil Code of the Republic of Uzbekistan, in which it is determined that the main goal of the recognition of the person is missing, the protection of his legitimate rights and interests, the problems of preserving its legal rights and interests, the problem of preserving the property belonging to it. This is due to the fact that with a long lack of person and the unknown, its location is created by the threat to such rights. The other side of the problem is that uncertainty in determining the location of the face, as well as the absence of information about it relate to the interests of individuals, such as lenders, dependents, the spouse of the



missing citizen, in front of which such a person has a commitment to pay debt or money for content, and Therefore, the legal basis for the emergence of their own rights is the recognition of the person missingly absent [1, p.80-81].

In the total part of the textbook "Civil Law" in the chapter, which is devoted to the regulation of a missing absence of a person, is determined that such a person is recognized as missing absent, provided that at the place of his residence during the year there is no information about the place of his stay. Therefore, the recognition of the face is missingly missing in the case when there really is not only grounds, but the ability to determine the place of its stay. If there is information about the accommodation of a citizen in a particular country or finding him in shooting for committing a crime, then this is the basis for not recognizing him missing. [2, p.57].

The material that is inhibited in the educational literature, a general nature. This topic is illuminated in the works of domestic scientists, such as Burkhanova L.M. [3,4,5], Egamberdiev E.Kh. [6,7] and others.

The legal basis for the study, in addition to the norms of the Civil Code of the Republic of Uzbekistan, the following regulatory acts of the Republic of Uzbekistan were the following regulatory acts of the Republic of Uzbekistan. / 20/653 / 1592, Civil Procedure Code of the Republic of Uzbekistan dated 13.01.2021, No. 03/21/661/0011, Labor Code of the Republic of Uzbekistan from 08/03/2021, No. 03/21/705/0742, and a number of laws - the Law of the Republic of Uzbekistan "On the execution of judicial acts and acts of other bodies" of 04.12.2019, No. 03/19/586/4106,

the Law of the Republic of Uzbekistan "On State Pension Provision" from 09.11.2020, No. 03 / 20/646/1488.

IV. Discussion and analysis

To consider the legal regulation of the missing absence of individuals, it is necessary to determine the essence and reason for establishing the fact of the obsessed absence.

Unknown absence - satisfied in court the fact of a long lack of a citizen at the place of his residence, if failed to establish the place of his stay. The Institute of Lackless Absence is a set of rules with which interested persons seek eliminating the uncertainty of legal relations with a missing participant in order to minimize the negative consequences of such uncertainty. The term "unknown absence" is used in two senses, firstly, it means the phenomenon of reality, when some person disappears without a trace, and secondly, the name of the legal institution, created to resolve the uncertainty that arose due to the disappearance of the subject of some legal relations. As the phenomenon of the objective world, the essence of the first does not depend on the place or from time to time, and the legal institution as an element of the superstructure is different and historically, and depending on the state in which it exists.

From the moment of birth, each person becomes a subject of law and enters into numerous connections with other people. As a child, this is basically connected with relatives, but with age, the circle of connections is expanding. Legal relationships are legal relations. If one of the subjects of such connections disappears, the situation becomes uncertain: the legal



relations did not end, as in the event of the death of their subject, but not carried out. The fact of the missing absence is precisely in the loss of feedback. With the missing absence, all connections of the subject are lost. If only part of the ties is lost, there is no obsessive absence.

In the science of civil law, different points of view have developed; According to one of them, the foundation of the Institute of Lackless Absence is the presumption of death of a citizen, for another presumption of life. This refers to the question of the foundations of recognition is missingly absent. As for the institution itself, the lack of absence and its definition itself, the opinions also divided. Some believe that the norms of the Institute of Study Absence are regulated by the consequences arising in connection with a long-term involvement of the place of staying in certain legal relations with citizens and organizations, as well as the procedure for recognizing such persons missingly absent.

The sign of the duration of absence is the element of the institute, and not the fact of the missing absence. The time of time for the Institute of Lackless Absence shows that the author does not distinguish the institute and the fact of the missing absence. Regarding the sign of the lack of in place of its permanent residence, it should be borne in mind: "We do not dispute the fact that the lack of the place of their residence is always preceded by a lack of absence, but we want to emphasize that the previous fact is completely insufficient to determine the subsequent state." It is possible to be absent in the residence, but not to be missing if a person retains its connections with other people. Essentially one sign remains - the unknown of the location of the person,

which is impossible to eliminate. But this is nothing more than the loss of feedback with the lack of any information about a person.

The causes of the loss of feedback may be different, but the most likely death death is that it is characterized by a complete loss of all connections. What else could be the causes of such loss? First of all, when the loss occurs without the consciousness of the subject itself, does not depend on his consciousness. These are the cases of complete or partial amnesia, i.e., the loss of memory of the past. Amnesia may be associated with both mental and physical disease. But one amnesia is not enough to disappear: it is necessary that it happens when a person was outside the usual setting, that is, outside the family, work, a circle of people close to him, so that he stops conscious of him at a time when There was no one who knew him.

Cases are possible when a person deliberately breaks completely its connections. This may be caused by the desire to hide responsibility for the crime committed, but there may be other motives, for example, not the desire to pay alimony.

Legal relations and communications make the necessary civil-legal institution of a missing absence. First of all, these are personal non-property rights that are not destroyed with the death of a person are not lost and can only be protected by other persons, since the person who has no and is unknown, where it is [3]. The main objective of the recognition of a citizen of a missing absent - the protection of his rights and the preservation of property, since the long-term absence of a person and the notification of his place of stay makes a threat to these rights.



In order to eliminate legal uncertainty caused by a long absence of a citizen, and the prevention of adverse effects for his property, the law provides for the creation of a special legal condition for such a citizen, namely, the recognition of it is missing.

The institution of recognition of a citizen is missingly missing, article 33 of the Civil Code of the Republic of Uzbekistan is enshrined. A citizen may be approved by the Court of Stakeholders recognized by the court as missing if during the year there is no information about the place of his stay at the place of his residence. The concepts of "stakeholders" in law is not given. In the meaning of the law, their spouse includes their spouse because it may be interested in dissatisfied with the marriage in a simplified manner; Persons consisting on dependency of the missing person, since they are missingly missingly missing in accordance with his pension legislation. Interested in recognition of a citizen misslessly missing maybe other persons, if it is necessary for them to protect the violated or disputed law or the law protected by law (for example, the creditors of the absent), as well as the prosecutor, government bodies, other bodies and individual citizens, if they The law is entitled to go to court for the protection of the rights and interests of others. Does the person who addressed the court applies to the recognition of a citizen missingly absent, to the number of interested parties, the court will decide on the basis of concrete materials.

The decision of the court on the recognition of a citizen is missingly missing is not a response to the question, this citizen is alive or not. The decision on the missing absence is not built on the presumption of death of a

citizen, but on the actual composition of the missing absence.

The decision on the recognition of a citizen is missingly absent to be made by the court in the order of special production. When making a decision, the court evaluates all having facts that may affect decision making. Thus, civil relations are designed for normal development and do not assume that anyone can specially hide, evade the detection of its location. Therefore, if the court will be known, the facts that may indicate a citizen's desire to hide, for example, from fear of being criminal punished for a perfect crime, the court must refrain from making a decision on the recognition of a citizen missingly absent, for the lack of absence can be eliminated by his wanish.

The possibility of recognizing a citizen is missingly absent is not an end in itself. It is necessary to ensure the sustainability of civil legal relations and the protection of the rights, and the legitimate interests of their participants.

These provisions allow us to conclude that a missing citizen's missing citizen loses its subjective personal and property rights as other legal relationships will be interested in this, which are known about the decision and which implement this decision.

V. Slope

According to the results of the study, a number of issues requiring improvement in legislative procedure were identified. Given this, the proposals for making additional fees to legislation that relate to the property and parental rights of a missing person and the process of evidence of a missing absence in court itself are formulated.



First. In legal literature, the issue of the subjective law of inheritance of a citizen was almost never paid to the issue, which is missingly missing, the law regulates only the regime of its own property. Introduction of a missingly missing citizen legally reports to him belonging, and the inheritance that opened in his favor temporarily does not have the subject. The "fate" of the property of the missing absent is determined by law. At the same time, other persons can be applied on from-covered inheritance - for example, the heirs of the next queue. It seems that the question of the right of inheritance of a person recognized as missingly absent must be resolved by law. At the same time, it is necessary to oblige a person who appeal to the statement to pay off the debts of the testator at the expense of an asset of inheritance.

Second. In accordance with paragraph 3 of part 1 of article 160 of the Family Code of the Republic of Uzbekistan, the adoption of children whose parents are recognized as missing or declared dead, produced without the consent of the latter. In this case, essentially there is a loss of parental rights in the missingly lacking or declared dead. It is significant that the possibility of their recovery in the case of reservoir or the rationance of the

missing missing in the law is not provided. When recognition is missing missing the Presum-Pition of Life lies, so we consider it not possible to adopt the children of a missing person. In this regard, paragraph 3 of Part 1 of Article 160 of the Family Code of the Republic of Uzbekistan, we propose to exclude a stormless lack of and to state this paragraph like this: "The adoption of children whose parents are declared dead, produced without the consent of the latter. Over the children there is a missing person, only the appointment of guardianship is possible. And in the case of the appearance of a person declared missing, to restore his parental rights in court, only in the case of the prognosis that this person has no opportunity to report on his place of Laja, or if any of the adoptive parents knew about the place Parents of a child."

The trial should pay special attention to the quality of evidence, namely testimony: characteristic is that the neighbors, familiar, colleagues due to the narrow nature of the missing faces can provide information only about the absence of a citizen at the place of life or at the place Work. Relatives in the same citizen must exist a permanent contact with him. Their testimony is exhaustive.

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