

Finding an Effective Way of Civil Dispute Resolution

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The main purpose of this article is to analyze the substance of the civil dispute and their effective settlement on the basis of an analysis of modern Ukrainian legal doctrine and legislation, as well as the case law of the European Court of Human Rights and national courts and taking into account modern approaches to dispute resolution in sociology and conflict.

Keywords: access to justice, civil disputes, litigation, alternative dispute resolution, effective dispute resolution, private justice.

Introduction

Society cannot exist without conflicts, and their diversity and prevalence often do not allow finding the most effective way to resolve them in a timely manner. From military conflicts that escalate into world wars to average harassment and bullying, the modern world is full of patterns that unify disputes and give them more concretization. But this does not always provide opportunities for their effective settlement, so further research is needed.

Today, conflicts are studied within several social sciences. These are, first of all, philosophy, sociology, psychology, political science, conflict studies, as well as law. In particular, issues such as the nature and essence, as well as the dynamics of conflict, belong to the sociology, and special attention should be paid to modern approaches that mediate conflicts as temporary inevitable clashes that can be managed and resolved, first and foremost nonviolently.

Some of these conflicts occur in the legal sphere – they either arise from public relations governed by law, or the confrontation of the parties affects their rights guaranteed by law. In any case, some of the conflicts that exist are of legal nature, and they are the object of our attention.

Despite their extreme prevalence, there is no legal definition of “civil dispute” in both national legislation of Ukraine and international acts; there is no unity of opinion in the modern doctrine of law (Bobrovnyk, 2013). In conventions and international treaties, this concept is mostly used with additional clarification, for example, “civil disputes under this Treaty, including labour, family (Agreement

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between Ukraine and the Republic of Poland, 1994) and economic (Agreement between Ukraine and the Socialist Republic of Vietnam, 2000; Agreement between Ukraine and the Republic of Macedonia, 2000) disputes”. Accordingly, in such cases, the interpretation of the term “civil dispute” will be based on the national legal doctrine of the particular state in which the court operates. As rightly noted in the literature (Luspenik, 2018), the concept of a “legal dispute” is crucial for the constitutional regulation of the jurisdiction of the judiciary, and should be interpreted in the light of the positions of the ECHR, which we support.

The basis for determining civil disputes is the dichotomy of private and public law nature of the dispute, as defined by the Convention for the Protection of Human Rights and Fundamental Freedoms (Convention for the Protection of Human Rights and Fundamental Freedoms, 1950). According to the case law of the ECHR, the notion of a dispute concerns rights and obligations that are recognized to some extent by national law and are also characterized as “civil” under the Convention (Guide on Article 6 of the Convention – Right to a fair trial, 2020).

How does one determine whether the dispute pertains to private or public law? Does it matter for finding a way to resolve it? Are all civil disputes homogeneous or do some of them have features that characterize them as requiring a judicial form of resolution and enforcement? Does the choice of the method of dispute settlement depend only on the will of its parties? How to ensure an effective search for the most effective way to resolve a civil dispute, based primarily on its nature?

To answer all these questions, we will try to focus on the analysis of recent trends in the science of sociology and conflict studies, which give the opportunity to look at conflict and dispute from another angle. This will provide a basis for rethinking effective ways of resolving civil disputes and developing appropriate proposals to supplement legal doctrine and, possibly, existing legislation.

1. Civil dispute as a social conflict: towards new approaches to the conflict definition

Today, conflicts are studied within several social sciences. This is primarily philosophy, as well as sociology, psychology, political science. Philosophy, perhaps, provides the most general idea of conflicts and their place in the system of scientific knowledge (Zhdanyk, 2017). It is from this science that certain currents of sociology and conflict studies have emerged, which are of the greatest interest to us.

A fairly well-established approach, which has been reflected in other sciences for centuries, in particular in law, is an antagonistic approach to conflict as a struggle for victory. Despite the fact that according to I. Kant the purpose of the conflict is to build a general legal civil society, the way of its construction is violent. In the state of nature the dispute ends in victory, and in the legal aspect the case ends with a verdict, which, penetrating into the essence of the dispute, should ensure eternal peace (Kant, 1994).

Only in the last century have conflicts begun to be studied as a separate phenomenon in a comprehensive way. In particular, G. Simmel is considered to be the founder of the direction of social conflict and its study as an independent phenomenon (Shevel, 2015), which led to significant changes in understanding the nature of conflicts and ways to overcome them.

Conflictology as a separate branch and section of sociology (Andruschenko, 1998) studies the patterns of emergence and development of conflicts. This is, in particular, a way of understanding conflicts, which involves resolving conflicts, transforming and managing non-violence as a paradigm, as opposed to the approach that violence is a way of resolving conflicts (Vinyamata, 2010). Conflictology is the culmination of interdisciplinary knowledge that helps to understand conflicts, crises, violence

of various kinds and, at the same time, a collection of transformations, ways of helping, resources and procedures for their settlement (Vinyamata, 2010).

The most important in our given definition is the guiding principle of peaceful conflict resolution (Woodhouse, 2012), i.e., the opposite of the existing, rather traditional, approach to the conflict as a competition of the parties, which leads to complete victory over the enemy by the means of struggle.

Struggles and competitions do not always have to be violent, a good example of which is the Olympic Games, which have united humanity for thousands of years, despite the prevailing ideologies and views. Such trends in sociology and conflict studies can and should be implemented in law, in particular, to find and clarify the nature of conflicts and the most effective ways to resolve them.

Labour disputes are an excellent example of the above. Labour disputes are one of the most difficult and debilitating conflicts, the management of which directly affects the company's ability to function properly. Conflictology has developed an approach to the settlement of labour disputes in organizations, the so-called "loyal fight," which manages chronic protracted conflicts between employers and employees (Redorta Loerte, 2010).

The spread of reflection on the conciliation of disputes has been felt since the 70s and 80s of the last century around the world, in particular in the United States (Rosenberg, 1972) and Japan (Rokumoto, 1972). The huge number of cases that the courts have not dealt with has led to the question which cases need a court at all (Rosenberg, 1972). Other studies even raise the question of why citizens generally avoid public court in their day-to-day disputes (Rokumoto, 1972). Laws on the use of mediation as a conciliatory means of settling civil disputes in the first half of the last century were passed in China (Tu, 1930).

At the same time, the implementation of such an approach to conflict and the vision of the dispute as a clash of opponents which requires a violent solution, in particular, the use of coercion in the form of court or executive intervention to enforce the decision, led to an almost total monopoly of state courts. Such situation appeared during Soviet times and is still fairly noticeable in post-Soviet countries.

During the Soviet era, the law provided for a special provision that trials could be conducted only by a state court, which led to the development of a specific approach to understanding access to justice in civil matters in the light of the Bolshevik theory of repression and coercion, while courts became their instrument (Bannikov, 2017). "Law is nothing without an apparatus capable of enforcing the rule of law" (Lenin, 1918), said V.I. Lenin and this idea was fully implemented in the legislation of the Soviet state. In both constitutions of the USSR (Constitution of the USSR, 1936) and the legislation in the field of the judiciary (Fundamentals of Civil Procedure of the USSR and the Union Republics, 1961), justice in civil cases was administered only by a court and on the basis of equality before the law and the court. This provision also found a place in the CPC of all union republics, which were adopted in the early 1960s and operated with changes even during the independence of the republics¹.

This approach to the definition of justice as one that is carried out only by state courts, in our opinion, reflects the desire to completely subordinate the life of society to the state, to prevent the free interpretation of law. The principle of legality, the basis of which is that the law as a product of the exercise of power of the majority is the only one which is correct and applicable; while the rule of law as a guiding principle of a democratic state governed by the rule of law was alien to Soviet ideology, and even after the collapse of the Union is very difficult to implement in the former Soviet republics.

Gradually after the proclamation of independence a new vision of accessible justice was formed

¹ For example, the CPC of the USSR of 1963 with changes operated in Ukraine until 2005, when the new CPC of 2004 came into force, more than forty years, surviving even the totalitarian system that gave rise to it.

in Ukraine. In particular, the 1996 Constitution (Constitution of Ukraine, 1996) contained provisions on the principle of the rule of law (Article 8), as well as the provisions on the protection of human and civil rights and freedoms by the court (Article 55) and on the administration of justice exclusively by courts (Article 124). Only the Law of 2 June 2016 added to the Constitution a provision that the law may provide for a mandatory pre-trial procedure for the settlement of a dispute (Constitution of Ukraine with amendments of 2016). However, it should be acknowledged that no such procedure is provided for in the legislation of Ukraine, and even more, no attempts to resolve an alternative dispute resolution have been successful (Khanyk-Pospolitak, 2008; Izarova, 2020).

At the same time, the CPC states that everyone has the right to go to court to protect their rights, and the waiver of this right is invalid (Article 4), and the task of civil proceedings is fair, impartial and timely consideration and resolution of civil cases to effectively protect the violated, unrecognized or disputed rights, freedoms or interests of individuals, rights and interests of legal entities, interests of the state (Article 2). The parties shall take measures for the pre-trial settlement of the dispute by agreement between themselves or, in cases where such measures are mandatory by law, as specified in Article 16 of the CPC.

The nature of the dispute as a phenomenon of law is defined, in particular, through the concept of legal conflict. Thus, the legal conflict in the modern Ukrainian doctrine of law is defined as a state of bilateral relations of subjects, which is based on legal contradictions and is characterized by a violation or obstacle in the realization of their interests and is the cause of maturation or crisis of social relations (Bobrovnyk, 2013). Such a feature of it as a positive value, which “‘pushes’ social relations to development and improvement” (Bobrovnyk, 2013), in our opinion, should be taken as a basis for our study.

The perception of law as natural, which embodies the essential aspects of human existence, (Rabinovych, 2010) leads us to believe that natural human rights as integral elements of social life should mediate the right of a person to reconciliation as a settlement of the dispute. The total restriction of access to justice as access only to the state court is an echo of the past era of independent states seeking to secure their own sovereignty and power on their territory, which today does more harm to the rule of law than good (Mota, 2014).

Therefore, as a result of the analysis, we can summarize the following. The formation of new trends and ideas about the conflict as a phenomenon that does not require a violent solution in sociology and conflict studies has not received adequate reflection in the law and legislation of modern Ukraine. The right of a person to seek conciliation as an effective alternative to the settlement of disputes should be one of the guiding principles of law, as a reflection of natural human rights.

2. Civil disputes in ECHR case law and practice of national courts

Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms deals with the right of everyone to a fair trial by a court that decides a dispute over their civil rights and obligations or establishes the merits of any criminal charges against them (Convention for the Protection of Human Rights and Fundamental Freedoms, 1950). That is, the Convention traces the dichotomy of the approach to determining a person’s right to a fair and public hearing by a court in a dispute over civil rights and obligations and in criminal charges.

The case is the essence of the phenomenon of a dispute over civil rights and obligations as an object of trial and judicial activity, which is significantly different from the trial of a case concerning the criminal prosecution of a person. The presence of two parties to the dispute, as well as contradictions between them that cause violations or are an obstacle to the exercise of their rights and interests,

characterizes the dispute of private law, while criminal prosecution is characterized by the presence of public authorities, the nature of the offense, the harshness of punishment to which a person could be subjected (Guide on Article 6 of the Convention – Right to a fair trial, 2020). The special guarantees of the trial of a criminal charge are, first of all, the presumption of innocence and the presumption of fact and law referred to in Article 6 § 2 of the Convention. At the same time, in civil proceedings, the parties to the adversarial process prove their rightness, and the burden of proof lies with the one who claims specific evidence (Civil Procedure Code of Ukraine, 2004). Part 3 of Article 6 also provides additional guarantees for the accused in the right to defense, while in civil proceedings the right to seek legal aid is not mandatory.

In fact, the provision of this article does not refer to civil disputes, but to disputes concerning the rights and obligations of a person of a specific nature. According to the case law of the ECHR, the concept of „dispute“ is defined by defining the existence of rights and obligations that are recognized by national law to some extent, and are characterized as “civil” under the Convention (Guide on Article 6 of the Convention – Right to a fair trial, 2020). Accordingly, the dispute as such should be defined by such features as its main character, its informal significance for the parties, based on real events in accordance with the circumstances of each case, the presence of two parties, and the rights in dispute. At the same time, it may relate to the facts of the case.

In our opinion, in order to determine a civil dispute, it is necessary to turn to the analysis and clarification of the essence of civil law. At the same time, according to the ECHR, whether the law is civil in the context of the Convention, depends on its main content and legal force, and not on its qualification in the national law of the respective state. In carrying out its functions as a public oversight body, the Court must also take into account the subject matter and objectives of the Convention and the judicial system of other States which are participants of the Convention (*König v. Germany (König v. Germany)*, § 89) (paragraph 19 of the Guide).

At the same time, the abovementioned Article 6 may be applied to other types of disputes, which define the position of “dominance of private law over public law” (paragraph 25 of the Guide), as well as if constitutional disputes have a significant impact on the outcome of civil law disputes.

Thus, the determining factor for a civil dispute is its private-law feature, which allows to separate civil disputes as disputes arising between equal subjects that are not public authorities.

If we take as a basis the definition of legal conflict as a state of bilateral relations of subjects, which is based on legal contradictions and characterized by violation or obstacle in the realization of their interests and is the cause of maturation or crisis of social relations (Bobrovnyk, 2013), then in defining a civil dispute, we should evaluate its subjective composition, their connection and defined contradictions that are a violation or obstacle to the interests of the parties and its cause.

In particular, the dispute between spouses regarding divorce is such a state of their marital relationship that is characterized by the existence of contradictions regarding their joint life, which is manifested in the inability to ensure the interests of both spouses at the same time (Article 112 and others of the Family Code). Resolving this dispute will eventually lead to the termination of ties and relations between the parties, as they must resolve the issues of children’s residence, as well as their joint property among themselves².

At the same time, a civil dispute is also a dispute over the change of the terms of the contract of

² Decisions of national courts and statistics may be found in Single State Register of Judicial Judgement (available at: <http://reyestr.court.gov.ua>) and Judiciary of Ukraine (available at: <https://court.gov.ua>) (in Ukrainian). [Accessed 1 October 2020].

sale of goods on credit, the recovery of penalties, or fines for debts³. The settlement of such a dispute may not lead to the termination of the relationship between its parties, but to their transformation and further development, the restoration of the violated right or interest, and the establishment of new rights and obligations between the parties for the future.

Another example is the relationship of damage due to an accident that gave rise to a dispute between the parties, for example, the amount of compensation for damage caused by a road accident, the termination of relations between the parties, the emergence of which was not the result of their free will.

Accordingly, in our opinion, the obligatory criterion for the application of conciliation of a civil dispute is the existence of a relationship that arose as a result of the free will of the parties, as was the case in examples 1 and 2; at the same time, the relationship of example 3 arose from a delict, so the compromise that the parties must reach must be secured by the possibility of enforcement.

Disputes which concern the termination of relations between the parties, the occurrence of which was not the result of their free will, require a special approach to settlement, in particular, the participation of the court, and the possibility of enforcement.

The positive significance of the dispute, expressed in pushing social relations between the parties to development and improvement, is manifested in the right of the parties to change their relations, the impact on the dynamics of their development, manifested, in particular, in the fact that they resolve specific conflicts. Divorced spouses can decide on their own whether to terminate their marriage, and it is they who can agree on maintenance, division of joint family property, and so on. At the same time, the recognition of a marriage as fictitious or the dissolution of a marriage as fictitious can be carried out only by a court, as both interested parties in the disputed relationship will testify to its authenticity.

Concluding remarks

As a result of the study, we can offer reasonable answers to the questions we asked at the beginning of the article.

The most effective way to resolve a civil dispute, based on its social nature, is to find a way of non-violent nature, given that it does not require excessive time and money to resolve it, and is characterized by a high level of predictability. The lack of enforcement of the decision in this case is compensated by the fact that the parties voluntarily agreed to resolve it, which is characterized as a positive aspect of the dispute, which pushed their specific relationship to further development and improvement.

The individual's right to reconciliation as a means of settling a dispute can be seen as a natural human right that promotes a peaceful and open society. The choice of the method of settlement of the dispute depends on the will of its parties and on the priority of the principles of justice in the state, whether it be of conciliatory or violent nature. Access to justice cannot be embodied only in the enforcement of a court decision, but must reflect the priority of alternative conciliation methods of dispute settlement in order to build *a state of the rule of law, not force*.

The private or public law nature of the dispute has an impact on the peculiarities of its settlement, as private law relations are relations of equal subjects, which are not connected by any power ties. Civil disputes are universal in nature and homogeneous within their private law nature. Therefore, for the further development of alternative dispute resolution, and in Ukraine in particular, it is necessary to provide for a mandatory recourse to conciliation in the event that the conflict between the parties arose from a relationship that is characterized as a result of free will of the parties.

³ Cases of debt collection under credit agreements are extremely common in court practice. See more in Judiciary Statistics. Available at: <https://court.gov.ua/inshe/sudova_statystyka/>. [Accessed 1 October 2020].

List of sources

Legal Acts

- The Agreement between Ukraine and the Republic of Poland on legal assistance and legal relations in civil and criminal cases [online]. Available at: https://zakon.rada.gov.ua/laws/show/616_174#Text. [Accessed 20 September 2020].
- The Agreement between Ukraine and the Republic of Lithuania on legal assistance and legal relations in civil, family and criminal cases, where assistance in civil, family and criminal cases is mentioned, which indicates that family matters are considered separate from civil [online]. Available at: https://zakon.rada.gov.ua/laws/show/440_002#Text [Accessed 20 September 2020].
- The Agreement between Ukraine and the Socialist Republic of Vietnam on Legal Assistance and Legal Relations in Civil and Criminal Matters [online]. Available at: https://zakon.rada.gov.ua/laws/show/704_050#Text [Accessed 20 September 2020].
- The Agreement between Ukraine and the Republic of Macedonia on the legal agreement in civil matters [online]. Available at: https://zakon.rada.gov.ua/laws/show/807_010#Text [Accessed 20 September 2020] etc.
- Convention for the Protection of Human Rights and Fundamental Freedoms [online]. Available at: https://zakon.rada.gov.ua/laws/show/995_004#Text [Accessed 20 September 2020].
- The Fundamentals of Civil Procedure of the USSR and the Union Republics of 1961 and 1971 [online]. Available at: <http://docs.cntd.ru/document/9007340>>. [Accessed 1 October 2020].
- Constitution of Ukraine of 1996 [online]. Available at: <https://zakon.rada.gov.ua/laws/show/254k/96-bp/ed19960628> [Accessed 1 October 2020].
- Constitution of Ukraine as amended by Law No. 1401/VIII of June 2, 2016 [online]. Available at: <https://zakon.rada.gov.ua/laws/show/254k/96-bp>. [Accessed 1 October 2020].
- Convention for the Protection of Human Rights and Fundamental Freedoms [online]. Available at: https://zakon.rada.gov.ua/laws/show/995_004#Text. [Accessed 1 October 2020].
- Civil Procedure Code of Ukraine [online]. Available at: <https://zakon.rada.gov.ua/laws/show/1618-15#Text>. [Accessed 1 October 2020].

Literature

- Andruschenko, V., Gorlacha, M. (eds.). (1998). *Sociology: Textbook*. Kharkiv-Kyiv.
- Bannikov, I.A. (2017). *The principle of administration of justice only by court in civil proceedings*. Cand. of law Thesis [online]. Available at: <https://istina.msu.ru/dissertations/86020824/>>. [Accessed 1 October 2020]. Decrees on the new court of 18–20 years, etc.
- Bobrovnyk, S.V. (2013). *Compromise and conflict in law: theoretical and methodological research*. Dr. of law thesis. T. Shevchenko National University. Kyiv: T. Shevchenko National University.
- Izarova, I., Prytyka, Y., Kravtsov, S. (2020). Towards Effective Dispute Resolution: a Long Way of Mediation Development. In: *Ukraine in Asia Life Sciences*, 29(1), 389–399.
- Kant I. (1994). *Collection of Essays*. Moscow.
- Kant, I. (1994). *Critique of Pure Reason*. Volume 3. Moscow.
- Kant, I. (1994). *Perpetual Peace: A Philosophical Sketch*, Moscow.
- Khanyk-Pospolitik, R. *Judicial System and Civil Procedure in Ukraine* [online]. Available at: http://ekmair.ukma.edu.ua/bitstream/handle/123456789/357/Khanyk-Pospolitik_Judicial.pdf?sequence=1&isAllowed=y. [Accessed 1 October 2020].
- Lenin, V. I. (1918). *The State and the Revolution, a complete collection of works*. Vol. 33.
- Luspenik, D. D. Which novelties of the civil process and how exactly influenced the judicial practice [online]. Available at: https://zib.com.ua/ua/134331-yaki_same_i_yak_noveli_civilnogo_procesu_vplinuli_na_sudovu_html [Accessed 20 September 2020].
- Maistruk, N. O. (2005). *Formation and development of the conflict paradigm in German sociology*. Cand. Soc. Science Thesis.
- Maistruk, N.O. *Formation of the principles of the conflict paradigm in the works of G. Simmel* [online]. Available at: <http://socio-journal.kpi.kiev.ua/archive/2009/3/7.pdf> [Accessed 1 October 2020].
- Mota, C. E. ADR mechanisms and their incorporation into global justice in the twenty first century [online]. Available at: https://www.academia.edu/12504513/ADR_MECHANISMS_AND_THEIR_INCORPORATION_INTO_GLOBAL_JUSTICE_IN_THE_TWENTY_FIRST_CENTURY?email_work_card=title. [Accessed 1 October 2020].

- Osipova, N. P. (2003). *Sociology: textbook*. Urinkom Inter.
- Rabinovych, S. P. *Natural and Legal Approaches in Judicial Regulation* [online]. Available at: http://library.nlu.edu.ua/POLN_TEXT/MONOGRAFII_2013/Rabinovuch_2010.pdf. [Accessed 1 October 2020].
- Redorta Loerte, J. *Techniques for Resolution of Work Conflicts in Organizations: The Loyal Fight* [online]. Available at: <http://dx.doi.org/10.7238/joc.v1i1.997> [Accessed 1 October 2020].
- Rokumoto, K. (1972). Problems and Methodology of Study of Civil Disputes; Part I. In: *Law in Japan*, 5, 97–114.
- Rosenberg, M. (1972). New challenges and responses in resolving civil disputes. In: *Law and the Social Order*, 3, 359–372.
- Shevel, I. P. (2015). Cultural development of social conflicts. In: *Scientific works. Sociology*, Volume 258, 38–42.
- Tu, N. Yu. (trans.). (1930). Law relating to mediation of disputes in civil matters. In *China Law Review*, 4(4), 106–107 [online]. Available at: https://heinonline.org/HOL/Page?public=true&handle=hein.journals/chinlr4&div=21&start_page=106&collection=journals&set_as_cursor=27&men_tab=srchresults. [Accessed 1 October 2020].
- Vinyamata, E. *Conflictology: A Multidisciplinary Vision (Comment)* [online]. Available at: <http://dx.doi.org/10.7238/joc.v1i1.995>
- Woodhouse, T., Santiago, I. M., Boulding, E. (2012). New Voices in Conflict Resolution. In: *Journal of Conflictology* [online]. Available at: <https://www.files.ethz.ch/isn/173172/Entire%20Journal.pdf> [Accessed 1 October 2020].
- Zhdanyk, A. V. (2017). Regarding the historical and philosophical aspects of the development of ideas about the conflict in the system of legal relations. In *Bulletin of the Alfred Nobel University. Series "Pedagogy and Psychology". Pedagogical science*, 1(13), 14–20.

Other sources

- Single State Register of Judicial Judgement. Available at: <http://reyestr.court.gov.ua>. [Accessed 1 October 2020].
- Judiciary of Ukraine [online]. Available at: <https://court.gov.ua> (in Ukrainian). [Accessed 1 October 2020].
- Judiciary Statistics [online]. Available at: https://court.gov.ua/inshe/sudova_statystyka/. [Accessed 1 October 2020].

Finding an Effective Way of Civil Dispute Resolution

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S u m m a r y

The concepts of “civil disputes” as well as “alternative dispute resolution” are used in science and practice very often, but there is no unity in views on the nature of this phenomenon. Ukrainian legal doctrine and legislation do not provide a definite answer to the question of the nature of civil litigation. The equation of civil disputes with labour, family, and sometimes even economic disputes can be found in conventions and international treaties. At the same time, the definition of civil disputes is extremely important in modern conditions for finding the most effective way to resolve them.

Dispute is the subject of research not only in law, but also in related social sciences, such as sociology, political science, psychology, etc. The results of these studies provide an opportunity to rethink the essence of civil litigation in law as a kind of social conflict, which will allow to apply it in the future to develop more effective ways to resolve them.

The abovementioned is the main purpose of our article, which suggests conclusions on the substance of the civil dispute and their effective settlement on the basis of analysis of modern Ukrainian legal doctrine and legislation, as well as the case law of the European Court of Human Rights and national courts and taking into account modern approaches to dispute resolution in sociology and conflict.

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