

## Legal relation: The issues of delineation (on the basis of the civil law of Ukraine)

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Civil relations are one of the fundamental topics of the civil law being the subject of the research attention of civil law scientists for many decades, both in Ukraine and abroad. Modern tendencies of social and economic transformations of the society, shifts in value and globalization challenges made topical the issue of delineation of civil and labor legal relations arguing the necessity in comparative analysis of their essence and content, definition of further perspective of interaction of civil and labor law branches. In the process of the study, the essence and content of civil relation have been revealed; the problem of replacement of labor relations with civil law, as well as the established judicial practice in this area on the territory of Ukraine has been analysed; risks and perspective of delineation of civil and labor relations have been determined; generalized author principles to delineate relations under the investigation have been proposed; the necessity to use the conceptual and categorical framework of a specific law branch regulating certain legal relations as a guarantee of a business entity against the claims of the controlling authorities has been substantiated.

**Keywords:** legal relations, civil legal relations, labor legal relations, decisional law, civil law contract, employment contract

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## INTRODUCTION

Interaction of a human in society creates relevant rights and obligations, which, in their totality, constitute certain social relations. In particular, modern political legal space as a result of social relations under conditions of increasing manipulative influence on mass consciousness, arbitrary transformation and reformatting of ideological and value orientations, of increasing the power of ideological and propaganda technologies, dynamic development of innovative technologies, rapid expansion of the audience of media resources related to globalization processes, requires decoding and rethinking in the context of the latest approaches.

For the legal science interaction of a human with the transformational environment of society is legal relations, where one party on the basis of legal norms require other party to perform certain actions or avoid them, and other party must fulfil these requirements protected by the state (Tsvik & Petrishin 2011a). Any actual interaction acquires the signs of legal relations in the case when such relations: (1) public; (2) ideological; (3) being a legal expression of economic, political, family, labour and other relations; (4) arise, cease or change on the basis of legal norms; (5) within them, the subjects are interconnected by subjective rights and legal obligations; (6) imply that the mutual behaviour of the participants is individualised and clearly defined; (7) have a volitional character, and (8) are protected by the state. In such way, not all public relations are legal, because to acquire this quality, they need to “walk” a corresponding way. In particular, such stages: (1) the emergence of public relations; (2) the development of actual relations, and (3) registration of relations as public (Tsvik & Petrishin 2011b). Moreover, the content and form of social relations are the determining conditions to classify social relations as the corresponding form, as well as, if possible, the proper legal regulation of social relations (Gabet *et al.* 2018, Dalal & Juneja 2018, Mancy & Vigila 2018, Kapur *et al.* 2018, Jiao & Xiang 2018, Gupta *et al.* 2018, Chen & Deng 2018, Kallash *et al.* 2018, Cui & Tu 2018, Droogan & Waldek 2018, Nasrullah 2018, Arabeyyat 2018, Al-Nemrat *et al.* 2018, Tang *et al.* 2018, Mesleh 2018, Barik *et al.* 2018, Jin & Zhao 2018, Irshad *et al.* 2018, Qu & Mu 2018, Tahat & Ismail 2018, Ditta *et al.* 2018, Zhuo 2018, Xu *et al.* 2018, Zhang *et al.* 2018, Shokouhyar *et al.* 2018, Tamma & Ahamad 2018).

The processes of globalization, informatization and the development of the technological basis of society lead to transformations in the socio-economic sphere, as a result, there are changes in civil legislation. In turn, under the influence of various international and national factors, in the context of reforming national legislation, civil law relations are also subject to qualitative transformations. In this context, interdisciplinary relations with other branches of law are of particular importance in order to build a modernized legal regulation for changed legal relations. The connection of civil law with other branches of law has become obvious, for example: family, housing, labor and economic law. Civil law is the basis of private law, is the leading (basic) sector in the sphere of private law regulation that predetermines the possibility of applying the general rules and principles of civil law, as well as its individual institutions, in certain cases not only in the field of civil law regulation, but also in other areas of private law (Kuznetsova 2011).

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Thus, Article 9 of the Civil Code of Ukraine indirectly provides the possibility of the subsidiary application of norms of this codified act to regulate labor legal relations, if they are not regulated by other acts of legislation (Civil Code of Ukraine... 2003). Also, it is worth mentioning that in Ukraine there is no a uniform court practice regarding legal relations in which employment contracts are replaced by civil law ones, or the construction of a mixed contract with elements of civil and labor legal regulation is used (Maidanik 2011). In such way, today on the territory of Ukraine civil and labor legal relations are in such close interconnection that often there is a replacement of labor legal relations by civil law ones. In addition, the doctrinal approaches to this issue are also not characterised by their unambiguity, which, in aggregate, actualises the topic of this article and the conducted study (Vitkauskas & Junevicius 2018).

Based on the foregoing, the purpose of the article was to analyze the factors of existence of civil and labour legal relations through the disclosure of the problem of their delineation, based on the norms of civil legislation of Ukraine. In accordance with the stated purpose, the following tasks of the article were set: (1) to reveal the essence and content of civil legal relations; (2) to analyze the problem of the replacement of labor legal relations in civil law, as well as the existing judicial practice in this sphere; (3) to determine factors, risks and prospects of the delimitation of civil and labor legal relations based on civil law of Ukraine.

## **MATERIALS AND METHODS**

The methodological basis of the article was the system of interconnected general scientific and special methods of scientific cognition, the use of which ensured the accuracy of the developed provisions and the solution of the tasks.

The following methods were used, in particular: descriptive – to study and determine the characteristic features of civil and labor relations, their essence; analytical and synthetic – to determine the features of the content of civil legal relations and their delineation from labor; logical and legal – for in-depth understanding of the content of norms of the current legislation of Ukraine, regulating the peculiarities of civil and labor relations, as well as for identifying the shortcomings of legal regulation in this area; systematic and structural – to generalize and conclude about the factors, risks and prospects for the delineation of civil and labor relations.

## **RESULTS AND DISCUSSION**

Civil relations are one of the fundamental topics of the civil law being the subject of the research attention of civil law scientists for many decades. Civil legal relations are studied in general as a legal phenomenon, and its individual elements (subjects, objects and content) are also considered. The development of the tasks set in the article, as well as the identification of the essence of civil legal relations as a category of civil law, requires an obligatory addressing achievements of the theory of state and law, an integral part of which is devoted to the legal relation and its dynamics. The category of legal relations was actively studied by Soviet scientists, as a result of which the theory of the concept, structure of legal relations, as well as

the basis for its emergence, change and termination, have been developed. Today, the existing developments in this area are still being used in order to explain the terms used in the domestic legislation, in particular, to clarify the mechanism for protecting civil rights and interests protected by law by changing and terminating legal relations (Paragraphs 6, 7, Part 2, Article 16 of the Civil Code of Ukraine (2003)).

It is worth noting that the notion of legal relations cannot be derived inductively or deductively; this notion, like the notion of subjective right, is conventionally established, disputes about its meaning can be conducted solely from the point of view of their convenience, but not the truth. The category of legal relations traditionally attracted the attention of many specialists in the field of the general theory of law (Alexandrov 1948, Burlai 1987, Khalfina 1975, Protasov 2015, Selivanov & Didenko 2000, Tolstoy 1959, Yavich 1971), as well as in certain branches of law (Pylypenko 1999), and above all – civil law, where, in fact, different points of view were expressed on the content of types and elements of legal relations (Sukhanova 1998). Among legal scholars, there is no unity in the understanding of the notion and structure of legal relations that can be traced in the researches of such domestic and foreign scientists as E.V. Vavilin (2008), A.S. Ioffe (2000), Yu.K. Tolstoy (1959), R.A. Khalfina (1975), among others. Despite the fact that in literature there are attempts to attribute legal relations to the notion of law (Perederiev 2007), it is worth agreeing with the qualification of legal relations as a form of implementation of law and recognize them as the result of the operation of legal norms, and not as a social regulator (Gasztold 2018, Wood 2018, Welizarowicz 2018, Kruk-Buchowska 2018, Boczkowskab 2018, Wilczyńska 2018, Kruk-Buchowska & Wilczyńska 2018, Mariani 2018, Kilarski 2018, Kucala 2018, Fajobi & Akande 2018, Szonyi 2018, Mattiello & Dressler 2018, Drewniak 2018, Thaisen 2018, Kiss 2018, Olesiejko 2018, Hanssen 2018).

The prerequisite for the existence of legal relations is always the corresponding norm of law, but for their immediate occurrence, as well as for changing or terminating, certain generally obligatory rules of conduct, legal facts are also needed. The presence of the latter as the basis for the emergence of legal relations testifies to their real character. In this regard, it is necessary to consider legal relations to be determined by specific social relations, regulated by norms of law, the grounds for the emergence, change and termination of which are legal facts. At the same time, despite the critical attitude in the literature to similar definitions of legal relations through their incompleteness (Koretsky 1967), it seems that such a definition concisely expresses the main content of the notion defined by it and therefore continues to be used in science (Vavilin 2008).

Referring to the essence of civil legal relations, it should be noted that it was studied in detail by Ioffe (2000), who, among other things, argued that legal relations are a way of transformation or a condition for the existence of social relations. Using the voluminous general theoretical (methodological) basis of civil legal relations can be defined as public relations regulated by civil law norms, or as based on civil law norms legal connection between legally equal, materially and organizationally independent subjects acting as carriers of subjective civil rights and duties. The

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main specific (branch) features of civil legal relations should include the following circumstances:

- Participants of civil legal relationships regarding each other act as legally equal subjects with organisational and legal and property independence;
- Civil legal relationships are legal connection arising in relation to material and non-material benefits;
- Relations of parties are regulated on the principles of initiative of participants in establishing legal relationships and the lack of discretion of legal regulation;
- Participants of civil legal relationships act as carriers of subjective civil rights and duties;
- Protection of subjective rights and inducing to perform subjective duties is carried out by influencing the material sphere of participants and, as a rule, in a judicial procedure, and
- The grounds for the emergence, changing, and termination of civil legal relationships are significantly different from legal facts in other branches of law in terms of the types, content, and nature of legal consequences. In particular, this is expressed in the fact that the basis for the emergence of legal connection between subjects of civil law is a civil law contract, as well as other legitimate actions. In addition, civil rights and obligations arise not only from grounds provided by law and other legal acts, but also from actions of subjects of civil law, which, although not provided for by law, but due to its general principles and content, create appropriate legal relations (Kharitonov & Saniakhmetova 2001).

Civil legal relations are the difficult law category that consists of three compulsory elements: subject, object, content. In totality, mentioned elements are called “composition of legal relations”. It is worth noting that in writings on the general theory of law in the number of elements of legal relations in recent times the grounds for their occurrence (legal facts) are also often included, with noting that it is expedient to speak not about the “composition” or “elements” of legal relations, but about their structure (Yakovlev 2001). Thus, despite considerable attention to the issues of legal relations in the theory of state and law, as well as in the science of civil law, issues related to the essence and elements of civil legal relations are debatable, and scientists suggest different approaches to understanding the composition of civil legal relations. For further research, interpreting the object of civil legal relations, as well as the structure of certain types of civil legal relations and their features in the context of the intensification of interdisciplinary relations are promising issues.

In modern conditions on the territory of our state, more and more attention is attracted by the issues associated with the delineation of civil and labour relations. Having considered the conceptual provisions on nature and content of civil legal relations, it seems possible to conduct a comparative analysis of these legal relations through the prism of society reforming and the legal system of Ukraine as a whole. In the process of evolution of the state and law, taking into account various historical periods, labor law has become the autonomous (independent) branch of law but initially it was within civil (more precisely Roman law). This is observed, in particular, by somewhat similar conceptual apparatus and legal structures. The

reason for this disengagement was the increased complexity of labour relations between citizens, enterprises and institutions. Today, the delineation of civil and labour relations is expressed in many features and characteristics.

Firstly, by a subject sign, significant differences are in the norm system of civil law and labour. The subject of the first one are personal property and non-property relations associated with the end result of labor (Zhernakov 2012). In turn, the subject of labour law is, in fact, is the relations formed in the process of labour activity, that is, a labor process of an employee is actually regulated in accordance with a labour function determined for him/her. The remark of Protsevskiy (2001), who believed that the subject of labour law is less homogeneous than the subject of civil law relations, is very pertinent. This statement indicates the inherent nature of the private and public from the sphere of labor relations, in contrast to civil law, in which the private content of legal relations is inherent.

Analysis of the scientific literature on this issue gives ground to assert that labor law does not directly regulate property relations, but regulates the labor process itself (for example, payment for hours worked, number of products manufactured for hours worked, project development by full-time employees), manufacturing products, goods; in turn, civil law does not regulate the labor process, but its result (product of labor), the sale of manufactured goods (for example, the transfer of manufactured products, the delivery of the construction object).

Also, it should be noted that there is a certain delineation of these legal relations by type of work performed (Inshin *et al.* 2011). So, in accordance with labor relations, the employee is obliged to perform work in accordance with the stipulated profession, qualification, speciality, a certain position. In this case, the inclusion of such a worker into a composition of a work collective is characteristic, where appropriate goals are set for him/her: performance of a certain scope of work, the fulfilment of the established work schedule and the corresponding internal labor schedule. In the framework of labor relations, employees are also obliged not to disclose confidential information to outside recipients; do not copy commercially valuable information to their advantage; to not engage in activities that do not meet interests of an employer during working hours (Yaroshenko *et al.* 2018b). Thus, in front of the person who works, certain requirements are set, which vary depending on employees of a particular profession, speciality. Considering the types of work in civil legal relations, it becomes obvious that they usually take the form of specific individual tasks. Moreover, in civil legal relations, work can be transferred to a third party, in labour relations – an employee must do all the work independently.

The delineation of legal relations is also made using the variability of the legal regulation method. The certain combination is characteristic for labor law, the symbiosis of two defining methods: centralised (imperative) and decentralized (dispositive) to regulate legal relations. Mostly, in civil law the method of discretion is inherent, which manifests itself in the legal equality of individuals, the initiative of the parties in establishing legal relations, the possibility of choosing behavior that does not contradict norms of the current legislation (Melnyk & Babenko 2016). It should be noted that, in general, the combination of two methods in the field of wage labor has similar characteristics, but they have a certain specificity that



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differs investigated legal relations from each other. For example, sign of equality of the parties is inherent in the method of labour law.

Thus, when modelling a specific situation, this characteristic is manifested in the conclusion of an employment contract, where the parties have the right to put forward certain proposals and, accordingly, to satisfy them or not; in contrast, this feature completely transforms, in essence, into a mandatory imperative immediately after the signing and agreeing with all terms of the contract. In fact, the prescriptive method is used, that is, participants in the legal relationship are required to perform certain actions or refrain from performing such actions. It is also necessary to add another distinguishing feature of the methods of these legal relations: local legal regulation of labor relations (in this case, subjects of labor relations themselves adopt rules by which the full legal protection of their rights and responsibilities is achieved). Thus, the difference between the methods of labor and civil law makes it possible to separate the legal relations regulated by these branches from one another, in particular, due to the inherent specific features of each branch.

Also, the grounds on the basis of which there are legal relations in both labor law and civil law are important for the delineation. It should be noted that relations in the labour sphere arise and function on the basis of an employment contract of both individual and collective sample. Accordingly, the basis of civil legal relations is different, because they exist on the basis of many diverse transactions and contracts (for example, purchase and sale, exchange, a deed of gift, etc.). In order to form the delineation on this basis, it is necessary, first of all, to define and delimit the notions of employment and civil law contract.

According to Article 21 of the Code of Labor Laws of Ukraine, an employment contract is an agreement between an employee and an owner, in accordance with which an employee undertakes to perform a work specified by this agreement, and an owner undertakes to pay wages and ensure working conditions necessary for the performance of work stipulated by law on labor, collective agreement and agreement of parties (The Code of Labor Laws of Ukraine... 1971). Scientists also emphasise that this definition lacks such a terminological component as "labor protection" (Yaroshenko 2019), which, in turn, would add an additional legalized criterion to delineate legal relations.

The notion of a civil law contract is unequivocally difficult to determine, since such an affirmation depends on the specifics of the specific relations that are being developed. Based on the most generalized definition of this notion, a performer undertakes to perform a certain job at his/her own risk (to render a service), and a customer undertakes to accept and pay for results of work (service) (Nizhnyi 2016). Basing on the doctrinal and legislative interpretations of definitions, it is advisable to distinguish between the main differences between the civil and employment contracts, which are as follows:

- in an employment contract, unlike a civilian, an employee must perform not individually specific tasks, but work, in accordance with his/her speciality and qualification;

- the completion of the assignment under an employment contract does not indicate termination of employment, which cannot be said in the case of civil law contracts, where execution means “termination”, and

- under an employment contract, an employee is in a long relationship with an employer, in contrast short-term relationships is inherent in civil contracts.

Despite all the above arguments, it is necessary to emphasise that the priority delineation of labor and civil legal relations is based on the differences in their regulatory documents – in particular, the employment and civil law contract.

The difference between civil legal relations and labor also takes place in such a situation, when remuneration for work is determined. According to the norms of civil law, such remuneration is carried out for manufactured products and does not regulate the process of its manufacture, working time, vacation, rationing of labor, payment of benefits in connection with disability. The norms of labor law regulate not only remuneration for work in accordance with the working conditions, business qualities of the employee, hours worked, but also the provision of vacations, the fulfilment of labour standards, and the establishment of legal guarantees (Yaroshenko *et al.* 2018a). Moreover, whatever the relations may be called in the performance of the relevant work, but if an employee got a job determined by agreement of the parties, to perform a specific labor function (speciality, profession, qualification) and performs it in accordance with the internal labor regulations, order and local actions of an employer, such relations are exclusively labor relations, and the rules of labor legislation, but not civil law, are applied to such an employee.

Certain differences are also in expression of will of parties in corresponding legal relations. The basis of civil legal relations can be both bilateral expression of will and unilateral transaction (for example, testament, donation), while in labor legal relations, the basis is only the will of the two parties, other options are not acceptable here. Also, it is worth to mention another difference between civil and labor legal relations. Namely, in the aspect of responsibility (respectively, material and property). First of all, it is necessary to distinguish property liability from material. According to the provisions on the employment contract, the liability of parties arises in the event of injury only in connection with the non-performance or improper performance of labour obligations. Thus, in the sphere of wage labor, only direct actual damage is applied for compensation and, as a rule, in a limited amount – no more than an average monthly wage of an employee. In contrast to civil law property liability, when cases of property liability without fault are provided, labor law does not provide such a basis for liability as material liability. The distinction between the concepts of property and material damage plays an important role in determining the ratio of civil and labor legal relations.

Case law is of particular importance in the context of the delineation of civil and labor legal relations, especially in the context of improving national legislation and the “exemplary” judicial decisions of the Supreme Court of our state. Thus, the Supreme Court, in its order dated May 08, 2018, in Case No. 127/21595/16-c, fixed the key positions of the delineation of civil and employment contracts. The court stated that the following terms of the contract should be considered as the main differences between a civil law contract and an employment



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contract: determination of the amount of work performed in the form of specific physical quantities to be measured, which should have been reflected in the act of their acceptance; the result of the work that performers must transfer to a customer; list of tasks of work, its types, quantitative and qualitative characteristics (Process or result?... 2018). Addressing the risks of replacement civil legal relations with labor, it should be noted that over the past few years there was a frightening practice of bringing to court the use of civil law contracts by employers, instead of necessary, in essence, in specific conditions – employment ones.

For entrepreneurs, the decree of the Sixth Administrative Court of Appeal on the Case No. 826/8917/17 dated May 14, 2019 was incredibly significant. The court declared invalid the Procedure for the implementation of state control and supervision over observance of the labor legislation, approved by the decision of the Cabinet of Ministers of Ukraine No. 295 (Sixth Administrative Court of Appeal 2019). According to Clause 11 of this Procedure, the Labor Inspectorate can freely, without prior notice, independently, at any time, go to any premises of a visiting object, in which wage labor is used. Thus, the Court of Appeal decided that inspections of the State Service of Ukraine on Labour in accordance with the present Procedure are illegal, and inspectors should be guided exclusively by the provisions of the Law “On the basic principles of state supervision (control) in the field of economic activity” (Some issues related to the implementation... 2017). Thus, the powers of the state inspection body were substantially limited by the court. Based on the analysis of current judicial practice, the following reasons can be indicated that civil legal relations to be recognised as “hidden labour relations”:

- The content of a contract concluded between parties indicates that the subject of this contract is the process of labor, and not its final result;
- An employee systematically ran errands of officials of an economic entity, and the amount of his/her duties coincided with the scope of responsibilities for the corresponding post;
- An employee was guided by the internal provisions of an economic entity;
- An employee submitted signatures for familiarization with internal job descriptions;
- An employee received material assistance and monthly payments, as well as employees, who are in labour legal relations with an economic entity;
- The time of work of a person was noted in the table on a par with employees according to an employment contract, and
- An employee’s work record is kept by an employer.

This list is not exhaustive and can be supplemented in accordance with the circumstances of each particular case and the peculiarities of legal relations. It is necessary to pay attention to the fact that the current legislation of Ukraine does not contain strict prescriptions, in which cases the parties are obliged to conclude employment contracts, and in which civil law contracts (agreements) for the performance of certain works. The parties to the contract are free to make their choice as to the form of consolidation of relations and, at their own discretion, may determine the type of such contract. The conclusion of a civil contract is the

exclusive right of economic entities, provided by the Constitution of Ukraine (1996) and the Civil Code of Ukraine (2003).

However, it should be noted that if a performer works regularly, it will correspond to the functional duties of an employee, a profession stipulated in the Classification of Occupations, he/she will be under the control of a customer, he/she will not independently organise work and services – the supervisory authorities and the court may decide replacement of labour relations with civil ones. In order to avoid confusion of their features, the common necessary and mandatory condition to ensure a specifically chosen type of legal relations is the terminology used by parties in a contract. Legal norms are formulated and expressed using general, abstract questions, special legal and technical terms that, under different conditions, can be interpreted ambiguously by legal entities (Tverdokhlib 2014). The inaccuracy of the linguistic expression of norms of law, the lack of uniformity of notions and terms leads to their incorrect interpretation and application. Accuracy in terminology should be applied for validity of the application of certain legal regulations by parties of a contract. The terminology in legal relations has a special role: it is the primary material to express the will of subjects of certain legal relations, the initial link in the construction of a legal text and the contractual basis for achieving goals of parties.

Today, despite the above list of factors that give reason to draw a clear delineation between civil and labor relations, and also provide their differences, very ambiguous and controversial points of view are expressed on the existence of such relations for the long term.

As Panasyuk (2009) asserted, scientists also raise deeper questions about the role and tasks of civil and labor law at the present stage, in particular, changing views on the teaching of labor legal functions. There are very radical proposals, in particular, a combination of labor and civil law branches (Maidanik 2007). The literature suggests that in the future labor legal relations should be transformed into a kind of civil law, when all labor relations will be governed by civil law, which, in their totality, will form the corresponding structural element of civil law, its institute (Chizmar 2015). More categorical conclusions are also considered, according to which, for example, an employment contract, as an organizational legal model in a market economy, has exhausted itself, and a civil law contract about labor has taken its place (Kanterman 2016).

If to take into account the current conditions of the labor market of Ukraine, in which atypical forms of labor are increasingly becoming apparent, it will be relevant to consider that, in the conditions of such employment, labor relations of an employee and an employer are increasingly formalised under civil law contract conditions, there is a direct relationship between labor and civil law, which in no way negates the independence of the branch of labour law and the uniqueness of labor legal relations. Labor legal relations, although they are influenced by civil law, however, have their own legal nature. The main features of national labor law Ukrainian scientists reveal almost equally. This is due to the fact that domestic labor law as a science, unfortunately, has not yet received tangible development in the times of sovereign Ukraine. In most cases, the views of scientists are based on

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the post-Soviet vision of the understanding of labour legal relations, including the perception of the labor industry as the leading branch of law in Ukraine.

### CONCLUSION

Today, the existence of civil and labor legal relations are legislatively justified, doctrinally and practically confirmed, the problem of delineation of which remains in focus of representatives of science and practice. These relations play an important role in the system of legal relations of each state, especially in legal, social and economic aspects. And the social stability, the economic well-being of the state and the potential of human resources depend on the qualitative legal regulation of the relevant legal relations. Ensuring the proper level of legal regulation of the studied legal relations in the context of globalization transformations and the reform of national legislation is of particular relevance.

Today, a proper delineation of civil and labour legal relations is not only of theoretical, but also of practical importance, allowing to form a comprehensive understanding of the factors and criteria that characterise their differences and interconnection. In addition, it is doctrinally justified to use such delineation to determine the place of civil and labor law in the national legal system.

The study provided an opportunity to trace a certain autonomy and independence of civil legal relations in comparison with labor relations, as well as to identify fragmentary positions of similarity in legal relations. Generalized author's signs of delineation of the studied legal relations are proposed, namely: (1) the difference in the legal regulation of the emergence and maintenance of the existence of the corresponding legal relations; (2) methods of legal regulation; (3) the purpose of contractual relations; (4) work performance processes; (5) the rights and obligations of parties to legal relations; (6) the will of parties in the relevant legal relations; (7) payment for a work performed, and (8) the responsibility of parties and others. Analysis of the legislation and law enforcement practice showed that the above list is not exhaustive and can be supplemented depending on the specifics of specific legal relations or contract terms.

The consideration of case law in the field of delineation of civil and labor legal relations resulted in the formation of conceptual conclusions about the risks of replacing labor legal relations with civil ones, which, in turn, leads to penalties provided for by the state. Also, the need to use the conceptual and categorical apparatus belonging to a particular branch of law, which will subsequently become a guarantee of a business entity from the claims of regulatory bodies is justified.

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