

SUMMARY

Key Words: circumstances, newly discovered circumstance, new circumstance, judicial act,
Subject matter: "Features of the proceedings for the revision of the judicial acts entered into force on newly discovered or new circumstances in civil proceedings»

Author: Basalaeva Anna Aleksandrovna

Supervisor: Dr.sc.pol., Cand.Sc. Law Professor G. V. Stankevich

The supervising organization branch Severo-the Caucasian of the Collegium of advocates of the Stavropol territory in Pyatigorsk

The relevance of the research topic: the relevance of the topic considered in this work is not in doubt, since the significant changes that have occurred recently as part of the update of the civil procedural law concern all the verification stages of the civil process, including the revision of the judicial acts entered into legal force on newly discovered or new circumstances.

In this regard, it is important to note that human rights can be fully protected only when the court makes a lawful and informed decision in the case. At the same time, the decision made by the court on the day of its issuance may be lawful and justified, but may cease to be so due to the fact that there are new circumstances in the case or it became newly discovered circumstances. According to Art. 392 of The civil procedure code of the Russian Federation (code of civil procedure) circumstances for change or cancellation of judgments are newly opened or new circumstances.

The stated actualizes the need to study the Institute of judicial acts review on the basis of newly discovered or new circumstances. The great changes that have been made to the norms of this institution, as well as the problems observed in this area of civil procedural legislation, require a new analysis of the Institute of judicial review of judgments on new and newly discovered circumstances.

Another factor directly related to the importance of research and analysis of the studied Institute was the adoption of the Concept of the unified Civil procedure code of the Russian Federation, according to which the norms of civil and arbitration procedural legislation should be unified.

The above indicates the relevance of the study of trends in the development of theoretical and practical problems of the Institute of judicial review for new and newly discovered circumstances, as well as the study of ways to improve the legislation at this stage of civil procedure.

The purpose of the work: analysis of the stage of revision of judicial acts on newly discovered and new circumstances, as well as the study of measures to improve civil procedural legislation.

Objectives: to consider the main stages of the historical development of the judicial stage of revision of the entered into force judgments on newly discovered or new circumstances; to determine the concept and legal nature of the Institute of revision of judicial decisions on newly discovered or new circumstances; to explore the types of newly discovered and new circumstances as grounds for the revision of judicial acts that have entered into force; to describe the basic rules of initiation of proceedings for the review of judicial acts that have already entered into force, for newly discovered or new circumstances; to identify features of the revision of judicial decisions on newly discovered or new circumstances; to analyze the problems of improving the procedural order of the revision of judicial acts that have entered into force on newly discovered or new circumstances.

The theoretical and practical significance of the research: it is the generalization and systematization of knowledge in the field of revision of judicial acts entered into force on new and newly discovered circumstances.

The practical significance lies in the possibility of using the data in practice.

Results of the study:

1. The Constitution of the Russian Federation guarantees the right of citizens to judicial protection of their rights and legitimate interests, including review of court decisions that have already entered into force on newly discovered or new circumstances.
2. It seems that the institution of review of judicial acts that entered into force due to new or newly discovered circumstances, in essence, refers to the methods of ensuring the legality of judicial acts in connection with the discovery of such circumstances that were not taken into account at the time of the adoption of the judicial act, or were not known to the applicant and the court, but which objectively can affect the content of the decision.
3. Chapter 42 of the code of civil procedure of the Russian Federation establishes the Institute of revision of judicial acts entered into force, this institution is an additional guarantee of protection of violated rights, and is considered a way to correct judicial errors made in civil cases.
4. The list of newly discovered or new circumstances according to part 2-4 of article 392 of the code of civil procedure is exhaustive and is not subject to expansion.
5. The newly discovered circumstances have certain features, firstly, these are legal facts that exist at the time of consideration of the case, and secondly, they are of great importance for the case, since they entail the emergence, change or termination of legal relations, and thirdly, these circumstances are not known in the process of consideration of the case.
6. During revising a court decision on newly discovered or new circumstances, the court must have the relevant act of the authority revoking the court decision.
7. Proceedings for review of judicial acts that have entered into force on newly discovered or new circumstances – independent, non-institutional, exclusive proceedings arising from the detection, occurrence and establishment of newly discovered or new facts that determine the purpose of the proceedings – the re-resolution of the civil case in essence - according to which the multi-stage nature of the tasks facing the proceedings is formed.
8. The process of consideration of an application for review of a judicial act on newly discovered and new circumstances consists of two stages – consideration of an application for review in a court session and another consideration of the case on the merits by the relevant court.
9. In most cases, when it comes to the review of the case due to newly discovered or new circumstances, the participants in the process do not have enough time for the legislator to submit an application to the court.

Recommendations:

- in norms of the civil procedural legislation it is necessary to fix the rule according to which review of the judicial acts which have entered into force will be carried out on condition of the instruction in the relevant resolution of Plenum or Presidium of the Supreme Court of the Russian Federation on giving the legal position of retroactive force formulated in it on cases with similar circumstances.
- it is necessary to establish a 6-month period within which the judicial decision issued in a particular case and entered into force may be reviewed in connection with a new circumstance.
- also it is necessary to make changes to Art. 397 of the code of civil procedure of the Russian Federation where it is required to fix inadmissibility of giving retroactive force to interpretation of legal norms which worsen a situation of citizens in their legal relations with public authorities, local government or the organizations allocated with separate state or other powers in comparison with
- there is a need within civil proceedings to refer to the independent basis of revision on new circumstances recognition by court invalid the disputed regulatory legal act.