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**ABSTRACT OF THE DISSERTATION**

for a degree of a Candidate of Juridical Sciences

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**Relevance of the research topic.** According to the published summary statistics, the courts of general jurisdiction considered 18 804 923 civil cases in 2019, 20 773 072 civil cases in 2020, and 22 619 800 civil cases in 2021<sup>1</sup>. The tendency to increase the volume of the judicial burden every year is becoming obvious. And the consequence of this is the diminution of the accessibility of justice to citizens. Persons participating in the case are faced with an increase in the time for consideration and resolution of the dispute that has arisen, which entails significant time and financial costs. Although the available resources could be used to create a positive economic effect of various scales.

At the same time, the forecasts given in 2016 regarding the simplified production designed to solve the unfavorable legal situation did not come true. Thus, in 2019, only 126 795 civil cases were considered in simplified proceedings, in 2020 — 120 134 civil cases, and in 2021 — 146 552 civil cases<sup>2</sup>. In comparison with the total number of cases reviewed, these figures are not significant. In addition, these indicators are in many respects inferior to the indicators of the use of writ proceedings, which absolutely does not provide for the adversarial nature of the parties.

The insignificant use of simplified production is due to the incompleteness of theoretical discussions about the essence of simplified production, about the limits of its procedural content, about the relationship with ordered production. This directly affects the completeness of the legal regulation of the simplified procedure for the consideration and resolution of civil cases. At present, simplified production continues to be the subject of reform. So, in November 2022, the Supreme Court of the Russian Federation submitted to the State Duma a bill contain-

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<sup>1</sup> Report on the work of courts of general jurisdiction on the consideration of civil, administrative cases in the first instance for 2019, 2020, 2021 // Official website of the Judicial Department at the Supreme Court of the Russian Federation. URL: <http://www.cdep.ru/?id=79> (date of application: 11.10.2022).

<sup>2</sup> In the same place.

ing, among other things, amendments to Chapter 21.1 of the Civil Procedure Code of the Russian Federation<sup>1</sup>.

Thus, increasing the applicability of simplified proceedings and detailed procedural regulation are undoubtedly urgent problems of modern civil procedural law.

The degree of elaboration of the scientific problem. The issues of speeding up and simplifying the civil process have been previously considered by lawyers. Thus, the impulse of the research conducted by D. I. Krymsky, N. V. Sivak was the introduction of a simplified procedure in the arbitration process. Jurists have made attempts to determine the legal nature, the characteristic features of the simplified order. In addition, the subject of discussion of the law society were the issues of the ratio of simplified procedures used in arbitration and civil proceedings (N. A. Gromoshina, D. A. Fedyaev, E. A. Tsaregorodtseva, O. D. Shadlovskaya, etc.), issues of sufficiency of characteristics of the allocated categories of cases to be considered in a simplified manner (M. M. Gotra, A.V. Malyshkin and others), issues of the implementation of certain procedural actions in simplified proceedings (N. A. Baturina, A. H. Hisamov, R. V. Shakiryanov, etc.).

However, until now, simplified proceedings in civil proceedings have not been the subject of a separate comprehensive scientific study, using a systematic approach that allows identifying the features of simplified proceedings in comparison with the general ordinary procedure for consideration and resolution of civil cases.

At the same time, the legal regulation and law enforcement practice of the Institute of civil procedure law under study need scientific understanding and systematic analysis, which is what this dissertation research is devoted to.

The purpose and objectives of the study. The purpose of this study is to form a holistic scientific understanding of simplified production in the civil process by identifying its essence, analyzing the criteria used by the legislator for the applica-

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<sup>1</sup> Draft Law No. 235526-8 "On Amendments to certain Legislative Acts of the Russian Federation (on unification of norms of civil procedural legislation)" // System of ensuring legislative activity. URL: <https://sozd.duma.gov.ru/bill/235526-8> (accessed: 02.12.2022).

tion of such an order, the specifics of the implementation of the four stages of the civil process, as well as identifying gaps and inconsistencies in the legal regulation of simplified production and the author's own ways to eliminate and overcome them.

The achievement of this goal is conditioned by the resolution of the following tasks facing the author:

- on the basis of historical and legal research to substantiate the simplification and acceleration of the civil process as a sure and necessary means of optimizing the judicial burden, increasing the accessibility of justice to citizens;
- to determine the legal essence of simplified proceedings in the aspect of the administration of justice in certain categories of civil cases;
- to identify the place of simplified proceedings in the structure of institutions of civil procedural law;
- analyze the rules on simplified proceedings in relation to individual stages of civil proceedings for the sufficiency and completeness of legal regulation of the appropriate procedure for consideration and resolution of civil cases;
- develop their own recommendations aimed at improving the current procedural legislation on simplified proceedings.

**The object and subject of the study.** The object of this dissertation research is the procedural legal relations that arise between participants in civil proceedings and the court when considering and resolving a civil case in simplified proceedings.

The subject of the research are: theoretical ideas and scientific positions regarding the simplification and acceleration of legal proceedings; norms of civil procedural law regulating relations in the field of simplified legal proceedings; international practice of application of procedures of simplified legal proceedings; practice of application of norms in the field of simplified proceedings by courts of general jurisdiction of the Russian Federation.

**The theoretical basis of the study.** In the course of this study, the pre-revolutionary, Soviet and modern legal literature, individual works of foreign ju-

rists devoted to civil proceedings in general, as well as certain aspects of the study were studied.

The theoretical basis of the research was the scientific works of S. S. Alekseev, S. M. Amosov, I. A. Bannikov, O. L. Begdan, E. A. Borisova, E. V. Vaskovsky, M. M. Gotra, N. D. Gribov, N. A. Gromoshina, A. S. Eremenko, V. M. Zhuikov, Yu. A. Zhukova, V. V. Zaitseva, N. V. Zaitseva, O. V. Zaitseva, O. S. Ioffe, Yu. A. Kondyurina, E. P. Kocha-nenko, D. I. Krymsky, E. V. Lyubimova, A.V. Malyshkin, V. A. Ponomarenko, N. V. Samsonova, N. V. Sivak, E. A. Solomeina, A.V. Sorokopuda, G. D. Uletova, E. A. Tsaregorodtseva, O. D. Shadlovskaya, O. N. Shemenева, V. M. Sherstyuk, P. D. Shkurova, V. V. Shpak and other legal scholars.

**Methodological basis of the study.** In the course of the research, general scientific and special legal methods were used, including systematic, historical-legal, formal-legal methods, combined with general philosophical methods of cognition and using the laws of formal logic.

**The information base of the study.** The information base of the study was the materials contained in the information and reference systems. In the course of the study, regulatory legal acts were analyzed: the Constitution of the Russian Federation, the Civil Procedure Code of the Russian Federation, the Arbitration Procedure Code of the Russian Federation, the Code of Administrative Procedure of the Russian Federation and other regulatory legal acts. The empirical base of the study was made up of law enforcement acts of the supreme judicial institution, courts of general jurisdiction of the Russian Federation.

**The validity and reliability of the research results** are confirmed by the use of regulatory legal acts of the Russian Federation, the analysis of a significant amount of materials of judicial practice on the issues of the topic under study, as well as the use by the author of methods of scientific cognition corresponding to the specified subject, object, purpose and objectives of the dissertation research, the extensive use of the research results as a theoretical basis of the materials of scientific works.

**The scientific novelty of the research** consists in the fact that this work is a comprehensive comprehensive analysis of simplified proceedings in civil proceedings as a legal phenomenon with clearly defined stages of civil proceedings, on the basis of which a conceptual approach to further procedural transformation of simplified proceedings has been developed. The conducted research allowed: to form a holistic view of simplified proceedings in civil proceedings; to classify simplified proceedings into subspecies; to suggest the possible admission of procedural reservations (agreements), with the help of which the parties to the case will be able to predetermine simplified proceedings as the desired procedure for resolving disputes arising between them in the future; to offer alternatives to the use of writ and simplified proceedings; to justify the possibility of expanding the list of categories of cases to be considered in a simplified manner; to formulate the specifics of making decisions on cases considered in the order under study; to propose the consequence of refusing to file an application for a reasoned decision; to develop proposals for optimizing the institution of civil procedural law under study.

**The scientific novelty of the dissertation research is reflected in the following main provisions submitted for defense:**

1. We propose to define simplified proceedings as a special procedure for considering cases included in the competence of courts of general jurisdiction, which is characterized by conducting a trial without a court session, replacing the oral contest of the parties with a written document flow and the prevailing activity of the court. Its features demonstrate a qualitative detachment from the essential characteristics of the ordinary procedure.

2. The stage of initiation of a case in the framework of simplified proceedings covers not only the assessment of the admissibility of the statement of claim to formal requirements, but also the assessment of the applicability of simplified proceedings.

It seems reasonable to distinguish, depending on the basis of the application of the simplified procedure, two subspecies of simplified production. The first is simplified proceedings applied when the case formally meets imperatively estab-

lished criteria. The second is simplified proceedings used when the parties perform procedural actions that clearly indicate the consent of the parties to the application of the rules of this type of legal proceedings.

3. Regarding the second dispositive subspecies, in our opinion, there is a need to find new ways to optimize the interaction of subjects of civil procedure in relation to the transition to a simplified procedure for consideration and resolution of the case.

We propose to optimize the mechanism of interaction between the subjects of civil procedure — the parties to the case and the court — when expressing consent to the consideration of cases in the simplified procedure, providing for the possibility of the parties to the case to voluntarily apply a procedural clause or conclude a procedural agreement, according to which the parties predetermine simplified proceedings as the desired procedure for resolving disputes arising or arising between them. Such an approach will allow the court, provided that the relevant document is attached to the statement of claim directly at the stage of initiation of the case, to attribute claims other than those specified in paragraph 1 of Article 232.2 of the Civil Procedure Code of the Russian Federation to the claims considered in a simplified manner. In addition, this will reduce the time costs associated with the initial initiation of a case in a general legal manner. At the same time, such reservations and agreements do not exclude the further transition to the consideration of the case in a different, general procedure in the presence of circumstances that prevent the consideration of the case in a simplified manner.

4. A study of the ratio of simplified and ordered production has been conducted and an alternative to their use has been proposed.

In the order of writ and in the order of simplified production, claims not exceeding 100,000 rubles can be considered. At the same time, priority is given to ordered production. In case of cancellation of the court order, the specified case may be considered according to the rules of simplified proceedings. Claims in the amount of over one hundred thousand rubles are subject to consideration in general court proceedings in case of cancellation of a previously issued court order. At the

same time, there are no substantive differences between the legal conflict considered in simplified proceedings and the legal conflict considered in writ proceedings.

We propose to establish an alternative to the use of writ and simplified proceedings, in which the subject independently decides on the consideration of his claims in one order or another, first assessing the likelihood of cancellation of the court order.

At the same time, the sequence of consideration of the pre-revealed claims should be maintained — “writ proceedings (if the plaintiff has decided to obtain a court order) - simplified proceedings (in case of cancellation of the issued court order while observing the price limit) — lawsuit proceedings (if during the consideration of the case in simplified proceedings the circumstances leading to the transition to an ordinary process, or when the court order is canceled at the appropriate price limit.”

This approach will contribute to the active application of simplified proceedings and reduce the percentage of double consideration of cases.

5. We propose to expand the list of categories of cases subject to consideration in a simplified manner due to non-property disputes and a separate category of cases falling within the scope of the rules of special proceedings — summoning proceedings. Such an approach will contribute to solving the problem of the workload of the judicial system and the realization of the accessibility of justice to citizens.

6. Court decisions rendered in a simplified manner, with the exception of decisions of magistrates, must contain a motivational part. The reasonableness of the decision covers the entire thought process of the court, and its absence may lead to a violation of the logic of the adoption of the judicial act. The legislative consolidation of the specified requirement for the content of the court decision will eliminate or at least minimize the discrepancies of judicial authorities in the standards of assessing facts, and determine a benchmark for the entire Russian judicial practice. At the same time, the presence of the goodwill of the subjects of civil



proceedings to adopt a court decision in a truncated form is permissible. At the same time, such an expression of will is possible before the expiration of the period established for the presentation of additional evidence. On the one hand, this will ensure citizens' access to fair justice, and, on the other hand, will provide a mechanism for optimizing the judicial burden.

7. We propose to establish that the refusal to submit an application for a reasoned decision is equivalent to the refusal of an appeal.

With the proposed approach, there is no "clutter" of overlapping will of the persons participating in the case, the likelihood of situations when a party to the case files an appeal that does not reflect the arguments in accordance with the reasoning of the court is eliminated.

### **Proposals for amendments to the legislation.**

Paragraph 3 of Article 232.1 of the Civil Procedure Code of the Russian Federation should be stated in the following wording:

*"3. Civil cases in the simplified procedure are considered and resolved by the district court before the expiration of two months from the date of receipt of the application to the court, and by the justice of the peace before the expiration of a month from the date of acceptance of the application for production."*

Paragraph 1 of Article 232.2 of the Civil Procedure Code of the Russian Federation should be worded as follows:

*"1. In the order of simplified proceedings, the cases are subject to consideration:*

*1) for statements of claim for the recovery of funds or for the recovery of property, if the price of the claim does not exceed five hundred thousand rubles, while the presentation of the application in the order of writ proceedings is not mandatory;*

*2) on claims for recognition of ownership rights, if the price of the claim does not exceed five hundred thousand rubles;*

*3) claims based on documents establishing monetary obligations recognized by the defendant, as well as confirming the debt under the contract in aggregate;*

*4) non-property claims related to property claims specified in paragraphs 1-3 of part one of Article 232.2 of the Civil Procedure Code of the Russian Federation, unless the court allocates a claim that is non-property in a separate proceeding;*

*5) claims arising from cases for the restoration of rights on lost bearer securities or order securities, if the claim does not exceed five hundred thousand rubles."*

Paragraph 4 of Article 232.2 of the Civil Procedure Code of the Russian Federation should be worded as follows:

*"4. The court is obliged to issue a ruling on the consideration of the case under the general rules of claim proceedings, if:*

*1) during the consideration of the case in the simplified procedure, it is established that the case is not subject to consideration in the simplified procedure;*

*2) a third party has entered into the case or has been involved;*

*3) a counterclaim has been accepted, which cannot be considered according to the rules established by this chapter. In this case, a counterclaim may be filed by the defendant within the period specified in paragraph 3 of Article 232.3 of this Code;*

*4) by the day of the decision on the case, there is no evidence of handing over a copy of the ruling on the consideration of the case in simplified proceedings to a person participating in the case, or this information has been received, but clearly indicates that the person did not have the opportunity to familiarize himself with the case materials and submit objections and evidence to substantiate his position within the prescribed period;*

*5) the parties have agreed on the use of conciliation procedures.*

*The court may issue a ruling on the consideration of the case under the general rules of claim proceedings at the request of one of the parties or on its own initiative, if:*

*1) it is necessary to find out additional circumstances or investigate additional evidence, including due to the impossibility of providing evidence to the*

*court for reasons beyond the control of the person and ensuring familiarization with the submitted evidence of other persons within the established time limit for consideration of the case in a simplified manner, as well as to inspect and examine evidence at their location, appoint an expert examination or hear witness statements;*

*2) the stated claim is related to other claims, including to other persons, or a judicial act adopted in this case, the rights and legitimate interests of other persons may be violated;*

*3) the settlement agreement was not approved at the court session."*

Paragraph 5 of Article 232.2 of the Civil Procedure Code of the Russian Federation should be stated in the following wording:

*"5. In the definition of the consideration of the case according to the general rules of claim proceedings, the actions to be performed by the persons participating in the case and the timing of these actions are indicated. After the ruling is made, the case is considered from the very beginning, except in cases where the transition to the consideration of the case under the general rules of claim proceedings is caused by:*

*1) the need to inspect and examine evidence at their location, appoint an expert examination or hear witness testimony;*

*2) not by approving a settlement agreement;*

*3) the inability to provide evidence to the court for reasons beyond the control of the person and to ensure familiarization with the submitted evidence of other persons within the established time limit for the consideration of the case in a simplified manner."*

*A ruling on the consideration of a case under the general rules of claim proceedings or on the refusal of such a transition may be appealed by a person participating in the case.*

Paragraph 2 of Article 232.2 of the Civil Procedure Code of the Russian Federation should be supplemented with the following provision:

*"2. ... Consent may be expressed through a procedural agreement (reservation) concluded by the parties on the application of simplified proceedings to disputes arising in the future or arising between them."*

Article 232.4 of the Civil Procedure Code of the Russian Federation should be stated in the following wording:

*"1. A decision on a case considered in a simplified procedure is made in accordance with the norms of Chapter 16 of this Code. The district court may not make a reasoned decision if the parties to the case have expressed their consent to this. Such consent may be expressed within the time limit provided for in paragraph 3 of Article 232.3 of this Code. The expression of such consent is equivalent to the refusal of an appeal.*

*2. A court decision on a case considered in a simplified procedure shall enter into legal force upon the expiration of fifteen days from the date of its adoption in final form.*

Paragraph 3 of Article 235.1 of the Civil Procedure Code of the Russian Federation should be worded as follows:

*"3. If there are grounds provided for by part four of Article 330 of this Code, the court of appeal shall cancel the decision and send the case to the court of first instance for consideration under the rules of simplified proceedings.*

*If the court of appeal has found the arguments given in the appeal to be justified that the case considered in the simplified procedure was subject to consideration under the general rules of claim proceedings, the court of appeal reverses the decision and sends the case to the court of first instance for consideration under the general rules of claim proceedings.*

*If there are grounds provided for in Part 1 and Part 2 of Article 330 of this Code, the court of appeal shall cancel or amend the decision in full or in part."*

**Theoretical and practical significance of the study.** The conclusions formulated based on the results of the study regarding the essence of simplified proceedings, the operation of the principles of civil procedural law in a simplified manner, gaps in legislation can be applied to expand theoretical knowledge in the

field of simplified procedures used in Russian civil procedure, as well as serve as a basis for subsequent studies of the object of this work. The practical significance of the research is reduced to the possibility of applying the research result in law enforcement and law-making activities through the adoption of legislative initiatives put forward by the researcher, as well as for use in the educational process in the discipline "Civil Procedure".

**Approbation of the results of the study.** The dissertation was prepared at the Department of Civil Law and Process of the Federal State Budgetary Educational Institution of Higher Education "Baikal State University", where it was discussed.

The main ideas and theoretical provisions of the dissertation research made up the content of the author's reports at a number of scientific and practical conferences, including: the national scientific and practical conference with international participation "Development of Russian society: challenges of modernity" dedicated to the 90th anniversary of Baikal State University (Irkutsk, October 16, 2020, Baikal State University) report on the topic: "Simplified legal proceedings in civil proceedings: the history of the development of legal regulation"; national scientific and practical conference with international participation "Personality, society and the state in the legal dimension" (Irkutsk, March 22, 2021, Baikal State University) report on the topic: "Ways to improve legislation on simplified procedure of consideration of cases in civil proceedings"; X International Scientific and Practical Conference "Protection of private rights: problems of theory and practice" (Irkutsk, September 23, 2021, Baikal State University) report on the topic: "Initiation of civil cases considered by courts of general jurisdiction in the simplified procedure"; XI Annual International Scientific and Practical Conference "Protection of private rights: problems of theory and practice" (Irkutsk, December 20, 2022 Baikal State University) report on the topic: "Participation of third parties in simplified civil proceedings".

**List of the author's publications.**

Certain provisions of this dissertation work are reflected in five scientific articles published in leading peer-reviewed scientific journals recommended by the Higher Attestation Commission of the Ministry of Education and Science of the Russian Federation for the publication of the results of dissertation research:

1. Staritsyn A. Yu. Simplified procedure for resolving claims in civil proceedings / A. Yu. Staritsyn // Gaps in Russian legislation. – 2021. – No. 6. – pp. 190-198.

2. Staritsyn A. Yu. Simplified proceedings in civil and arbitration proceedings / A. Yu. Staritsyn // Arbitration and civil proceedings. – 2021. – No. 11. – pp. 29-32.

3. Staritsyn A. Yu. Simplified proceedings in civil proceedings as a form of justice: problems and solutions / A. Yu. Staritsyn // Bulletin of the Saratov State Law Academy. – 2022. – No. 1. – p. 139 148.

4. Staritsyn A. Yu. Grounds for consideration of cases in a simplified manner / A. Yu. Staritsyn // Siberian Legal Bulletin. – 2022. – No. 1. – P. 113 118.

5. Staritsyn A. Yu. Decision, adopted in the case within the framework of simplified proceedings / A. Y. Staritsyn // Siberian Legal Bulletin. – 2022. – No. 2. – pp. 122-126.

Other publications of the author:

Staritsyn A. Yu. Ways to improve legislation on the simplified procedure for considering cases in civil proceedings. A. Yu. Staritsyn // Personality, society and the state in the legal dimension: materials of the correspondence national scientific and practical conference with international participation (Irkutsk, March 22, 2021) / edited by I. G. Smirnova. – Irkutsk: Publishing House of BSU, 2021. – pp. 212-217.

