

Appeal of an Individual in Case of Violation of their Right

Siyambonga Heleba*

Department of Mercantile Law, University of Johannesburg, Johannesburg, South Africa

Abstract

The subjective right to protection in the mechanism of exercising the right to information on one's health can also be considered as an opportunity for a person to use an unlawful encroachment on the subjective right to information on their health and restore it in case of violation certain law enforcement measures.

Keywords: Law of Ukraine; Civil Code; Jurisdictional body; Constitution; Public Associations

Introduction

The subjective right to protection in the mechanism of exercising the right to information on one's health can also be considered as an opportunity for a person to use an unlawful encroachment on the subjective right to information on their health and restore it in case of violation certain law enforcement measures [1]. First of all, a person's ability to protect the right to information on their health is based on the provisions of Part 5 of Art. 55 of the Constitution of Ukraine, Art. 15 and Art. 275 of the Civil Code of Ukraine, which provide for the right of a person to protect their subjective rights in case of violation, non-recognition, or contestation, and Para 2 of Art. 7 of the Law of Ukraine "On Information", which enshrines the possibility to demand the elimination of any violations of the right to information. The place of the right to protection in the system of civil rights is ambiguously defined in the legal literature. Thus, according to the traditional concept, the right to protection is an integral part of subjective civil law, along with the right to one's own actions and the right to demand appropriate conduct from obligated persons. At least the owner of the information of its documentary form prevents access to it by third parties. Supporters of this concept argue that an integral quality of subjective law is to ensure its possibility of protection, which, in turn, does not exist in parallel with other possibilities enshrined in subjective law but is inherent in them directly [2,3]. Contrary to the traditional concept, there are other opinions of scholars, according to which the right to protection is an independent subjective right. Confirming this fact, it is emphasized that the right to protection appears in the subject only at the time of violation or challenge of the right and its implementation takes place within certain limits of the emerging civil legal relations. We believe that the right to protection is a characteristic of all subjective rights, including the right to information on one's health, because every subjective right is subject to protection, even if the right to protection is not provided by civil law, but in any case, should not contradict its norms [4].

Discussion

As for the subjective right to information on one's health, we believe that the right to protection is part of this right together with the right to one's own actions regarding the collection, use, distribution, and storage of information on one's health. The need to protect the right to information on one's health arises when there is an encroachment on it, which can be carried out in certain ways, as defined in Part 1 of Art. 15 of the Civil Code of Ukraine, according to the content of which each person has the right to protection of their civil rights in case of violation, non-recognition, or contestation [5]. However, at present, these grounds for protection are not fully explored, which, in turn, is negatively reflected in the choice of protection of the right to information on one's health, as well as any other subjective right, in connection with so that the choice of a certain method of its protection depends on the exact

definition of the nature of the encroachment on the subjective right [6]. Encroachment on a subjective right by violating it. In the doctrine of civil law, a violation is usually understood as a state of subjective law in which it has been unlawfully influenced by the offender, which has led to a reduction or termination of the subjective right, as a result of which the authorized person is deprived of the opportunity to exercise it [7]. Thus, a violation of the right to information on one's health is to deprive an authorized person of the opportunity to perform certain actions provided for in the content of this right [8,9]. Violation of the right to information on one's health occurs through the implementation of certain actions, which may be actions of a factual or legal nature:

Regarding actual actions, it can be noted that they may be an obstacle to the person to collect, use, disseminate, store information both directly and through various technical devices, including electronic equipment; Regarding actions of a legal nature, it can be noted that these actions consist in the adoption by public authorities of illegal acts that restrict the ability of a person to collect, use, disseminate, store information on their health; Other actions of persons who may use documents containing such information. Thus, doctors' delays in medical books and cards are typical, as a result of which the right to receive medical data on time is violated [10]. Violation of the right to information on one's health is the basis for the application of various methods of protection of civil rights, and their choice depends on the nature of the violation of the right in question. If actions that violate the right to information on one's health contain a civil offense, it is possible to use remedies that are measures of legal responsibility, namely: compensation for property damage All other methods of protection, which are provided in Part 2 of Art. 16 of the Civil Code of Ukraine, do not belong to the measures of legal responsibility, namely recognition of the right to information on one's health; termination of an action that violates the right; recognition of illegal decisions, actions, or inaction of public authorities, the authority of the Autonomous Republic of Crimea or local government, their officials and officials who violated the right of a person to information on their health.

Encroachment on a subjective right by not recognizing it. Non-recognition of the right to information on one's health is manifested in passive denials of the person's existence of this subjective right or

*Corresponding author: Siyambonga Heleba, Department of Mercantile Law, University of Johannesburg, Johannesburg, South Africa, Tel: +27115595825, E-mail: scheleba@uj.ac.za

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the right to collect, use, distribute, store information on one's health. Non-recognition of the right to information on one's health does not harm the authorized person themselves but makes them unsure of their right to information on their health. In order to protect it, the person endowed with it must take active action – to apply to the court for recognition of the right to information on their health. Encroachment on a subjective right by challenging it in the legal literature is considered as an encroachment on a certain subjective right, which, in turn, is not a violation of this subjective right but complicates the position of the person endowed with this right. To challenge the right to information on one's health is to deny that one has it or the ability to collect, use, disseminate, and store information on one's health in a jurisdictional body. Unlike non-recognition, the right to information is challenged as a result of the active actions of a third party, which calls into question the right of a person to collect, use, disseminate, store information on their health. In this case, the person entitled to information on their health must ask the competent authority to confirm that they have such a right.

It should be noted that the protection of the right to information on one's health is carried out freely. Thus, in accordance with Art. 20 of the Civil Code of Ukraine, a person exercises the right to protection at their discretion, the failure of a person to exercise the right to protection is not a ground for termination of this right. The person whose right to information on their state of health has been infringed shall independently decide whether or not to apply law enforcement measures to restore the violated, disputed, or unrecognized right, as well as choose the forms and methods of its protection. Among the forms of protection are jurisdictional and non-jurisdictional forms of protection of the right to information on one's health. According to the Constitution of Ukraine and the current legislation of Ukraine, healthcare in Ukraine is provided by the activities of state and non-state bodies and organizations. That is, while protecting their violated right to information on their health, the authorized person may perform certain actions that are not related to the appeal to the competent state authorities and constitute a non-jurisdictional form of protection. Non-jurisdictional form of protection is that the protection of the right is carried out by citizens and individuals independently through certain independent actions that are not related to recourse to the competent state authorities. Thus, this form of protection of the right to information on one's health of individuals may include certain actions of an individual to protect the above right, namely: Appeal of an individual in case of violation of their right to information on health and for the purpose of their protection to non-governmental organizations. Thus, Art. 6 of the Law of Ukraine "Fundamentals of the Legislation of Ukraine on Healthcare", provides that citizens have the

right to join public organizations to promote healthcare, and the Law of Ukraine "On Public Associations" defines the creation and operation of public organizations.

Conclusion

Depending on the activities of public organizations that protect the rights of individuals to information, and hence the right to information on their health, they can be divided into public organizations of broad and narrow orientation. Public organizations of broad orientation deal with all legal assistance to individuals in violation of their rights in the medical field, as for narrow organizations, they are usually limited to a certain group of individuals, or a certain range of activities carried out. There are also various charitable organizations, funds, foundations, which are guided in their activities by the Law of Ukraine "On Charity", and the All-Ukrainian Council for the Protection of Patients' Rights and Safety in the medical field.

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None

Conflict of Interest

None

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