

ANALOGY OF LAW AND ANALOGY OF RIGHT IN CIVIL LAW

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Annotation:

Our article discusses the analogy of law and the analogy of law in civil law. The laws are analyzed with examples.

Key words:

Analogy of law, analogy of right, civil law and duties

Civil law cannot provide rules that fully cover the day-to-day relationships in social life. There may be new relationships in the marriage that are not covered by civil law. Social life, the development of science and technology are creating new realities, legal relations. Some of them may have completely new content, so there may not be any civil law governing them. However, this does not mean that they are not regulated by law. Because in civil law, analogies are allowed.

Therefore, in civil law, analogy is allowed.

According to Article 5 of the Civil Code of the Republic of Uzbekistan, in cases where civil legal relations are not directly regulated by law or by agreement of the parties, the norm of civil legislation governing similar relations is applied (similarity of law). If similarity of law cannot be used, the rights and duties of the parties shall be determined in accordance with the general principles of civil law, the requirements of reasonableness and justice.

Its legal basis is set out in Article 5 of the Criminal Code. According to it, in cases where civil legal relations are not directly regulated by law or by agreement of the parties, the norm of civil law governing similar relations (similarity of law) is applied. For example, a new object of intellectual property has been created, and there is no rule on its legal regime

If, after the conclusion of the contract, a law is adopted that sets out rules other than those at the time of the contract, which are binding on the parties, the terms of the contract shall remain in force, except as otherwise provided by law. in which case the existing legislation determining the legal regime of a similar object shall be applied.

If the similarity of the law cannot be used in the above cases, then the general principles and content of the civil legislation, ie the similarity of the law, shall apply. The general principles of the legislation are set out in Article 1 of the Civil Code and are regulated in accordance with the requirements of honesty, reasonableness and justice¹.

Participants of civil legal relations are allowed to take the initiative, to engage in activities not prohibited by law. The norms that restrict civil rights and define liability cannot be applied by analogy.

According to the above norm, analogy is divided into two types: the first is a legal comparison, and the second is a legal comparison. The analogy of law to the application of a law governing similar relations is called the analogy of law to the resolution of a disputed relationship on the basis of the general principles and meaning of the law. The following should be taken into account when applying the law (rule) on analogy.

Firstly, the above rules can be used only in the absence of relevant laws and decrees on the issue, secondly, as an analogy, the court decision is valid only for the dispute, and thirdly, the general principles and content of judicial law - It is necessary to indicate the general principles of the law on which the court made its decision in expressing the decision, but not in a dry reference. The application of norms restricting civil rights and establishing liability on the basis of similarity is not allowed (Article 5, paragraph 3 of the Civil Code).

In cases when decisions of an election commission are declared invalid, the election commission that adopted them shall be obliged to prove the circumstances on which these decisions were based.[9]

Therefore, in order to study corruption, conflicts of interest, it is necessary to analyze a number of official crimes, as well as the areas of service of officials.[10]

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