

E DREJTA CIVILE DHE TREGTARE

1. Kuptimi i marrëdhënieve juridike civile. Vecoritë dhe karakteristika e marrëdhënieve juridiko-civile. Elementet e marrëdhënies juridike civile (subjekti, përmbajtja, objekti).

Marrëdhënia juridike civile është rezultati i veprimit të rregullimit nga normat e së drejtës civile.

Keto subjekte kanë një raport të caktuar kundrejt njëri tjetrit, e ku njëri paraqitet si bartës i së drejtës, tjetri si bartës i një detyrimi të caktuar.

Marrëdhënia juridike civile dallohet nga marrëdhëniet e tjera pasi në themel të saj duhet të ekzistojë vullneti midis subjekteve pjesëmarrëse të saj, çka bën që marrëdhënia juridike civile të konsiderohet si një marrëdhënie e vullnetshme.

Karakteristika e kësaj marrëdhënie është fakti se keto marrëdhënie rregullojnë ato kategori të caktuar të drejtash të cilat janë të drejta pasurore dhe vetjake jopasurore.

Pra: marrëdhëniet juridike civile janë marrëdhënie pasurore dhe vetjake jopasurore, ku **subjektet e tyre, personat fizike ose juridike**, paraqiten si bartës të të drejtave subjektive dhe të detyrimit juridiko-civil dhe rregullohen nga normat e së drejtës civile.

Në shkencën e së drejtës ekzistojnë pikpamje të ndryshme në lidhje me elementet e marrëdhënies juridike civile dhe i klasifikojmë në 3 grupe:

1. Në grupin e parë bëjnë pjesë ato pikpamje të cilat e konsiderojnë marrëdhënien juridike si një teresi të tre elementeve, subjektit, objektit dhe përmbajtjes së marrëdhënies juridike civile.
2. Sipas pikpamjes së dytë elementet e marrëdhënies juridike civile janë subjektet e së drejtës dhe të drejtat dhe detyrimet e saj.
3. Së treti elementi i kësaj marrëdhënie janë vetëm të drejtat dhe detyrimet e subjekteve që marrin pjesë në të.

Objekt i marrëdhënies juridike civile:

Është ai mbi të cilin drejtohen synimet e paleve për të arritur qëllimin e caktuar. Kur flitet për objektin e saj, nuk kuptohen vetëm sendet, por nënvizohet se e drejta civile në themel ka marrëdhëniet me karakter pasuror, pasi sendet janë vetëm një nga elementet e marrëdhënies juridike civile.

Nga ana tjetër objekt i marrëdhënies juridike civile është edhe një drejtë vetjake jopasurore. Në dispozitat e KC, si në pjesën e përgjithshme ashtu edhe në ato të posaçme parashikohet mbrojtja e të drejtave vetjake jo pasurore. Psh. Neni 5 kc bën fjalë për të drejtën e emrit, etj.

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M Mosston



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