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# THE SIGNIFICANCE OF LEGAL STANDING IN CIVIL CASE INITIATION

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***Annotation***. *The article analyzes the concept of an "interest" – a matter that is important to the person, a matter that he/she is concerned about, takes care of, aims at, and the realization of which may be beneficial and direct the person's activity in a particular direction, i. e. a social need. One of the varieties of interests is legal standing. Legal standing – an objectively existing social need protected by the law and protected by law enforcement institutions, which develops through social conditions and is satisfied by legal means. Legal standing is divided into substantive legal standing and procedural legal standing. It is impossible to analyze legal standing only in the light of procedural law provisions, since legal standing includes a substantive legal element. Judicial defense of legal standing that fails to embody the substantive legal element is meaningless. Procedural legal standing reflects the fact that the person not only reports on the infringement, but also requires judicial review, i. e. state defense. It is important for the judge handling the issue of admissibility of a lawsuit to establish the existence of both elements of legal standing. By handling the issue of a lawsuit's admissibility, it is important for the judge to determine whether the future decision will have an impact on the rights and obligations of the claimant at the stage of starting the civil proceedings. By stipulating that such a decision will have no impact on the rights and obligations, it may be concluded that the claimant has no substantive legal standing. Initiation of a case in the absence of substantive legal standing contradicts the objectives of civil procedure.*

*The acceptance of a claim in absence of substantive legal standing at the stage of civil case initiation must be rejected. The determination of the absence of substantive legal standing would prevent abuse of the proceedings and decrease the workload of judges. An analysis of court cases clearly shows that admissibility of claims and civil case initiation is related only with the claimants' procedural legal standing.*

***Keywords:*** *interest, legal standing, substantive legal standing, procedural legal standing.*

## Introduction

*Significance and originality of the topic.* Scholars of civil procedure law have analyzed legal standing and its types, but the importance of legal standing at the stage of civil case initiation has not been examined in practice. The significance of legal standing and its types are analyzed according to court practice. The determination of the absence of substantive legal standing could prevent abuse of proceedings and decrease the workload of judges.

*Objectives.* 1. To reveal the significance and content of "interest" and "legal standing." 2. to analyze legal standing, determining whether legal standing (substantive legal standing and procedural legal standing) is significant at the stage of civil case initiation.

*Object of study.* Legal standing and its types: substantive legal standing and procedural legal standing, their significance at the stage of civil case initiation.

*Description of applied methodology.* In view of the set objectives, the author applies theoretical and empirical methods of study – analysis of documents and legal phenomena, comparative, and linguistic methods, abstraction, generalization, logical and teleological analysis.

## 1. The Concept of Interest

In order to analyze the concept of legal standing and its significance for initiating civil proceedings, first it is necessary to clarify the meaning of the concept of "interest."

"Interest" is an objective, an aim, a matter, a consideration.[1] From the sociology point of view, an interest means the real reason for actions or events, which presupposes direct incentives, motives, ideas of participant social groups and individuals. Social interest depends on relation of social groups and individuals to the entirety of public political institutions, material and spiritual values. Based on with the scope of community, interests can be divided into individual, group, and civil; according to their nature,

1 *Lietuvių kalbos žodynas*. IV tomas. [Dictionary of Lithuanian Language. Volume IV]. Vilnius, 1957, p. 124.

interests can be economic, political, and spiritual; according to the subject – national, state, party interests, and etc.; according to the level of consciousness – suddenly arising interests or those based on a set program; according to implementation possibilities – real and supposed interests could be distinguished. From the psychology point of view, an interest signifies a person's positive relation with an object, phenomenon, event, information and etc.; it refers to everything that encourages a person to take an interest in the things that matter to him/her. It is an expression of activeness related with needs, goals, and etc. Interests can be situational (e. g., an interest weakens or disappears upon the performance of some action or attainment of an object), periodic (satisfying of periodically arising needs, e. g., eating), constant (personal value orientation, professional interest, interest related to leisure time).[2] Interest (Italian *interesse* – use*):* 1. An important thing of concern; a matter; a use; 2. Involvement into something and desiring to get to know it, which gives a direction to the aims of personal activities, helps to orient, recognize new facts, and perceive reality.[3]

Every person has his own needs. The category of "needs" is an object of research in the discipline of psychology. In case practice the meaning of this term is established by interpreting the term of "interest." A human being needs to satisfy his/her needs. First it is necessary for a person to realize these needs. Not every need can be recognized and realized. The recognition of a specific need turns it into a motive. In psychology, a motive is understood as a necessary conscious seeking of personal aim.[4] When a person undertakes certain actions to satisfy his/her needs, the desire to achieve the goal arises for that person. This goal could be called "an interest." Therefore, when needs motivate a person to undertake certain actions, that person begins wanting to achieve the set goal. This wish could be referred to using the term of "interest" (interest in satisfying own needs).[5]

Interest, its essence and significance has been analyzed both by foreign and Lithuanian scholars. A. Vaišvila writes that law is a social interest, which is turned into a rule on universally acceptable behavior aimed at standardization of human behavior and harmonization of contrary interests. To know the law is to recognize the legalization of such an interest, its necessary stages, and forms or levels of specific presence (existence) of law arising from these stages, which are sometimes called ontological (Greek *on* – present) levels of law. Legal ideas constitute the initial level of legal existence. Interest that purports to be a behavioral rule at first must be recognized, i. e. transfered to the human consciousness and transformed into a respective idea, such as a vision (project) of the future desired behavior. Legal norm is the second level of legal existence, or step in the

2 *Visuotinė lietuvių enciklopedija*. VIII tomas. [Universal Lithuanian Encyclopedia. Volume VIII]. Vilnius, 2005, p. 166.

3 Vaitkevičiūtė, V. *Tarptautinių žodžių žodynas*. [Vaitkeviciute, V. International Words Dictionary]. Vilnius: Žodynas, 2007, p. 472.

4 Еникеев, М. И.; Кочетков, О. Л. *Общая, социальная и юридическая психология*. [Enikeev, M. I.; Kochetkov, O. L. Common, Social and Legal Psychology]. Краткий энциклопедический словарь. Москва, 1997.

5 Малиновский, А. А. Назначение субъективного права. [Malinovskij, A. A. Objective of Subjective Law]. *Правоведение*. 2006, 4: 222–230.

legalization of interests. It is the same ideological project (model) of a behavioral rule, only officially promulgated by the state and unified with the state's obligation to protect it and thus already recognized as a universally compulsory behavioral rule, capable of having a direct effect, standardizing and managing human behavior, leading it in the direction chosen by the legislator (the holder of the objectified interest). Legal relations constitute the third stage of the (final) creation of law or legalization of interests, i. e. permissions and orders formulated by legal norms and developed into human behavior (legal relations) in practice. Law is a humanistic idea (recognized human interest) that is turned into a universally compulsory behavioral rule (legal norm) and finally – into a rule on human behavior (legal relations).[6]

In his analysis of interest in the law of civil procedure E. Krivka observes[7] that a complex approach to the analyzed problem allows for a few generalized conclusions: 1. the subject of interest is an individual or a social group; 2. interest is a prolongation of a need; 3. interest relates to target activity (form of expression of an interest) and is the cause of it; 4. interest has its own objects and is dynamic; 5. interest depends on conditions of persons' existence; 6. interest is implemented in its own special ways; 7. interest is an object of legal protection and defense, and a condition for application of legal norms.

The aforementioned opinions and ideas of various authors allow us to conclude that the concept of „interest" – an important matter to the person, a thing with which he/she is concerned, takes care of, aims at, and the realization of which may be beneficial and lead human activity in a particular direction, i. e. a social need.

## 2. Legal Standing and its Significance for Initiation of Civil Cases

Legal standing is one among many types of interests. In accordance with formal methodology, scholars usually look for a definition (Latin *definitio* – precise naming) of a concept in order to preserve an external scientific form. Code of Civil Procedure of the Republic of Lithuania mentions[8] concepts such as „interest protected by law", „civil case initiation" and etc., but the Code does not contain the term „legal standing" nor its conception. Legal scholars have made attempts to define the concept of legal standing. The term "legal standing" is popular and widely used in contemporary legal literature and case practice, although it is not established in laws. Thus it could be claimed that there is no precise concept of "legal standing." Discussing the understanding and con-

6 Vaišvila, A. *Teisės teorija*. [Vaisvila, A. Theory of Law]. Vilnius: Justitia, 2004, p. 63–66.

7 Krivka, E. Intereso problema civilinio proceso teisėje. [Krivka, E. The Problem of Interest in the Law of Civil Procedure]. *Jurisprudencija*. 2007, 5(95): 26.

8 Civil Procedure Code of the Republic of Lithuania. *Official Gazette*. 2003, No. 36–1340; 2004, No. 42, No. 39-1765; 2005, No. 63-2244, No. 72-2494; 2006, No. 18-574; No. 77-2973; 2008, No. 50-1844, No. 137-5367.

cept of legal standing, one of Russia's scholars[9] stipulates that it is impossible to formulate the precise meaning of "legal standing." The very term "legal standing" implies that on the one hand, it relates to interests of a specific person, and on the other hand – to law. E. Krivka claims that legal standing is an objectively existing social need, which is protected by law and law enforcement institutions, formed through social conditions and is satisfied by legal instruments.[10] While discussing the concept of legal standing, it is necessary to keep in mind the legal meaning of the term "interest." In this relation, it could be claimed that interests recognized as such by law become legal.[11] Indeed it must be recognized that a person may undertake an infinite variety of actions. However, not all of these actions can constitute a matter of legal defense. The very term "legal standing" shows that it is related to law. Thus, the term "legal standing" is always used to distinguish legal interests and those that are not legal. Legal standing as a right is a person's potential to make use of various social goods. For the holder of legal standing this possibility is expressed as the capability to act in a certain way, demanding certain behavior of persons and institutions, and addressing competent state authorities and public organizations for protection.[12] A. Vaišvila writes that a person's interest cognized at value level, and an effort to protect this interest leads to the initial structure of law – two levels or elements of it: 1. value, and 2. norm (will). The value level of law (person's recognized existential interests) refers to values that the person wants to protect, create or acquire by standardizing the behavior of his own, other persons or institutions. To generalize, these values could be referred to as the object of law. The norm (will) level or element of law refers to a subjective person's demand for respect of his existential values (the object of law). This demand is presented to other individuals, so they would refrain from harmful actions with respect to that value, would not violate it or impede its lawful acquisition, creation, its use and disposal.[13]

Legal literature includes opinions that see legal standing as a right. S. V. Michailovas claims that there is no difference whether the law refers to legal defense instruments a "right" or "legal standing." Indeed we are faced with a subjective right. From the legal point of view, there is no difference on how to call a subjective right (right or legal standing).[14] A. Vaišvila also says that law is a social interest that is turned into a rule on universally acceptable behavior, which is aimed at standardization of human behavior and harmonization of contrary interests.[15] It would not be accurate to equate legal standing – a social need protected by the law, i. e. legal norms as we understand them, and

9 Шубина, Т. Б. *Теоретические проблемы защиты права*. Автореферат диссертации. [Shubina, T. B. Theoretic Problems of Defense Rights]. Саратов, 1998.

10 Krivka, E., p. 28.

11 Крашенинников, Е.А. *Понятие охраняемого законом интереса*. [Krasheninikov, E. A. Concept of Legal Standing Ensured by Law]. Проблемы защиты субъективных гражданских прав: Сборник. Ярославль, 2000, с. 3.

12 Витрук, Н. В. *Система прав личности*. [Vitruk, N. V. System of Personal Rights]. Москва, 1981, с. 109

13 Vaišvila, A., p. 108.

14 Михайлов, С. В. *Категория интереса в российском гражданском праве*. [Michailov, S. V. Category of Interest in Civil Law of Russia]. Москва, 2002, с. 38-40.

15 Vaišvila, A., p. 63.

safeguarded by law enforcement institutions – with a right. If these terms are equated, the essence and meaning of these concepts are lost. The social need protected by law and law enforcement institutions precisely cannot be the same as the right that safeguards this social need.

Legal standing is divided, i. e. classified into substantive legal standing and procedural legal standing. According to E. Krivka, substantive legal standing is a matter of legal defense, while procedural legal standing is the basis for initiating and participating in proceedings. Thus, based on the existence of structural elements of legal standing (substantive legal standing and procedural legal standing), the aforementioned conclusion is once again confirmed, i. e. legal standing cannot be equated to a right. While a matter of legal defense constitutes substantive legal standing, the right itself cannot be a matter of defense, but only a dispute about this right.

There is a continuous and close relation between procedural legal standing and substantive legal standing, which is a matter of legal defense. It is manifested by the fact that procedural legal standing may exist only when a possibility for substantive legal interest as a matter of legal defense appears. If there are no preconditions for the matter of judicial defense, the legal proceedings take place without the subject-matter. Such proceedings are purposeless and impossible. The existence of substantive legal standing proves the existence of procedural legal standing. A court starts proceedings only in case the subject-matter of legal proceedings is a legal issue (not theoretic or other type of question), thus procedural legal standing exists only when the subject matter of the legal proceedings is a dispute about a right. Procedural legal standing is an interest in the proceedings and the need to participate in them in order to clarify the disputed situation, to establish the disputed substantive right and the interest protected by law, with the purpose of ensuring judicial defense of this interest. If a question analyzed in court is about the existence of the subjective substantive right or an interest protected by laws, it means that the dispute is about a right. If the dispute is not about a right, the person applying to the court does not have substantive legal standing, and at the same time, procedural legal standing, and thus the claim must be rendered inadmissible.[16]

Thus, it is impossible to analyze legal standing only in the light of provisions of procedural law because legal standing includes a substantive legal element. Judicial defense of legal standing that fails to embody a substantive legal element is meaningless. Procedural legal standing reflects the fact that the person not only reports an infringement, but also requires judicial review, i. e. state defense. Therefore, when discussing the structure of legal standing, two elements must be distinguished: the factual possibility to use specific social goods (substantive legal standing), and the legal opportunity to apply to court for protection in case the factual possibility to use social goods is infringed (procedural legal standing).

It should be noted that scientific legal literature also contains opinions that view legal standing as unanimous, not classifiable and lacking in structural elements. The court

16 Krivka, E., p. 30.

could be addressed only after infringement of an interest protected by law takes place.[17] This opinion cannot be upheld. Article 5(1) of the Civil Procedure Code of the Republic of Lithuania provides that every interested person has a right to apply to the court under the procedure provided by law, in order to protect his infringed or disputed right or an interest protected by law.[18] Therefore, judicial defense is available not only in case of infringed interests but also in case of interests that are only disputed and not yet infringed. This analysis allows us to conclude that once substantive legal standing is infringed, a procedural legal standing arises, i. e. an interest in the proceedings involving submitting a claim to the court, its admission and initiation of a civil case. The distinction of legal elements has certain practical consequences. It is important for the judge handling the issue of admissibility of a lawsuit to establish the existence of both elements of legal standing. Although both, substantive legal standing and procedural legal standing are interconnected, each of them have their own particular characteristics. Procedural legal standing entails the methods established in the provisions of civil procedure law on applying to the court, submitting claims to the court, or submitting them to other parties of the civil procedure through the court. Procedural legal standing reveals the specifics of relations in civil proceedings, where the main and necessary participant is the court. The procedural document indicating the infringed or disputed substantive legal interests is submitted precisely to the court.

V. Vėbraitė points out that the right of action in a substantive sense depends on circumstances of substantive nature: the claimant and the defendant must have a legal relation; the defendant must have infringed the substantive right of the claimant or failed to perform his duties; the claimant must have the right to the award of the claim. It is obvious that these circumstances are only established when all other circumstances are determined, analyzed and all evidence is evaluated; it is decided only at the stage when the court adopts a decision. Thus the right of action in a substantive sense is determined only when the court adopts a decision. Meanwhile, the right of action in a procedural sense depends on the minimal circumstances established in law: the presumptions on the right to submit a claim. The right of action in a procedural sense absolutely does not depend on the right of action in a substantive sense because the right to an award of a claim is determined only after consideration of the case, and at the stage of admission of the claim it is evaluated whether all prerequisites on submitting a claim are implemented.[19] The aforementioned opinion cannot be accepted. Indeed when a claim is admitted, the prerequisites to submit this claim are to be analyzed. Besides these prerequisites, the conditions on appropriate implementation of the right to submit a claim are to be considered. It should be noted that the Civil Procedure Code does not elaborate separately on the prerequisite to submit a claim and the conditions of proper implementation of the right to submit a claim. These terms are only used in the theory of civil procedure law.

17 Богатырев, Ф. О. Интерес в гражданском праве. [Bogatyriov, F. O. Interest in Civil Law]. *Журнал российского права*. 2002, 2: 42-43.

18 Civil Procedure Code. Article 5(1).

19 Vėbraitė, V. Ieškinio samprata ir rūšys civiliniame procese. [Vebraite, V. Conception of a Claim and its Types in the Civil Procedure]. *Teisė*. 2006, 60: 166.

They can be found in scholarly publications and textbooks. Nevertheless, the existence of prerequisites to the right to apply to court and conditions on the implementation of this right could be found in Article 137 (2) of the Civil Procedure Code, i. e. provisions on refusal to admit a claim. However, while undertaking the analysis of legal standing and the issue of a claim as a form of expression of this interest, it is important to stress that the content of a claim is of substantive legal nature. Basis of the claim (Article 135(1)(2)) and subject matter of the claim (Article 135 (1)(4)) reveal the infringement of a substantive subjective right and a request to protect it, i. e. the claimant's substantive legal and procedural legal standing.

Courts protect legal interests by means established in Article 1.138 of the Civil Code of the Republic of Lithuania.[20] As regards the claim's content, it should be noted that the claim must indicate circumstances on which the claimant bases his requirement (factual basis of the claim) and the requirement of the claimant (the subject-matter of the claim). Therefore, the claimant applying to court must indicate a means of protecting civil rights, to enable the court to protect the infringed or disputed right or interest protected by law. Every claim as a request to protect a right or an interest demands a certain means for protection of civil rights.[21] The claimant's demand in this case is a method of protecting rights or legal interests, i. e. the subject-matter of the claim.[22] The subject-matter of the claim indicates what the claimant is seeking. Thus it could be concluded that the claim submitted to the court must indicate the infringed or disputed legal interests, and the requested means for their protection.

The statement of claim indicates the substantive legal requirement – the subject-matter of the claim. It is comprised of circumstances of factual nature, the content and extent of the claim, which are determined by the circumstances of the infringement. The requirement must be based on facts confirming the person's right or interest, and facts confirming the infringement of the person's right or interest, or the dispute thereof. These facts form the basis of the claim, which the claimant must indicate and prove in the claim. The requirement is founded and should be satisfied to the extent of infringement or disputing of the rights or lawful interests of the claimant.[23]

In one of its rulings, the Supreme Court of Lithuania[24] points out that the right to judicial defense is a person's constitutional right (Article 30 of the Constitution of the Republic of Lithuania). The court starts deliberation of a civil case only in accordance with the application of an interested party. Law establishes which persons can be con-

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20 Civil Code of the Republic of Lithuania. Article 1.138.

21 Осакина, Г. Л. *Иск* (*теория и практика*). [Osakina, G. L. Lawsuit: Theory and Practice]. Москва, 2000, с. 71

22 Рожкова, М. А. *Судебный акт и динамика обязательства*. [Rozhkova, M. A. Judicial Decision and Dynamics of Duties]. Москва, 2003, с. 108; *Гражданский процесс*. [Civil Procedure]. Общая часть. Москва, 2003, с. 450.

23 The Supreme Court of Lithuania, Civil Division, 8 May 2007 ruling in the case of *J. M., J. G. v. E. B. Klaipėdos apskrities viršininko administracija, S. K., D. K*. (case No. 3K-3-191/2007).

24 The Supreme Court of Lithuania, Civil Division, 15 May 2007 ruling in a civil case of *R. B. v. Žemės ir kito nekilnojamojo turto kadastro ir registro valstybės įmonės Kauno filialas, Kauno m. savivaldybė* (case No. 3K-3-552/2000.). *Teismų praktika*. No. 14, p. 129–132.

sidered interested parties: i. e. the person (or a representative) applying for protection of his subjective right or an interest protected by law. The claimant applying to court must prove that he has a subjective right, that this right has been infringed or there have been attempts to infringe it, or the defendant disputes it, and to indicate the substantive demand, i. e. the requested means for protection of the infringed or disputed right or interest protected by law. The person's right to apply to court does not mean the right to request protection for anyone's right, but only the possibility to apply to court for protection of his own subjective right or interest protected by law.

The person's right to apply to court refers to the person capacity to apply to the court for the protection of his subjective right or interest protected by law. Respectively, Article 5 of the Civil Procedure Code establishes the right of the interested person to apply to the court, and not the right of any person. Interest of the party must be demonstrated by a person's independent legal standing and the necessity to protect it. It is also one of the aims of civil procedure to protect the interests of the persons whose subjective rights or interests protected by law have been infringed or disputed (Article 2 of the Civil Procedure Code). In order to protect the public interest, other persons' rights and interests protected by law, the prosecutor, state authorities, companies, institutions, organizations and private persons enabled by the law to do so, may apply to the court.[25] In jurisprudence, the institute of a claimant without substantive legal standing is called a legal fiction. The significance of such a procedural legal standing representing public interest is that it involves as many rights as there are claimants with substantive standing.[26] The question of whether an interest that such applicant aims to protect can indeed be considered "public" is of procedural nature. Provided that it is established that a prosecutor protected an interest that is not public, it must be considered that the prosecutor did not have the right to apply to court for the protection of such interest.[27]

An analysis of legal standing must include a discussion of its understanding in foreign countries. Article 31 of the Civil Procedure Code of France establishes that the right of action is available to all those who have a legitimate interest in the success or dismissal of a claim.[28] Article 100 of the Civil Procedure Code of Italy establishes that legal standing is necessary for submitting or disputing claims in court.[29] The U.S. law is very clear on the person's standing in civil procedure. This standing is described in such concepts: "real party in interest" and "capacity to sue or be sued." According to Federal Rules of Civil Procedure (Rule 17) every action must be prosecuted in the name

25 The The Supreme Court of Lithuania, Civil Division, 28 November 2006 ruling in a civil case of *UAB „Vitrolabo servisas" v. VšĮ Nacionalinis kraujo centras, Vokietijos įmonė Abbott GmbH & Co.KG* (case No. 2A-413/2006).

26 The Supreme Court of Lithuania, Civil Division, 8 February 2008 ruling in the case of *Vilniaus rajono apylinkės vyriausioji prokurorė v. A. J. V. M., B. J. B. ir V. R. K*. (case No. 3K-3-109/2008).

27 The Supreme Asministrative Court of Lithuania, 25 July 2008 ruling in an administrative case *Vilniaus apygardos vyriausiasis prokuroras v. Trakų rajono savivaldybė ir kt*. (case No. A[146]-335/2008).

28 Code of Civil Procedure of France [interactive]. Legifrance [accessed 2009-09-09]. <http://195.83.177.9/code/liste.phtml?lang=uk&c=39>.

29 Codice di Procedura Civile [interactive]. [accessed 2009-04-05]. <http://www.cortedicassazione.it/home.asp.>.

of the real party in interest.[30] This means that the claim must be submitted by the person who has the right of action according to substantive legal norms. In United States legal literature it is claimed that the concept established in law as "the real party in interest," be specified in court practice and precedents by prescribing that only the person who has the right may request protection in case of its infringement.[31]

It may be difficult to perceive the concept of "interest." It is an abstract concept and complicated to describe. In an attempt to summarize, it could be said that participation in civil proceedings must be based on interest, which does not necessarily manifest itself as an infringement of a certain right. It is enough that the proceedings may result in certain gain. Interest must be positive and specific, legal and legitimate, reasonable and relevant.[32] The person submitting a claim for protection of his right or rights and legally protected interests of other persons as provided by law, has such an interest.

In exploring and analyzing the issue of legal standing, it is important to determine whether substantive legal standing has only a theoretical meaning, or is also significant in a practical sense. It is also important to elaborate on whether the existence of substantive legal standing comes to light only at the time of consideration of a case, only when a decision is adopted, or if the question of the existence of such an interest be analyzed at the time of accepting the claim and initiation of a civil case. In the author's opinion, the analysis of substantive legal standing at the stage of civil case initiation involves both theory and practice. It should be noted that in the Commentary to the Civil Procedure Code (1964) it was established[33] that the legal interest of a person is the presupposition to the right to apply to court. The current Civil Procedure Code does not contain such presupposition. A. Driukas and V. Valančius point out[34] that in considering the presupposition of the person's application to court, it is always necessary to determine which substantive rights of the person have been infringed. Such a person must indicate the infringed substantive right in the claim. In a contrary case, the court may find itself at a dead-end. Nevertheless, it is reasonable to consider legal standing as the substantive (and not procedural) legal aspect of legal defense of the right to apply to court. It is difficult to determine whether the person has a legal interest in the outcome of the case at the stage of civil case initiation. It is only possible after all evidence in the case has been considered and evaluated, and the circumstances significant to the case are established, i. e. after the deliberation on the merits of the case. A person with no legal standing has no right to awards of the claim, but it is not the basis *a priori* to refuse to admit the claim. Court practice confirms that many claims are rendered inadmissible, thus the question of

30 Federal Rules of Civil Procedure [interactive]. [accessed 2009-04-05]. <http://www.law.cornell.edu/rules/frcp/>.

31 Marcus, R.; Rowe, T. JR. *Civil Procedure*. Gilbert Law Summaries. Chicago, Dallas, Los Angeles, New York, Washington, D.C.: BarBri Group, 2002, p. 221.

32 Vincent, J.; Guinchard, S. *Procédure civile*. Dalloz, 1996, p. 93–94.

33 Lietuvos TSR Civilinio proceso kodekso komentaras. [Commentary to the Civil Procedure Code of the Lithuanian Soviet Socialist Republic]. Vilnius, 1980, p. 116.

34 Driukas, A.; Valančius, V. *Civilinis procesas: teorija ir praktika*. III tomas. [Driukas, A.; Valancius, V. Civil Procedure: Theory and Practice. Book III]. Vilnius: Teisinės informacijos centras, 2007, p. 19–20.

the existence of legal standing or legal interest must be considered at the stage of case initiation.

The common feature of all persons participating in civil proceedings is legal interest in the outcome of the case. Substantive legal standing of parties and third parties with independent demands implies a direct effect of the future court decision on the rights and duties of the participant parties; procedural legal standing – procedural efforts of the participant parties with the view of a court decision that corresponds to their interests and procedural standing in the case.[35] I think that the aforementioned view of legal interest is absolutely accurate. In reference to substantive legal standing as a direct effect of a future court decision on the person's rights and duties, it is most important precisely at the stage of civil case initiation, when a judge is considering the question on admissibility, to determine whether the future court decision will have an effect on the rights and duties of the claimant. By stipulating that such a decision will have no impact on his rights and obligations, it may be concluded that the claimant has no substantive legal standing.

R. Opalev in his analysis of the substantive legal standing as a precondition for civil case initiation points out that initiation of proceedings without substantive legal standing contradicts the objectives of civil procedure.[36] Deliberating on the question of existence of the claimant's substantive legal standing, a judge must consider the nature of the demand submitted to court: whether the demand in question is one of judicial defense. These actions are related to interim qualification of dispute relations, which cannot be avoided at the stage of civil case initiation. Such a qualification allows for solving questions of attributing the case to the court's competence and jurisdiction. The acceptance of the application in absence of substantive legal standing at the stage of civil case initiation must be rejected. I think that this opinion can be deemed valid. Indeed, at the stage of civil case initiation a judge must verify whether the claimant has a substantive legal standing. The determination of the absence of substantive legal standing would prevent abuse of proceedings and decrease the workload of judges. It could be a filter to render claims inadmissible when satisfaction of a claim has no effect on substantive rights and duties of the claimant. An analysis of the significance of legal standing in civil case initiation leads to the conclusion that substantive legal standing must have a practical influence on the initiation of civil proceedings. In this case, Article 137 (2) must be complemented by a new paragraph, which would provide that one of the grounds for refusal to admit a claim is the lack of substantive legal standing. E. Krivka provides a very accurate example[37] – cases of emergency procedure. Prior to case initiation the court makes sure that the fact that the claimant requests to establish is related to the appearance, change or termination of the claimant's rights (substantive legal standing). If the fact

35 Driukas, A.; Valančius, V. p. 459.

36 Опалев, Р. Материально–правовой интерес как условие возбуждения гражданского дела в суде. [Opalev, R. Substantive Legal Standing as a Precondition of Civil Proceedings]. [interactive]. [accessed 2008-07-24]. <http://law-news.ru/up/u9/post_1175277600.html>.

37 Krivka, E., p. 30.

does not have any legal significance for the claimant, the claimant has no substantive legal standing, which means that he does not have the procedural legal standing either.

These provisions should also apply in claims procedure. Certainly, in claims procedure, prior to the acceptance of a claim, the judge must make sure that the claimant possesses substantive legal standing.

An analysis of court practice clearly shows that admissibility of claims and civil case initiation is related only to the claimants' procedural legal standing. The Supreme Court of Lithuania ruled[38] that according to substantive law, parties are the subjects of substantive legal relations interrelated by mutual rights and duties. The parties of a substantive legal relation acquire new legal position and become parties of the proceedings when the court is applied to. At the stage of case initiation and preparation for its consideration at court, it is presumed that the parties are the real subjects of a substantive legal relation, the dispute is indeed about rights and they have mutual rights and duties. Thus, prior to the adoption of a court decision, the parties of the procedure are considered probable subjects of legal relations because the question of whether the claimant and defendant are really the subjects of a substantive legal relation can be determined only after the circumstances of the case are established. Admitting the statement of claim, a judge determines only the facts of procedural nature, and whether the person has a procedural right to apply to court and implements it in a proper way. Thus, civil procedure does not provide for a possibility to refuse to admit the claim due to circumstances of substantial nature, e. g., a lack of dispute about rights, etc.. Parties participating in the procedure seek a court decision that has a direct effect on their substantive rights and duties, i. e. to solve a dispute among the parties. In another ruling the Supreme Court of Lithuania repeatedly stated[39] that the relation of the right to apply to court and the right to award of the claim determines that the questions solved by the court at the stage of taking up a claim are of an exclusively procedural legal nature: it is decided whether the person has a right to apply to court and whether he implements this right according to procedural laws. Circumstances of substantive legal nature related to the claimant's right to award of the claim must be analyzed at the time of consideration on the merits of the case. The requirement on indicating the subject-matter and basis of the claim when applying to court cannot be defined broadly, so as to demand the claimant to prove the validity of his claim already at the stage of applying to court. In the statement of claim, the claimant must indicate the basis of his claim, but not prove it. The court may render the claim inadmissible on the basis of inappropriate formulation of the subject-matter or basis of the claim only in the case that the claim, its basis and limitations are not clear, and thus court proceedings cannot be initiated. The claim cannot be rendered inadmissible for substantive-legal reasons, i. e. based on the claimant's failure to prove the validity of his claim.

38 The Supreme Court of Lithuania, 16 September 2002 ruling in the civil case of *M. B. v. AB „Utenos krosnys"* (case No. 3K-3-1121/2002).

39 The Supreme Court of Lithuania, 17 February 2003 ruling in the civil case of *UAB „Akvilegija" v. V. G*. (No. 3K-3-244/2003).

The Court of Appeals of Lithuania has stated that civil procedure consists of a number of stages, and first of which is the initiation of a civil case. At the stage of civil case initiation, the court considers the question of admissibility of the claim. The submitted claim must correspond to the conditions on content of the claim, established in Article 135 of the Civil Code of Procedure. According to Article 135 (2), the claim must be supplemented with data showing that stamp duty has been paid. Substantive legal standing of the claimants is established at a later stage of civil procedure – the stage of deliberation on the merits of the case. Therefore, at the stage of admission of a claim, the substantive legal standing of the claimants is irrelevant.[40] It cannot be agreed with the opinion of the Lithuanian Court of Appeals that at the stage of admission of a claim, the substantive legal standing of the claimants is irrelevant. On the contrary – the substantive legal standing is a matter of judicial defense that must be indicated in the claim. Without the substantive legal standing, there is no dispute of rights. Thus the claim cannot be admissible and a civil case cannot be initiated. It should be noted that substantive legal standing must exist and must be indicated in the procedural document submitted to the court.

Nevertheless, some hints on the determination of substantive legal standing at the stage of admission of the claim could be found in case practice of the Supreme Court of Lithuania. One of the rulings indicates[41] that a claimant submitting a claim must base the request on protection of his rights by indicating the factual circumstances known to him at the moment of submitting the claim. In the context of the entirety of such circumstances, he must prove in his statement that his rights have been infringed and thus there is a legal basis for their protection. Admission of a claim and deliberation on the merits of the case, involving other parties, wasting time and funds of the court and participants of the proceedings, when the factual basis of the claim is indicated, but according to the data submitted to the court it does not really exist, is absolutely unreasonable.

## Conclusions

1. Legal standing is one among many types of interests. Legal standing is divided into substantive legal standing and procedural legal standing. Procedural legal standing refers to the methods established in provisions of civil procedure law on applying to court, submitting claims to court, or submitting them to other parties of the civil procedure through the court. Procedural legal standing reflects the fact that the person not only reports about the infringement, but also requires judicial review, i. e. state defense.

2. By handling the issue of lawsuit admissibility, it is important for the judge to determine whether the future decision will have an impact on the rights and obligations of the claimant at the stage of starting the civil proceeding. By stipulating that such a

40 The Supreme Court of Lithuania, 1 March 2007 ruling in the civil case *S. L., V. L., A. L. v. E. K.*

41 The Supreme Court of Lithuania, 25 April 2009 ruling in the civil case of *V. K. v. D. K. ir kt.* (Nr. 3K-3-181/2009).

decision will have no impact on the rights and obligations, it may be concluded that the claimant has no substantive legal standing. Initiation of a case in the absence of substantive legal standing contradicts the objectives of civil procedure.

3. It has been concluded that the acceptance of an application in absence of substantive legal standing at the stage of civil case initiation must be rejected. It is suggested to complement Article 137 (2) with a new paragraph, which would provide that one of the grounds for refusal to admit a claim is the lack of substantive legal standing. Establishment of the lack of substantive legal standing would prevent cases of abuse in civil procedure.

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# TEISINIO INTERESO REIKŠMĖ CIVILINĖS BYLOS IŠKĖLIMUI

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***Santrauka***. *Straipsnyje analizuojama sąvoka „interesas" – žmogui svarbus dalykas, tai, kuo jis domisi, rūpinasi, ko siekia, kurio realizavimas gali atnešti naudos ar nukreipti*

*žmogaus veiklą tam tikra kryptimi, t. y. socialinis poreikis. Vienas iš daugybės interesų yra teisinis interesas. Teisinis interesas 0 tai objektyviai egzistuojantis, teisės saugomas ir teisės-saugos institucijų ginamas socialinis poreikis, kurį suformuoja socialinės sąlygos ir kuris patenkinamas teisinėmis priemonėmis. Teisiniai interesai skirstomi į materialiuosius teisinius interesus ir procesinius teisinius interesus. Teisinio intereso negalima analizuoti tik procesinių teisės normų aspektu, nes teisinis interesas turi materialųjį teisinį bruožą. Teisminė teisinio intereso, kuris neturi materialiojo teisinio aspekto, gynyba yra beprasmė. Procesinis teisinis interesas atspindi tai, kad asmuo ne tik praneša apie pažeidimą, bet ir reikalauja teismo, t. y. valstybės gynybos. Teisėjui, sprendžiančiam ieškinio priėmimo klausimą, svarbu nustatyti šių abiejų interesų egzistavimą. Civilinės bylos iškėlimo stadijoje, teisėjui sprendžiant ieškinio priėmimo klausimą, svarbu nustatyti, ar būsimas teismo sprendimas turės įtakos ieškovo teisėms ir pareigoms. Nustačius, kad toks sprendimas jokios įtakos nei teisėms, nei pareigoms neturės, galima daryti išvadą, kad ieškovas neturi materialiojo teisinio intereso. Pradėjimas proceso, nesant materialiojo teisinio intereso, prieštarauja civilinio proceso tikslams. Civilinės bylos iškėlimo stadijoje nesant materialiojo teisinio intereso, pareiškimas turi būti atsisakytas priimti. Materialiojo teisinio intereso nebuvimo nustatymas užkirstų kelią piktnaudžiavimui procesu, sumažintų teisėjų darbo krūvį. Atlikus teismų praktikos analizę, akivaizdu, kad ieškinio priėmimas ir civilinės bylos iškėlimas siejamas tik su ieškovo procesiniu teisiniu interesu.*

***Reikšminiai žodžiai***: *interesas, teisinis interesas, materialusis teisinis interesas, procesinis teisinis interesas.*

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