

*Zelman B.B.,  
Student,  
Law institute,  
National Aviation University*

## THEORETICAL AND LEGAL ANALYSIS OF THE SUBJECTIVE CRITERION DISABLED CITIZENS

In the article the theoretical and legal analysis of the subjective criterion of disabled citizens, which is an organic combination of medical and legal aspects. Special attention is given to research current national legislation regarding the regulation of disabled citizens.

Category disabled citizens is a major legal instrument for the realization of individual rights in property and personal relations. It is given that under the law the possibility of capacity constraints citizen and especially the recognition of his incapacitated entail quite significant diminution of its capacity to exercise their rights and freedoms, the use of these procedures must be reasonable and must prevent abuse by stakeholders. For this purpose it is necessary to specify the capacity of the existing criteria and grounds for restricting the capacity of citizens and public recognition incompetent.

In recognition of the citizen incapable need just two criteria simultaneously discrepancy capacity – medical and legal. In turn, the legal test of capacity is a combination of two components: a) IP b) volitional. This criterion is often referred to as intellectual and volitional.

In conclusion, the author notes that the Civil Code of Ukraine regarding the regulation we studied the problems above has a number of shortcomings and contradictions that cause the observations and require further explanation and clarification, the main ones are: unfortunate wording medical disability criteria, using vague the term “chronic, persistent mental illness”; between application and volitional components of psychological criteria, along with the conjunction “and” conjunction “or” separating these interrelated spheres of the psyche; impracticability renovation capacity, has been limited due to the unfortunate wording of the requirements for this; predictability only preventive capacity constraints and the person does not take into account our proposals on the possibility of retrospective limit capacity of the person greatly complicate the defense of individual rights with non-psychotic mental disorders that significantly affect its ability to realize the significance of their actions, and (or) manage the period of the transaction already been made, with the possibility of recognizing the transaction null and void.