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## The Oral Factor in Adversarial Civil Proceedings

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**Abstract**--The relevance of the problem stated in this paper is conditioned by the fact that under any circumstances the parties are carriers of certain evidentiary information about facts and their explanations are evidence. The explanations of the parties provide the court with important material for proving and making a decision on the case. This is ensured by the oral nature of civil proceedings since civil cases are usually considered orally in courts. The purpose of the paper is to establish the degree of application of the oral factor in adversarial civil proceedings. An analytical method was used as one of the main ones, which made it possible to assess the oral factor in civil proceedings from the ancient times of its initial introduction to the present. In the course of the study, it was established that the oral factor acted as prevailing at almost all stages of the development of adversarial civil proceedings; the adversarial nature of judicial proceedings in modern conditions was analysed, which provides for the possibility of the parties orally or in writing to apply to the court; the definition of the concept of "oral" concerning the trial and the relationship of the category of "oral" in judicial activity with the category of "interpretation" was analysed; it was also established that since oral is the main form of communication of the court with participants in civil proceedings, this form must be observed in the course of proceedings when examining all types of evidence. The significance of the results lies in the fact that the main conclusions of the paper will be useful for application in the activities of court workers, representatives of law enforcement agencies, as well as for other participants in civil proceedings.

**Keywords**--adversarial process, evidence, law, legal proceedings, legislation, principles.

## Introduction

The process of legal proceedings is an active oral or written communication between people who have different legal statuses depending on their situations in the justice process. Therefore, it is important to legally define the fundamental factors of organising this process to ensure that all parties and participants in the judicial procedure have equal rights and opportunities to implement and protect their legal rights and interests and the ability to understand each other. The court considers the case orally, directly examining the evidence, in particular, hearing explanations of the persons involved, witness statements, expert opinions, and specialists' consultations (explanations). Civil procedure is a combination of two factors: oral and written. Conventionally, the oral factor prevails (Tikhonova, 2018). However, the court, the parties, and other participants in civil proceedings establish relations, procedural issues, and procedural actions in writing. Some procedural actions can be implemented equally through any factor. Adversarial civil proceedings are based on the oral factor.

Thus, in the course of judicial consideration of a case on its merits, adversariality is implemented as a competition of the parties, held in the form of oral polemics, in the process of proving legally considerable circumstances of the case and presenting arguments in defence of their legal positions. In this aspect, the emphasis of Kleymentov (2012) is correct, that the functions of the court as an addressee of numerous petitions and applications of the parties are of great importance. At the same time, the researcher considers petitions as procedural initiatives that allow the parties to convey to the court their positions on the merits of issues to be considered at this stage and notes that the technical and legal registration of these initiatives is mediated by oral and written appeals of the parties to the court. By statements made by the parties, the author means written or oral statements, usually of facts. It is considered that the oral form of explanation is generally accepted (Lezin, 2018); however, according to the law, an explanation is equally important, regardless of whether it is oral or written. However, some scholars note a decrease in the role of the oral factor in the civil procedure system (Glasser, 1993). Another scholar believes that the orthodox judicial system should be revised and a system that allows testimony through other means should be built within it.

It builds its position on the fact that the system of adversarial proceedings and the principle of oral evidence when witnesses give evidence does little to contribute to the testimony of the most reliable witnesses but in an unchanged form provides the foundation on which many decisions have conventionally been made in English courts (Lazer, 2021). Since the law allows participants of the process to provide explanations both orally and in writing, explanations of persons involved in the case and their representatives, submitted in writing, in case they fail to attend court proceedings, are examined in the same way as evidence collected through court orders – by announcing them at the court session, handing them over to other participants in the process, evaluating them in conjunction with other evidence in the case (Grol & Grimshaw, 2003; Kirkhamet al., 2002). At the same time, it should be borne in mind that these written explanations must be received by the court according to the procedure established by law and belong to the persons on whose behalf they are presented

(Nugraha et al., 2020). Otherwise, the court must declare them inadmissible and not accept them as evidence. The purpose of the paper is to establish the degree of application of the oral factor in adversarial civil proceedings.

## **Materials and Methods**

The methodological framework of the study consists of analytical and legal methods of research. General scientific and special methods were used. The main provisions of the legislative framework were investigated. The methodology used made it possible to develop the main directions of further research in terms of implementing the oral factor in the field of civil proceedings. The applied methods allowed obtaining reliable and reasonable conclusions and results. The methodological basis of the research was the fundamental provisions of legal science, the dialectical method of cognition, the evolutionary-system approach to the development of the theory of civil law, the theory of scientific knowledge, and a system approach to the analysis of processes in their interrelation and development (Eshonkulov, 2021). One of the main methods used was analytical, which made it possible to assess the degree of use of the oral factor in civil proceedings from the ancient times of its initial introduction to the present time. Using the comparative method, the analysis of the adversarial nature of civil proceedings at different times and the degree and dynamics of the development of oral factor in the time dimension and on different legislative bases was carried out.

The descriptive method allowed presenting the results of the study in a logical sequence. The use of the evaluation method made it possible to draw conclusions about the effectiveness of applying the oral factor in adversarial civil proceedings. Empirical methods consisted in studying the practice of the judicial authorities at different times regarding the use of the oral factor in judicial procedures. The research also employed methods of synthesis, analogy, system, classification, and analysis. The synthesis method allowed solving the issues of this study through its application to primary sources on the subject matter. Methods of induction and deduction were used to analyse the content and structure of legislative texts, features of legal provisions in the context of the subject matter. In the process of analysis, a historical method was used, which made it possible to study the process of development of adversarial civil proceedings, its separation from criminal proceedings, and changes in the role of the oral factor at different times.

The study was conducted in four stages. At the first stage, attention was paid to a retrospective analysis of the establishment and development of adversarial proceedings in judicial civil process and corresponding changes in the application of oral factor. At the second stage, the adversarial nature of judicial proceedings in modern conditions was considered, which provides for the possibility of the parties to apply orally or in writing to the court. The third stage provided for a critical analysis of the definitions proposed by individual scientists on the research topic and the concept of "orality" in the judicial process was considered. At this stage, the relationship between the category of "oral" in judicial activity and the category of "interpretation" was also established. At the fourth stage, theoretical and practical conclusions were clarified, the results obtained were systematised and generalised. Modern civil procedure doctrine in Ukraine

connects adversarial civil proceedings primarily with the specific features of the regulation by the national civil procedure legislation of the principles of adversariality, equality, and immediacy (Been et al., 2014). With this approach, the principle of orality is mostly ignored.

The analysis of scientific research that makes up the golden fund of civil procedural thought shows that in the middle of the last century, the principle of orality was not associated with adversarial proceedings, it stood out from other principles as the basis of civil proceedings, according to which all participants in civil proceedings are required to perform procedural actions during a court session orally. This situation is mainly caused by the investigative nature of civil proceedings in Soviet times. In the last period of the development of legal science, attention is increasingly drawn to the role of logic, psychology, linguistics, etc. in judicial activity. In this regard, orality, along with other components, is distinguished as a category that allows the court to carry out complex social and communicative activities, regulate the mental state and behaviour of participants in the process. At the same time, focusing on the importance of orality in judicial activity, its importance for the implementation of adversarial civil proceedings, which so intensively began its development at the end of the last century in Ukraine with the acquisition of independence and the introduction of numerous changes to the national civil procedure legislation, was not disclosed.

## Results and Discussion

Fokina (2000), argues that adversariality is the oldest form of civil dispute resolution. The adversarial form of resolving civil disputes was a custom of Slavic tribes, which by the time it was sanctioned by the state had grown into a tradition since it went beyond the regulation of public relations of an individual community. The principle of adversarial proceedings has its roots in Roman law, according to which both the defendant and the pretendant had to prove the facts. This is confirmed by the analysis of ancient sources of law (for example, Russkaya Pravda, Novgorod court charter, Pskov court charter) (Isaev, 2004). It shows that adversarial nature is present at all stages of the dispute resolution process on its merits. The process began only on the initiative of the plaintiff, the parties were placed on the burden of establishing the actual circumstances of the case, the pretendant had to ensure the appearance in court of the person who allegedly violated his right, the parties occupied an equal position in the process. The proceedings were public and oral. The adversarial process began either by reading the complaint or orally stating the pretendant's claim, after which the judge offered the defendant to answer, to justify themselves (Yang et al., 2020; Zheng et al., 2021; Han et al., 2019). The competition consisted in explaining the essence of the conflict by the parties, as well as pointing out a sufficient amount of evidence.

Regarding the factors of civil proceedings that are analysed, the great influence on their development of the reform of Emperor Alexander II in 1862 should be noted, which separated it from the criminal process, and in particular the entry into force on November 20, 1864, of the statute of civil proceedings, which laid the foundation for the development of civil proceedings based on the principles of transparency, orality, dispositivity, immediacy, and adversarial nature. Thus,

Article 81 of the Charter states: "The pretendant must prove his claim, the defendant objecting to the pretendant's claims must prove his objections" (Nestertsova-Sobakar, 2020). The law granted pretendants and defendants the right to present evidence to the court throughout the entire process. Petrakova (2019), notes that compared to the previous period, the role of the court has become more functional and formalised. The court did not collect evidence but if the parties asked for help, it was obliged to help in collecting it. The adversarial nature of civil proceedings has also been preserved in the Grand Ducal Sudebnik of John III. However, there have been changes in the oral factor – if at first the initiation of a case could take place orally, at the end of the 16th century, the rule on written petitions submitted in a certain form was established (Nersesyants, 1986).

The Conciliar Code of 1649 increased the activity of the court. It regulated the need to submit evidence before drawing up the "court list", the process itself was oral but was recorded in the "court list". The judge heard the pretendant's petition, which he read out, then the defendant presented his answer orally, expressed objections, and gave evidence about their rehabilitation. Each stage was registered by a person with a certificate (Isaev, 2004). Therefore, there are sufficient grounds to consider the form of the process adversarial: the pretendant makes their claims, the defendant responds concerning the substantive claim and the circumstances of the case and concerning supporting evidence. Hearing the defendant, the court demanded explanations from the pretendant about their content. The pretendant also gave an oral response, refuting the defendant's testimony, denied and presented evidence in their favour. In turn, the defendant made new objections. Similar tendencies have occurred in the practice of other countries (Kessler, 2005). Over time, inquisitorial devices were imported into adversarial, common law-based legislation. Kessler (2005), believes that fluctuations between the two forms have led to much of the inefficiency and unfairness of modern civil judicial action.

However, at the end of the 18th century, the civil process became more of an investigative nature: the initiative to cause a proceeding passed from the pretendant to the court; it was believed that oral hearings delayed the process and were replaced by an exchange of papers on the case. The court was vested with investigative powers: if the participants in the civil proceedings failed to provide the necessary amount of evidence, the court could, on its initiative, additionally request various certificates and documents (Yakovlev & Semigin, 2006). The adversarial nature of the process was revived by the Decree "On the form of the court" of 1723 with the court retaining a number of active powers (Nersesyants, 1986). This decree also returned the oral form of judicial proceedings, but the court still retains the authority to collect certificates on the case. Engelman (1912), referred to this: "Peter was convinced of how harmful the investigation was in the process. Thus, he went to the other extreme... the decree introduces oral adversarial court negotiation and allows attorneys". Kleinman (1939), noted that despite the cancellation of the search, "the remnants of the investigative principle were preserved in Russian civil proceedings" until the judicial reform of Alexander II in 1864.

Judicial statutes of 1864 have attached the basic principles inherent in today's Civil Procedure to public justice: the principles of transparency of judicial proceedings, dispositivity, adversarial nature, and orality (Leonhardt, 2019). Consequently, during this period, the predominance of the oral factor in civil proceedings again occurred. Civil procedure Code of the RSFSR of 1923 (2015) has preserved and detailed this provision. As a general rule, only oral proceedings were allowed. Civil procedural code of the USSR of 1924 (2007) also established a number of democratic principles of civil procedure, including adversarial – giving the pretendant, defendant, and prosecutor the same rights and opportunities to provide evidence to substantiate their claims; orality – the basis for the decision is oral consideration of the court case. In the United States of America (USA), for example, orality in the sense of oral proceedings (open court) have been taken for granted in court cases since the beginning of its history. The need for an oral hearing follows from the fundamentals of proceedings imported from England, including jury trials and the right to cross-examine all witnesses whose testimony is the basis of the decision (Fleming et al., 2001). Oral testimony in open court is the conventional method of proof in court proceedings.

After a diverse history and regressive changes to the written procedure, orality finally triumphed with the acceptance of Rules of equity of 1912 (Millar, 2014). The history of oral communication on the European continent is noticeably different from the current one in the United States. Civil law was dominated by a hundred-year-old written communication procedure. For many years, there was a fierce struggle between the oral factor and the principle of writing, which ended with the adoption of national codes in the 19th and 20th centuries, one of the main themes of codification was orality. Nowadays, orality is firmly established in Europe as well. Most scholars and practitioners agreed that a civil trial should end with an oral hearing before accepting a fact (Homburger, 1970). However, oral speech in Europe is not synonymous with oral speech in the United States, and systems place different emphasis on the oral factor at different stages of the judicial procedure. The differences relate not only to the degree of orality but, more importantly, to its quality and nature. As a retrospective analysis shows, the principle of adversarial proceedings is also related to other principles of civil procedure law.

Thus, the requirements for the immediacy, orality, and continuity of judicial proceedings are aimed at creating the most optimal conditions for establishing the truth in the case. Oral consideration of the case is a guarantee of the transparency of the proceedings, and also allows persons involved in the case to perceive the evidence in the case in its entirety, thereby creating favourable conditions for their equal involvement in the adversarial process. Consequently, in modern conditions, the adversarial nature of judicial proceedings presupposes the possibility for the parties to apply orally or in writing to the court, to lodge applications, to challenge, to present evidence, and to take part in its research, in oral questioning of the parties, witnesses, and experts, to file petitions, to give explanations to the court in oral and written form, to object in respect of petitions and arguments of others, to challenge the court decision. In general, the will of the parties depends on the conduct of oral hearings in the case at the session of the court of appeals, as well as involvement in the court session in the form of oral argumentation of their arguments.

Adversarial civil proceedings are caused by the presence of disputed legal relations, parties with opposite interests, and therefore their opposition in defending their position. This confrontation is supported by written, physical, electronic evidence, expert opinions, and witness statements as means of evidence in accordance with the Civil procedural code of Ukraine (2004). As can be seen, in the list of evidence, only witness statements have a direct oral format. However, clarification of the circumstances of the case and examination of evidence begins with an introductory speech by the parties, third parties, representatives, and other participants in the case. At the same time, participants in the case can ask each other questions, give their explanations about written, material, and electronic evidence or protocols of their inspection, ask experts, witnesses, etc. The court is also involved in this process, which, under the procedure established by the law, also has the right to raise questions, clarify, announce the content of evidence, etc. (Civil procedural code..., 2004). Thus, the factor of orality is most fully manifested or implemented at the stage of consideration of a civil case on its merits during the clarification of the circumstances of the case and the study of evidence.

Many legislative acts regulating civil proceedings in former post-Soviet countries contain similar norms. According to the second part of Article 13 Civil procedure code of the Republic of Uzbekistan (2018), one of the principles of civil proceedings is the oral procedure. According to this norm, when considering civil cases, courts must directly examine all evidence in the case, necessarily orally: hear explanations of persons involved in the case, witness statements, expert opinions, and consultations (explanations) of specialists, get acquainted with written and other evidence. The Civil procedure Code of the Republic of Uzbekistan (2018) stipulates the requirement for a party to sign an oral recognition of claims entered in the protocol since otherwise certain problems may arise in practice, both with the possibility of appealing against the actions of the court and with the identification of the recognition made in the desired form. For the same purpose, oral statements of the parties and third parties on the full or partial refusal of the submitted claims, on the end of the case by a settlement or mediation agreement, entered in the minutes of the court session, respectively, by the parties, third parties, etc. must be signed. Explanations, testimonies, explanations, and conclusions recorded in the minutes of the court session may also be signed, respectively, by the parties, witnesses, specialists, and experts, if the court deems it necessary.

Considering that oral communication is the main form of communication between the court and participants in civil proceedings, this form should be observed during the proceedings when examining all types of evidence. It should be noted that to avoid errors in the court's examination of the explanations of the parties and third parties together with the oral explanation, it is also necessary consider the content of the statement of claim; to announce the explanations of the parties obtained in the course of executing the court order; to check the accuracy of information obtained from explanations conditioned upon the substantive interest of these persons (Mirzaeva, 2020). Lately, it has been increasingly argued that the implementation of oral proceedings is not sufficient to ensure adversarial civil proceedings, effective protection of rights, freedoms or interests, and the right to be heard is a necessary condition for this. The right to be heard is a complex and

multidimensional category, which is probably associated with the exercise of all rights and obligations provided for by law. Among other things is the right to freely express one's opinion, arguments, beliefs, etc., which is included by civil procedure legislation in conventional adversarial rights in judicial proceedings (Kumar et al., 2017). And since the results of adversarial or non-adversarial proceedings are reflected in the court's decision, it is a reasoned decision that is perceived as a guarantee that the party has been heard (Morrison et al., 2019).

In the current national civil procedure legislation of Ukraine, oral speech as a civil procedure category is directly fixed only in Part 1 of Article 7 of the Civil procedural code of Ukraine (2004) as an element of transparency of the judicial process along with openness. The law does not establish separate unambiguous parameters of oral procedure in civil proceedings. In this connection, it seems logical to link the concept of "orality" to the following provisions of the current Civil procedural code of Ukraine (2004): paragraph 3 of Part 5 of Article 12 - on the obligation of the court to explain, if necessary, to participants in the trial their procedural rights and obligations, the consequences of committing or not performing procedural actions; paragraph 2, 3 of Part 1 of Article 43 - on the right of a participant in the case to ask other participants questions in the case, as well as witnesses, experts, specialists, provide explanations to the court, give their arguments, considerations on issues that arise during the trial, and objections to statements, petitions, arguments, and considerations of other persons; Part 4 of Article 69 - about the testimony of witnesses in civil proceedings, which may be provided in their native language, or the language that the witness speaks; part 4 of Article 72 - about the duty of an expert at the request of the court to explain their conclusion, answer questions from the court and participants in the case; Part 2 of Article 73 - about the duty of an expert on legal issues to answer questions raised by the court, provide explanations; part 3 of Article 74 - about the duty of a specialist to answer questions raised by the court, etc.

These provisions together and in interaction constitute the concept of "orality" in the judicial process or "judicial negotiation". It is difficult to imagine adversarial civil proceedings without an oral introduction of the participants in the case as a mandatory element of clarifying the circumstances of the case and examining evidence during the consideration of the case on its merits, without oral questioning of the parties, third parties, their representatives questioned as witnesses, oral testimony of witnesses, etc. And although the current civil procedure legislation of Ukraine establishes the right of a participant in a case to ask questions to another participant in writing, and to give evidence to witnesses in writing, the principle of orality obliges the judge to announce these questions and answers to them, to give evidence orally (Civil procedural code..., 2004). The category of "orality" in judicial activity is closely related to the category of "interpretation" since the court establishes facts (circumstances) that, as a rule, occurred in the past. Interpretation of the facts and circumstances of the subject of proof, which corresponds to reality, is essential both for judicial knowledge and for the implementation of legal proceedings (Cala et al., 2016; Gulson et al., 2012). Scientists in this regard note that legal interpretation connects theory, law, and practice, and can be presented as a methodological principle of information interaction, which is being materialised in a certain scheme of production and use of information, and in judicial activity, interpretation appears as an individual

understanding of reality in the whole set of its changing processes, events, structures, relationships, and actions: this is an understanding of retrospection, a past event that underlies the case.

Civil procedure activity in many cases is characterised by different interpretations of the same phenomena by different parties to the dispute in the presence of identical evidence in content, that is, evidence where information about facts and circumstances coincides in content. The different nature of the legal interest of the pretendant and the defendant, different moral principles determine the corresponding interpretation. The interpretation of actions and events by parties, third parties, and applicants in special proceedings is different from the interpretation of phenomena by their representatives. The pretendant or defendant interprets actions or events that usually occurred with their involvement. The interpretation of representatives depends on the person whose rights, freedoms, and interests are represented. Own idea of facts and circumstances, own assessment of actions and events that are established, is absorbed by the interests of the "employer". The category of "language" is mutually conditioned with orality, which is why the oral process is considered nothing more than a verbal way of considering cases. The linguistic (language) factor, along with the philosophical, logical, psychological, etc., belongs to the main group of methods used in fundamental jurisprudence, and language, text, argumentation, the psychology of speech communication, is considered to be legal phenomena and rightly claims that legal science can expand the foundation of its study by exploring these concepts, which is timely and appropriate to identify and study the psycho-linguistic side of the law.

Only using language or the ability of a person to speak, express their thoughts; a set of arbitrarily reproduced sound signs generally accepted within a given society for objectively existing phenomena and concepts, as well as generally accepted rules for their combination in the process of expressing thoughts; speech, etc., one can convey an idea, the result of what is known, so the language factor in legal (judicial) cognition plays a very important role. However, explained by various conditions, not all participants in the judicial process have sufficient language skills to exercise their rights and obligations. In this regard, qualified legal assistance is particularly important since the mental activity of a professional lawyer, including in the field of justice, is subordinated to certain linguistic models acquired as a result of professional training. Such legal models, as well as axioms, are reflected in the knowledge of established processes and phenomena, and even more so in their presentation. In the context of the implementation of the orality principle, the judicial practice also shows the importance of speech and intonation factors. The tactic of language influence or pressure is a common phenomenon in judicial activity. The same phenomenon can be denoted by different words, presented using different intonation techniques. With the help of such techniques, the goal is achieved. These techniques can both contribute to a full and comprehensive clarification of the circumstances of the case, and, conversely, slow down or make it impossible to achieve the tasks of legal proceedings (Astrup et al., 2012). The very implementation of the rights and obligations of participants, proof may depend on these factors, especially in cases of implementation of procedural rights and obligations independently, without involving a qualified representative.

In some recent studies on the problems of legal cognition, it is noted that some scientists assign language a key role in mental activity (Spencer, 2011). Indeed, the satisfaction of interests and the results of legal proceedings as a whole largely depend on how a party or other participant in the case proves their standpoint through speech (Manullang, 2021). How detailed the witness will provide their testimony, the expert will prove the results of the examination, the specialist will provide explanations, as well as how convincing their answers to questions will be, also depend on the results of cognition (Suryasa, 2019). However, confident, clear, understandable, etc. speech expression of thoughts in a court session is often hindered by excitement or mental or physical disabilities. Any judge or lawyer is aware of cases where, for example, a party cannot even answer basic questions. Each judge comes out of this situation in different ways, since the civil procedure legislation of Ukraine is "silent" about this. Only for the institution of recognition of circumstances (facts) in civil proceedings, the civil procedure law provides that if participants in a trial express themselves indistinctly or it is impossible to conclude from their words whether they recognise the circumstances or object to them, the court may demand a specific answer from these persons — "yes" or "no" (Civil procedural code..., 2004).

In the context of the meaning of language, and therefore of orality for the cognition of processes and phenomena, such language qualities as clarity (legibility, expressiveness) become important, unambiguity, logic in the presentation, clarity for understanding, etc. Vagueness, ambiguity, etc. contribute to incorrect, unequal understanding and perception. In the civil procedure doctrine, the oral procedure is reasonably associated with the possibility of implementing the fundamental functional principles of civil procedure law, in particular, the principle of equality, which ensures an adversarial process. Processualists note that oral form is a manifestation of the personal nature of legal proceedings, which, in turn, ensures equality of the parties, when they come face to face, it is quite obvious that oral form is the fastest and most convenient way for them to communicate (Baranov et al., 2021). On the other hand, the oral nature of the process complicates the unilateral and secret submission of material to the court by one of the parties, since the rival immediately gets the opportunity to react to any kind of violation and distortion of the truth. In such circumstances, it is easier for the court to maintain its objectivity and independence.

## **Conclusions**

Despite the importance of the role of oral evidence for cognition and proof, if the law requires the use of only acceptable evidence to confirm a certain legal fact, testimony and explanations lose their legal force. No matter how eloquently, convincingly, confidently the pretendant justifies their claims, without documentary evidence, for example, the contract of sale of real estate, about which the dispute arose, it is impossible to prove this fact due to the requirements of civil procedural law on admissibility of evidence in civil proceedings and requirements of the civil law on concluding such agreements in writing, notarisational, and state registration. As for the circumstances in respect of which the law does not require appropriate registration, their confirmation or refutation requires an appropriate language expression. Language skills are

especially important in cases where it is necessary to prove its purpose of applying to the court, to convince the court that after making a decision, the subject of proof will be able to perform the functions required by law.

Reasoning about the importance of oral speech in the implementation of adversarial civil proceedings cannot but cause thoughts about promoting orality in the study and evaluation of evidence by the court, in the cognition of all processes and phenomena that interest the court. In this regard, there is also an objective need to note the role of orality in preventing or detecting abuses of procedural rights in the field of evidence. One of the most common problems of civil proceedings is the problem lies in the process of proof, which in one form or another can be contained in the explanations of parties, third parties, witness statements, expert opinions, as well as in the case of improper performance of their duties by an interpreter. That is why orality is considered one of the modern opportunities for preventing and detecting lies. This area of analysis requires a separate study due to the significance and multidimensional nature of the material and can serve as a subject for future research.

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