

The Protection of Procedural Rights in Civil Procedure

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Abstract

The important amendment of civil procedure from 1999 to 2003 is strengthening parties' procedural autonomy rights. For the beforehand protection, it fulfills the adversary rights such as stating, proving, and getting information; and it broadens the rights to joint trial such as change and addition of actions and counterclaim. To protect procedural rights above substantially, to make it convenient for parties to pursue the balance of substantial and procedural interests, and to prevent surprise and surprising judgments, it also sharpens the clarify duty of judges to disclose their opinions about law and own impression in certain circumstances, and to notify the opportunities to change, add actions and counterclaim. To make it convenient for parties pursue interests above, the amendment grants various rights to procedural options, which make parties could form the procedures and contents of the trial based on agreements. Furthermore, they may solve disputes themselves without laws and judgments. For Post protection, if the adversary right about fact, evidence and relations of law existed before close of pleading is violated (from the court or other party), the violated party could apply for a re-trial; if the fact happened after close of pleading is different from what judgment forecasted, and that makes the unrealized contents of judgment unfair, the violated party could apply for judgment-change trial.

Keywords: procedural protection, adversary right, right to proof, judgment-change trial, right of procedural options, right to joint trials

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