

TRADITIONS AND INNOVATIONS IN THE INTERPRETATION OF LEGAL FACTS

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Abstract.

Purpose: theoretical development of the definition of a legal fact by considering traditional and modern approaches to understanding the concept and essence of this legal phenomenon. Nature, place and role of legal facts have been defined on the basis of the analysis of various scientific ideas about the evolution of legal facts. **Methods:** the use of the dialectical method of scientific knowledge and abstraction method allowed to analyze the content of the concept under study, to distinguish the main, most significant features and properties of legal facts that differentiate them from other social phenomena and distinguish them between legal ones. The functions of legal facts, their system-forming and regulatory potential for a legal system, as well as socio-economic significance in the process of transformation of social life have been defined with the help of the system-structural method and method of generalization. **Results:** the results of the scientific research prove the specificity of legal facts, which consists in the fact that they are phenomena of socio-legal reality and have material and normative components. Generalization of the features of a legal fact and research of its definition made it possible to determine a legal fact as an individual legal model of social circumstances, which is fixed in a certain legal way, serves as the basis for the emergence and functioning of legal relations, as well as the specification of the subjective rights and obligations of the participants in these relations. Simultaneous reflection of four planes – actual, personal, normative and communicative – reveals the content of legal facts more fully in this definition. **Discussion:** powerful development of the philosophy of law, the philosophical basis of various legal sciences and the directions of interdisciplinary research in the last decades requires further scientific understanding of legal facts using the philosophical approaches inherent in phenomenology, hermeneutics, praxeology and other philosophical systems. Thus, the necessity of working out of the corresponding methodological tools, which, taking into account the double legal and social nature of legal facts, would cover a considerable range of different scientific approaches, methods, methodological principles, etc., is actualized.

Keywords: legal regulation, legal model of circumstances, legal relations, functions of legal facts, legal fact.

1. Introduction

Legal facts are a traditional focus of attention of researchers, at least since the time of the famous German lawyer and statesman Friedrich Carl von Savigny [1]. At the same time, the attention of scientists to this phenomenon has recently decreased somewhat, although in today's conditions of optimization of legal regulation, complication and di-

versification of social life, interpenetration (integration) of its various spheres, the formation of new social institutions, expansion of informational (virtual) space and others need updating of traditional views on legal facts. After all, taking into account the fact that the development of social relations always predetermines the transformation of legal reality, it is necessary to study new approaches to the

definition of the concept, essence and content of legal facts in order to improve the mechanism of legal regulation of social relations and increase the effectiveness of legal practice.

The urgency of the outlined topic is also due to its debatable character on the theoretical level and, accordingly, the absence of an integrated doctrinal approach to understanding this phenomenon, as well as an unambiguous definition of their place and role in the process of streamlining social ties and ensuring the realization of social interests, which negatively affects the state of legal regulation of legal facts.

2. Analysis of the latest researches and publications

In the general theory of law and dominant branches of law, the concept and place of legal facts in the mechanism of legal regulation of social relations were studied by such domestic and foreign scientists as R. Kaliuzhnyi, M. Kelman, L. Kozlovska, M. Kozyubra, A. Kostruba, K. Majorca, O. Melnyk, O. Petryshyn, S. Pogrebnyak, M. Plenyuk, F.C. von Savigny, V. Smorodynskiy, Y. Sobchuk, O. Tykhomyrov, A. Shafalovych, R. Shishka, I. Shopina and others, whose works formed the theoretical basis of this research.

However, it is impossible to consider this problem settled, as the dynamics of the development of social relations necessitates constant study of already developed issues in order to adapt them to the requirements of modern times. It is also necessary to disclose the content and nature of a legal fact at theoretical level as an integral element of the legal regulation mechanism, which leads to the emergence, change and termination of legal relations.

3. Research tasks

The task of this research is to analyze the existing scientific ideas about the evolution of legal facts, as well as their role and place in the system of legal influence on social relations in the modern conditions of domestic jurisprudence development.

4. Research results

A legal fact is a complex, multifaceted and debatable category of legal science. First of all, this is due to the fact that the theoretical issues of legal facts are studied both in the theory of legal relations

and in the mechanism of legal regulation. But the approaches to the definition of the concept of a legal fact are not unified, because in its content, it reflects the phenomenon of both material and ideal (legal) nature. In fact, the environment from which the legal facts originate is life itself. At the same time, they are not accidental isolated phenomena, but the result of social life, which was enshrined by the legal norm. And here it is necessary to take into account that social life, as a rule, is considered in two aspects: the essential and cognitive ones. In the first case the element of objective social reality is meant, and the second one means, the component of empirical knowledge, which reveals objective processes and phenomena of social life. Each of these components imposes its imprint on the process of forming the concept and content of legal facts.

Thus, for example, an Italian scientist and legal expert K. Majorca, analyzing the role of legal facts in the mechanism of legal regulation, indicates their function to ensure the autonomy of the individual in legal relations [2]. There is no extended theory of legal facts in English and American legal doctrine. Since English and American lawyers, giving proper respect to the traditions of their legal system, are skeptical about abstract legal concepts. At the same time, legal facts are determined by them in the procedural sense as circumstances that are subject to proof and are relevant for the consideration of the case [3].

In modern national doctrine of a legal fact, legal facts are traditionally defined as living circumstances, which, in accordance with the rules of law, cause certain legal consequences – the emergence, change and termination of legal relations [4; 5]. Based on the opinion of A. Kostruba, it should be noted that this definition somewhat reduces the content of legal facts, because it does not take into account that certain life circumstances not only transform legal relations, but also can create legal capacity and legal competence, as well subjective rights and legal obligations which do not correspond to each other [6].

M. Kozyubra has a broader understanding of the concept of legal facts: "Legal facts are specific life circumstances that are directly or indirectly deter-

mined by the hypothesis of the rule of law and the presence and / or absence of which is connected by the rules of law to the emergence, change or termination of legal relations" [7]. O. Tykhomyrov and O. Polonska emphasize the necessity of existence of specific living conditions for the transformation of legal relations, and characterize legal facts as life circumstances and phenomena established and enshrined by legal norms, which objectively exist at a certain point in time in a certain place, and cause legal consequences [8]. These definitions are more acceptable for the interpretation of the essence of legal facts as an element of the legal regulation mechanism of social relations, since they focus on certain, that is, specific, life circumstances, in the presence or absence of which the law provides for the emergence, change and termination of legal relations, as well as the specification of rights and responsibilities of their participants.

The analysis of legal literature proves the existence of other approaches to the definition of the concept and content of legal facts. In particular, O. Melnyk formulates his own definition of legal facts as a phenomenon of objective reality, existing in the form of events and actions (actions or inactivity), which leads to the emergence, change or termination of a public relation and is characterized by the ability to have a legal assessment, which is the basis for the conclusion about the possibility of using, enforcing or applying the rules of law in order to regulate the social relation generated by this phenomenon [9]. The proposed definition proves the importance of legal facts in the process of legal regulation, which consists in their ability to legally ensure the transformation of legal relations.

Investigating the mechanism of regulation of economic legal relations, R. Shishka notes that legal facts as an element of such a mechanism, generate, change and terminate the subjective legal rights and obligations of specific subjects, and, accordingly, specific relations [10]. This definition largely reveals the legal content of legal facts, leaving their material basis aside.

Nowadays most scholars point out the need for a double understanding of a legal fact. Thus, taking into account the material and legal aspects of legal facts, Y. Sobchuk and L. Kozlovska, consider their

dual nature: as facts-realities and as facts-models [11; 12]. By its very nature, such an interpretation extends the understanding of the content of legal facts, since these legal phenomena are real life circumstances that lead to legal consequences only if they are enshrined directly or indirectly in the rules of objective law. However, it is not entirely correct to determine the normative model of certain life circumstances, with which the movement of legal relations is associated, as a fact-model. After all, taking into account the etymological meaning of the term "fact", it should be noted that it reflects the phenomena (circumstances) of real reality, that is, those that already exist or existed in the past. Therefore, in this case it is more expedient to use the term "a legal model of circumstances" instead of "a fact-model". The legal conditions, the onset of which leads to the recognition of a certain fact as a legal one, enshrine in the legal models of circumstances, and their complex, respectively, is the basis for the emergence of legal consequences. In other words, the legal model of circumstances simulates certain phases in the behavior of subjects that form the ultimate goal in the future.

The basis of such conclusions are the scientific developments of I. M. Shopina, who, considering legal facts as an element of the mechanism of administrative and legal regulation of management of internal affairs bodies, indicates that they provide a transition from the general model of rights and responsibilities to their specific implementation in the plane of real life, since the rule of law connects the emergence, change and termination of legal relations with them. The legal fact serves as a connecting element between the rule of law and legal relations, thus allowing to implement the requirements of the legal norm in a specific legal relations [13]. That is, in the formation of the legal mechanism, legal facts that affect the transformation of legal relations, are an active element that links the rule of law and specific legal relations by transferring abstract normative prescriptions into specific circumstances of reality.

Emphasizing the regulatory potential of legal facts for the legal system, A. Shafalovych considers the system of legal facts, which are clearly outlined in the sources of law and reliably established, as

one of the most important guarantees of legalness. However, she notes that the rapid development of public relations often contradicts existing legislation and the law does not always reflect all the nuances of legal facts. According to the scientist, it is necessary to extend the list of law sources along with normative and legal acts under such conditions [14]. The above approach to the understanding of legal facts is particularly important, taking into account that the law does not generate legal facts, they arise and exist outside of it, but the law gives them the status of legal ones for the purpose of their regulation and ordering of public and national life [15]. The legal system, which depends on the decree of the legislator to recognize or not to recognize the fact to be legal, can not react to the development of various social relations quickly, therefore, the expansion of the list of sources of law should take place, because the facts of reality that cause legal consequences sometimes arise before legal norms and are their prerequisite. It means that legal facts not only influence the formation of legislation and practice of its application, but they give them the necessary dimension and increase their efficiency to a large extent.

Investigating the place of legal facts in the mechanism of legal regulation of social relations, it is necessary to indicate such a significant feature as systemacity. Since a single legal fact may not always serve as the basis for the existence of legal relations, legal facts should be considered as a complex of phenomena of different nature, the interaction of which leads to the movement of legal relations (rights and responsibilities of their subjects). Consequently, in addition to regulatory influence, legal facts also provide combination of different elements in a system in order to bring the mechanism of legal regulation into effect, but systemic interconnection and interinfluence between them must be the basic precondition. After all, a particular factual circumstance acquires the value of a legal fact, provided that it is capable of putting in motion another element of a legal mechanism that determines its functional purpose. This testifies to the fulfillment of three functions by legal facts at the same time: firstly, their perception of the power of law; secondly, transferring it to its own plane; thirdly,

the generation, change or termination of legal relations [16].

In modern legal literature, the issue of providing legal facts with independence is rather debatable. Of course, this position is not groundless, since the consequences of the onset of a legal fact include not only the movement of legal relation (its emergence, change and termination), but also the consequences of the realization of legal personality of the participants of certain legal relations, as well as the consequences of the protection of their subjective rights. Also the fulfillment of the legal functions of the provision of legality guarantees by legal facts emphasizes their significance in the mechanism of legal regulation. And the breadth and branching of the functional ties of legal facts indicates their system-forming function for the legal system, since the system of legal facts is comprehensive, permeating and uniting all branches of law into a single legal system. At the same time, one should agree with A. Shafalovych, who sees legal facts as a non-independent element of legal regulation and points to the uncertainty of their place in this mechanism, since they are present at all stages of legal regulation. Their role in the mechanism of legal regulation is not in the essential component of legal relation or law, but only in the specification of this essence. This role of legal facts is ensured by their system-forming and law-creating functions [14]. That is, the mechanism of legal regulation acts with the help of legal facts, the importance of which is to ensure the transition from one stage of legal regulation to another. Of course, legal facts are a very significant component of law and a "driving factor" in the functioning of the whole mechanism of legal regulation, but they have only accessory character, because their role is to ensure the onset of legal consequences, the implementation of which is possible only in conjunction with the norm of law.

It should be noted that it is not advisable to conclude that only regulatory and system-forming functions are performed by legal facts. Taking into account their material content, legal facts also have a socio-economic significance, as they provide a link between real life circumstances and the rules of law as the general basis for the emergence of legal facts and legal relations, all elements of the legal

mechanism among themselves. The main function of legal facts is establishing ties between the elements, as well as between the structure of such elements, thus bringing into force the mechanism of legal regulation and achieving the ultimate goal of the regulatory influence of law.

An important issue in the study of legal facts in the system of legal regulation of social relations is their generally recognized classification by volitional criterion, views of scientists on which also differ. According to the theory of law, legal facts can be both actions and events (relative or absolute) [7]. However, it should be noted that the onset of a particular event does not necessarily have certain legal consequences. An event will have legal significance for the emergence and functioning of certain legal relations only after a subject of law recognizes its significance. That is, in those cases where the process of legal regulation is caused by events, the latter remain only material conditions, not entering into a legal fact in such form. Consequently, legal facts presented only by volitional acts of the subjects of law are the basis for the transformation of legal relations.

5. Conclusions

According to the results of the study, it is possible to make a conclusion that defining the notion of a legal fact, it is necessary to rely on its understanding as a real life situation, which involves the emergence of legal consequences for the participants of legal relations. At the same time, the transformation of social circumstances into legal facts is carried out in a procedural form in the form of adoption of normative acts. The complexity of this process is in the need to take into account the key aspects of social circumstances in time, space, movement and their generalized formulation in the interests of society and the state. That is, under a legal fact one should understand the individual legal model of social circumstances, which is fixed in a certain legal way (in sentences, court decisions, legal acts, etc.), which serves as the basis for the emergence and functioning of legal relations, as well as the specification of the subjective rights and obligations of participants of these relations.

The role of legal facts lies in the fact that they help to ensure the functioning of the mechanism of

legal regulation of social relations. Legal facts are the conditions for the implementation of the rules of law in all cases, since the rule of law forms the basis of legal regulation, and the legal fact, in turn, is a factor of legal influence capable of ensuring the movement of the legal norm. Legal relations, models of which are laid down in the relevant legal norms, find their practical implementation, undergo changes or termination only on condition of occurrence of specific legal facts provided by the mentioned legal norms.

Though legal facts have only an accessory functional character, they have a prominent place in the legal regulation system, since they are the legal instruments that ensure the regulatory influence of the norms of law, the formation of legislation and practice of its application, and to a large extent they give them the right vector and affect their effectiveness.

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ТРАДИЦІЇ ТА НОВАЦІЇ ІНТЕРПРЕТАЦІЇ ЮРИДИЧНИХ ФАКТІВ

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Мета: теоретична розробка дефініції юридичного факту шляхом розгляду традиційних і сучасних підходів до розуміння поняття та сутності даного правового явища. На основі аналізу різних наукових уявлень про еволюцію юридичних фактів з'ясовано їх природу, місце та роль в системі правового регулювання суспільних відносин. **Методи:** використання діалектичного методу наукового пізнання та методу абстрагування дозволило проаналізувати зміст досліджуваного поняття, виокремити основні, найістотніші ознаки та властивості юридичних фактів, які відрізняють їх від інших соціальних явищ і виділяють з числа правових. За допомогою системно-структурного методу та методу узагальнення визначено функції юридичних фактів, досліджено їх системоутворюючий та регулюючий потенціал для правової системи, а також соціально-економічну значимість в процесі трансформації суспільного життя. **Результати:** результати наукового пошуку доводять специфіку юридичних фактів, яка полягає у тому, що вони є явищами соціально-правової дійсності та мають матеріальну і нормативну складові. Узагальнення ознак юридичного факту та досліджень його дефініції дало можливість визначити юридичний факт як індивідуальну юридичну модель соціальних

обставин, яка зафіксована певним юридичним способом, слугує підставою появи та функціонування правовідносин, а також конкретизації суб'єктивних прав і обов'язків учасників цих відносин. Одночасне відображення у даному визначенні чотирьох площин: фактичної, персонативної, нормативної та комунікативної, більш повно розкриває зміст юридичних фактів. **Обговорення:** потужний розвиток в останні десятиліття філософії права, філософських підстав різних юридичних наук та напрямів міждисциплінарних досліджень потребує подальшого наукового осмислення юридичних фактів з використанням філософських підходів властивих феноменології, герменевтиці, праксеології та іншим філософським системам. Тим самим актуалізується необхідність розробки відповідного методологічного інструментарію, який враховуючи подвійну соціально-правову природу юридичних фактів, охоплював би значне коло різних наукових підходів, методів, методологічних принципів тощо.

Ключові слова: правове регулювання, правова модель обставин, правові відносини, функції юридичних фактів, юридичний факт.

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ТРАДИЦИИ И НОВАЦИИ ИНТЕРПРЕТАЦИИ ЮРИДИЧЕСКИХ ФАКТОВ

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Цель: теоретическая разработка дефиниции юридического факта путем рассмотрения традиционных и современных подходов к пониманию понятия и сущности данного правового явления. На основе анализа различных научных представлений об эволюции юридических фактов выяснено их природу, место и роль в системе правового регулирования общественных отношений. **Методы:** использование диалектического метода научного познания и метода абстрагирования позволило проанализировать содержание исследуемого понятия, выделить основные, существенные признаки и свойства юридических фактов, которые отличают их от других социальных явлений и выделяют из числа правовых. С помощью системно-структурного метода и метода обобщения определены функции юридических фактов, исследовано их системообразующий и регулирующий потенциал для правовой системы, а также социально-экономическую значимость в процессе трансформации общественной жизни. **Результаты:** результаты научного поиска доказывают специфику юридических фактов, которая заключается в том, что они, будучи явлениями социально-правовой действительности, имеют материальную и нормативную составляющие. Обобщение признаков юридического факта и исследований его дефиниции позволило определить юридический факт как индивидуальную юридическую модель социальных обстоятельств, которая зафиксирована определенным юридическим способом, служит основанием появления и функционирования правоотношений, а также конкретизации субъективных прав и обязанностей участников этих отношений. Одновременное отображение в данном определении четырех плоскостей: фактической, персонативной, нормативной и коммуникативной, более полно раскрывает содержание юридических фактов. **Обсуждение:** мощное развитие в последние десятилетия философии права, философских оснований различных юридических наук и направлений междисциплинарных исследований требует дальнейшего научного осмысления юридических фактов с использованием философских подходов, присущих феноменологии, герменевтике, праксеологии и другим философским системам. Тем самым актуализируется необходимость разработки соответствующего методологического инструментария, который учитывая

двойную социально-правовую природу юридических фактов, охватывал бы значительный круг различных научных подходов, методов, методологических принципов и т.п.

Ключевые слова: *правовое регулирование, правовая модель обстоятельств, правовые отношения, функции юридических фактов, юридический факт.*