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STRUCTURAL ANALYSIS OF LEGAL NORMATIVITY

Summary. In this article the theoretical aspect of category is widely examined “normativeness of law” and place in her structure of equitable rights, legal duties, legal facts and other categories and concepts.

Law itself and its characteristic features are the most important social regulatory requirement. Each country knows the law. But in spite of the diversity of national legal systems, they have a lot in common and characteristic in the essential and the outside. This is a manifestation of social, including the legal, normative requirements of social development. A comparison of legal systems can identify common and national normative expression.

Law consists of rules. They are required to reach a clear design and all major parties to the regulatory requirements and manifestations, and therefore regulation. Law – control, and perfection of regulation of relations and behavior of people is directly dependent on the quality, optimal concentration requirements of normativity.

Keywords: are social normativeness, normativeness of law, equitable law, legal duties, legal facts, definitive norm.

Resolution of the problem. A study on the problem of legal normativity in our time is one of the key tasks of legal science. In addition, in order to understand the contents of this category, select the basic elements that constitute it have its existence.

The purpose of the study was defined as the essential analysis of legal normativity in modern society in their interaction.

The main material. Components of the expression in the law are themselves assuring the rights and responsibilities of individuals, organizations and States. The rights and freedoms of the individual are financially associated, law periodically laid down and guaranteed by the possibility of an individual

to possess and enjoy specific social benefits: socio-economic, spiritual, political and personal [1].

Thus, the rule of law provided for the personal rights are generic features of subjects to participate in public relations. This applies to citizens, foreigners and persons without citizenship, government, public, businesses, etc. In turn, responsibility – is reduced to a common denominator, standardization of all the demands that cannot be run outside of the normal existence of society. If the ordering of external signs entities aims to highlight the social weight of the entire member of a social relationship, systematization defines the rights and obligations of the type, model of participation.

Entities shall cooperate with each other through a set of rights, and responsibilities. It should be noted that under the subjective laws of modern jurisprudence understands “measure legally possible behavior that meets the interests of particular individuals (individual)” [2], and legal responsibilities – is required by laws and regulations necessary measure of individual behavior [3]. Thus, the rights and responsibilities – a key element of any legal regulatory and social system. Without them it is impossible to imagine the existence of legal subjects, as it loses its practical value. Fundamental rights and freedoms, their breadth, the reality, the warranty express not only the factual and legal position of the individual in society, but also the essence of democracy existing in it, a way of life, the social opportunities that are inherent in the social system [4].

In order for a particular behavior, a particular action or measure should become possible behavior (etc., the right or obligation) needed some conditions. The behavior of citizens and the organizations acquire dimensional character only when they order. First of all, you need the repetition of this behavior, in which they confirmed the practical importance. The bearer of the conduct in question must be sufficiently broad participation of public relations. Activity acquired character of the measure or scale, if it is interested in the general population. In this case, the extent of social networks depends on their practical utility and expediency [5]. Then this action is recognized by the state particularly significant, valuable for social progress and is taken under protection. So accumulate prescriptive (normative) the legal information that is concentrated in specific legal means: rights and responsibilities, benefits and

suspension, rewards and punishments – the impact on the interests of the individual [6]. Thus is born the system of rights and obligations. Their collection is systemic. In this system, each element corresponds to the other (rights, obligations, responsibilities, rights), and all have their horizontal and vertical hierarchy. In terms of regulations and responsibilities important to the proper relationship between these categories. Violation of the principles of universality, commitment, constancy in relation to these categories leads to deformation of the whole legal superstructure of society.

The presence of the balance in this system means consistent harmonious development of the entire social order. Violation of any of the regulatory balance leads either to the right or unreasonably high, in contrast to their infringement and breach of duty. Sets a dangerous precedent that could disrupt already formed the scale, the scope of behavior and activity result is unbalancing the entire legal system. This sin, as a rule, the transitional periods. In the transition to a market economy in our reality of legal nihilism and tyranny of particular importance in a number of the leading principles of the rule of law that directly serve to protect human rights, the principle of horizontal action becomes public law in the field of private law relations. It is about respecting the fundamental rights and freedoms and their protection in the relationship between individuals, for example, when making a deal to rent a property, labor agreements between private companies and citizens [7]. While in a foreign legal science are of the opinion that in the relationship between employers and employees is hardly possible to find equality in the “pure” form. So it is clear that the labor

laws are highly differentiated rates for those and others [8].

Among the challenges of the third millennium in the field of human rights but the European Court of Human Rights of the Council of Europe highlights the following: legal protection of prisoners' rights, the creation of human conditions in places of detention, the implementation of the legislation on the prohibition of torture and inhuman and degrading treatment, protection of economic and social rights. In particular, the provision of guarantees to freedom of professions and businesses, the protection of minority rights [9]. But essentially it comes to restoring and regulatory activities of the state, bringing it in line with the existing legal scales and measures, which are mainly legal rights, freedoms and responsibilities.

The problem of normative rights and duties is not only legal. We are talking about the rights and obligations in terms of the legal form of social normativity as a means of ordering social relations, and hence as a means of maintaining social stability and the removal of social conflicts. A relationship in nature variety.

Relationship minority and majority owners of real and nominal fraught with conflict, precisely because the existing regulatory violations of their relationship.

When one social group, not only fails to fulfill his public duties, but also grossly violates the rights of other social organizations, there are grounds destroying existing normative relations. To eliminate the need of large-scale conflict, the society represented by the state to fulfill its obligations and exercise the rights helped to groups that are in the minority or are unable to exercise their rights themselves by virtue of their physical disparities. That is, the right

regulatory tool supports coordinate the interests of people. If the social norm, speaking as one of the elements of social behavior ceases objectively reflect certain interests, their dialectic, it loses its regulatory function, or reduces its effectiveness [10].

Actual inequality in the political and economic regulatory level leads to inequality and normative-legal level. Influential social circles through political institutions begin to infringe on the rights of their opponents. Sometimes the role of the offender balance of rights and responsibilities acts by the state. Sure, every truly democratic society should strive to protect the rights of workers. However, the emergence of "Solidarity", for example in Poland shows that the government can cut back on the rights of workers, at least as well as it can be made private employer [11].

General idea of inalienable human rights, the concept of the rule of law are intended to maintain equality in the actual legal inequality. In the absence of basic legal conditions for the presence of the unity of rights and obligations of certain members of society policy ensures the equality of legal capacity. This expresses the value of this element of the legal form of normativity as the relationship of rights and duties. Their universality, sustainability ensures the stability of the state on various internal turmoil.

However, it would be wrong to think that the directive, the "pure" legal method of stabilization can be effective long term. In order to maintain parity of the powers given to the parties to provide legal and regulatory requirements at the level of the economy: on the level of production, exchange, consumption and distribution.

The dominant form of ownership is not able to provide their owners no

equality of laws, or their guarantees. And is a natural occurrence in the public mind the idea of civilian property. That is because the concept of civilian property owner becomes every such property by an individual – not private property. On the other hand, this is not the base for leveling, but the principle of a new legal equality, on which alone the post-socialist law. It was this moment of economic equality opens the way for formal equality [12].

The reaction of participants in public relations at the various phenomena is the formation of the required measures of behavior (rules) and giving members of the public powers. But to work out some kind of a measure of behavior, based on a multiple of repetition must be some meaning. Infinite chain of identical actions must have a common denominator.

Regulatory element mediating social life appropriate to call the actual circumstances of life that are subject to systematic, uniform interpretation.

We are most interested in, not all circumstances, but only those that have a large social significance and thus require a legal shell. Any model of behavior is a reaction to the ongoing social phenomenon. This could be the reaction of approval or disapproval response. In any case, a generalization of normative behavior as an expression of social reaction requires in turn and order in the public's perception of the facts. This kind of arrangement is done by isolating the same traits and characteristics, identify the nature of the related phenomena. They are both strong-willed content and independent of human will and consciousness.

Legal normativity in this case and is to allocate a single forceful “conscious” of the type of a large group of events and activities in order to assess the

circumstances in terms of their value, usefulness or harmfulness. These events regularly, equally knocking at the door of public consciousness and demand an answer. Public reaction to the facts and figures of a dual nature. On the one hand – this is the formation of certain standards of behavior. On the other – standard quality assessment of the data. Evaluation of evidence should be pre purpose of establishing their credibility, truthfulness, determination of their relevance to the present case and the importance to draw final conclusions on the case [13]. In the theory of law, these circumstances usually called legal facts. Being recognized by law, they already require quite specific, uniform, mandatory influence by their appearance. It is an essential element of legal forms of social normativity, because it operates all the regulatory mechanisms in accordance with a given program.

However, the legal fact is an element of the operation and regulatory impact of established legal forms. And it has the second case.

In the first case we are talking about the actual circumstances of life that define not only regulatory action (operation) of law as normative, order of legal phenomena themselves. After all, society's need for certain behaviors externally objectified none other than, as in these factual circumstances.

But the legal facts are social phenomena when recognized as such by the law, as indicators of self-regulatory systems. Before they are considered just life circumstances have a normative character and requiring legal registration. But there is a contradiction between the social system of the entire regulatory and legal form. The legal form of social normativity tends to lag behind on its content. Life creates

ever new circumstances requiring legal consolidation. However, the legislature can not objectively to keep up with the innovations and practices of legal form provides sometimes already outdated regulatory model and does not notice the realities of the day.

Normative, not only the appearance and functioning of legal phenomena. Standards and the result of this operation is derived from its purpose.

Therefore, elements of the regulatory law can define the goals and objectives of the law. Projected legal consequences accident relevant to the normative form of law. After all, any legal structure created for a purpose. This goal has largely determines the nature and character of the normative patterns of behavior [14].

The result, targeting standard, yet, not being achieved, already forms the basic contours of a future regulatory scheme. Therefore, the aim appears inevitable element of normative forms of law... From the perspective of interdependence with further regulatory action on these forms of social practice, legal purposes can be divided as follows: the entities committing lawful, socially useful activities, preventing illegal activities, the implementation of the negative consequences for violating the law. In one and the same form of law, these objectives are closely intertwined, however, you can always select a single, highest priority, which is the main content of the regulation, the agreement with the normative content or legal custom.

It should be said here about the sanctions and their relation to the goals. Under the sanction of the legal norm should be understood — a common legal assessment mind wrongdoing, the implementation of which it is applied [15]. We see that, on the one hand,

the sanction can act as an independent objective form of law. On the other — the legal consequences of failure, ignoring the law serve as an integral part of any regulatory and legal education. They are a guarantee of the regulatory action of these structures.

The various subjects of law are trying to participate in public life and antisocial antinormativnym way. Thereby violated the rights of other parties, break-resistant scheme of life. There is a risk of a failure of the regulatory system. A natural result of this is offensive to the violators of adverse effects.

Effective sanctions restores the limits beyond the needs and interests of the.

Punishment as a consequence of misconduct is not only a guarantee for maintaining normative for all law-abiding members of society, it is also a way to keep the offender within the existing legal and social environment. "Punishment, punishing criminals..., is at the same time its a sheer will, the primary being of his liberty, his right — but there is also a law, the provisions in the criminal, that is, its cash-sheer will, in his act. For his act of a rational being to conclude that it is something universal, that they set the law, which the offender has admitted to this act for themselves, for which he, therefore, can be summed up as under the right" [16].

The standard value of the established legal consequences is their enormous role in the choice of orienting behaviors. Normativity of the final result is a major motive for this choice.

Considering normativity in law, is unacceptable to ignore the normative and legal concepts and categories. Concepts and categories — is the next element of the regulations.

The term "concept" is used in

a general sense to denote the form of understanding the essence of phenomena, reflecting the universal and essential items. Legal scientific concepts – is meaningful, substantive images that reproduce in thought (ideally) the objective essence of real processes and legal reality of the relations existing in it, and express a specific legal definition of data quality processes and phenomena [17]. This kind of ideal regulatory and legal reflection of the objective tendencies characteristic of both the sense of justice and law. We are also interested in the legal concepts contained in the law.

Laws that contain legal concepts, usually called starting, constituent, the definitive rules of law. Inherent to all of them in common – they are legally fixed (established) the legal status of any substantive or procedural. This is done either by its verbal symbols, or specify one or more essential characteristics, or the full definition (definition) [18]. As correctly pointed A. Hovorostyankina: “Standards-definition – these are rules that contain the definition of the legal categories and concepts” [19]. Or that the legal quality inherent in some aspects of social life, finds its “character”, his concept, his “image.” Such concepts and to speak with one unifying principles of normative generalizations of social processes. In addition, they have considerable value as “application” means used for optimization in the regulatory impact on the social practice of legal forms.

To transform into a legal rule social laws need to formulate a principle desired behaviors, define the goals, objectives, participation and some other provisions. These categories should be given a legal form, they must acquire a universal, uniform, mandatory. Only after that, based on the elaborated, it

is advisable to build the planned legal structure. Normative significance of these phenomena can be compared to the supporting structure of the building. If you roll one support, it plays out the entire project. Therefore, the general concepts of a formal, is a pre-condition for the establishment of the legal regime. In legal terms reflect the essence and condition of mass social generalize series.

In addition, regulatory and legal categories bears the imprint of the economic, political, ideological, normative, ie some of the legal concepts is also a component of other systems.

Above we discussed the elements that are the components of the regulatory mechanism of generalization of social reality. They are the parameters, the criteria according to which the law created as a form of legal norms.

In this regard legitimate interest in the role of law as a form of perception and reflection of social normativity, which acts as a complex category and the basis of formation of legal norms. Social normative acts as a special, specific category of social reality, which is characterized by the presence of such basic features that is typical of her, that is, it is such as: frequency of social processes (events, relationships) is typical of social relations in a society, the stability of social relations expresses the common (a universality) of social relations and phenomena it is a way of expression, modeling typical, common and mandatory social connections and is characterized by binding (imperative) normative models (models) which owns social coercion [20].

The law is a general form of the particular and individual. In order to translate the individual and the particular to the universal and abstract, realizing the wealth of separate individual specific

behavior, are required regulatory parameters that together and forms a normative education as a right.

The law to be considered the result of the system analysis of a large number of different events and actions that are classified according to standard criteria. The result is the pattern of behavior that can be successfully replicated in order to obtain a positive result.

The speed and efficiency of the result will depend on how fully reflected in the law a set of normative systems. Everything Counts: Does time normativity, recorded a time of the norm, which meets the expectations of the social reality, whether there is a spatial normativity, and what is the scope of the legal behavior, take into account whether the legal personality of normativity, outlined a number of possible participants in the future actions; clearly defined their criteria, the extent to which implemented the regulatory normative postulates, established a balance, equity performers through the system correlation of rights and obligations, etc.

Legal forms of normativity, one of which is right, act not just as a passive means of social expression patterns. These are independent social entities with designated functions. Through these functions, and ordering is the impact of these forms of behavior in society.

In regulatory law can be divided into two sections: objective and subjective. Objective aspect of normativity in law – a measure of the severity of a rule of the most important systemic factors that determine the direction, the “face” of the social order.

Subjective cut lies in the ability of society to bring the developed behaviors to the consciousness of its citizens, the ability to make them universal yardstick

of human self-regulation. Both aspects are closely intertwined, interconnected and interdependent.

The ability of the law to fulfill its social function – the best indicator of the value-weighted regulatory approach when drafting regulations. As the functional analysis of the law, each of them, regardless of industry sector, to some extent performs the mechanism of legal regulation of such features as a function of the orientation of the state and function of public evaluation of different options for the behavior of subjects of law [21].

Functional efficiency of the law – is the result reflect the statutory criteria. The orientation of the legal behavior of members of society to achieve some positive results possible without regulatory preconditions study this behavior, predict possible consequences.

Were often seen how “good” legal provisions “die”, and not having to perform its function, and simultaneously discredit their authors and initiators. This happens often because you can not put the rule of law “on stream”, run into widespread “use.” The absence of clear language, properly reflect the social, including the legal normativity, the uncertainty of the proposed scheme of conduct, unsteadiness guarantees create the conditions under which this provision can not, and certainly could not work.

All this is the result of the lack of a clear-cut system of standard coordinates in which any rule of law as soon as she takes a position in the legal regulation, a coordinate system seems to be a slim package of legislative acts, which contain the normative foundations of law – “Regulatory squared” [22].

Conclusions. Therefore, it is advisable to do some practical

conclusions. We need to develop uniform legal time criteria, to classify them into different areas of law, useful document, of course, would facilitate the work of specialists, would allow to quickly get answers, such as those associated with determining the time would contain all the legal information on this issue.

Today sectoral legislation “pull apart” the normative criteria. Creation of a special kind of “regulatory” laws can significantly improve the quality of instruments produced, the process of law enforcement, strengthen the rule of law in society.

Thus, exploring the regulatory rules, note the following points.

Law product performs the objective laws of social development, and is a distinctive design of regulatory requirements of life. It is interconnected with other regulatory systems (morals, customs, traditions, religion, etc.) and break them, isolate unacceptable.

Law — this is a set of rules and a system to make it non-standard items is not allowed.

Here there is the diversity of regulatory manifestations, their peculiar hierarchical subordination and coordination with other regulatory systems, the variety of forms of expression and diversity of forms and levels of influence on social life.

Law itself and its characteristic features are the most important social regulatory requirement. Each country knows the law. But in spite of the diversity of national legal systems, they have a lot in common and characteristic in the essential and the outside. This is a manifestation of social, including the legal, normative requirements of social development. A comparison of legal systems can identify common and national normative expression.

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Заморська Л.

Структурний аналіз правової нормативності.

Анотація. В даній статті визначається загальнотеоретичний аспект категорії "правової нормативності" і місце в її структурі суб'єктивних прав, юридичних обов'язків, юридичних фактів та інших категорій і понять.

Ключові слова: соціальна нормативність, правова нормативність, законні права, юридичні обов'язки, юридичні факти, правова норма.

Заморская Л.

Структурный анализ правовой нормативности.

Аннотация. В данной статье определяется общетеоретический аспект категории "правовой нормативности" и место в ее структуре субъективных прав, юридических обязанностей, юридических фактов и других категорий и понятий.

Ключевые слова: социальная нормативность, правовая нормативность, законные права, юридические обязанности, юридические факты, правовая норма.

