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OF THE CONCEPT OF LEGAL RELATIONSHIP

SOBRE LA CUESTIÓN DEL CONCEPTO DE RELACIÓN JURÍDICA

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ABSTRACT

Legal relationship is a social communication between individuals, occurs on the law basis, characterized by the presence of the subjective legal rights and responsibilities and supported by (guaranteed) power of the government. Foreign economic relations are trade activities, that are legally regulated, or, more precisely, that are regulated by the applicable law of organizational and property (economic) relations, forming in the trade process between Russian and foreign individuals. In the article the concepts of the term “legal relationship” are analyzed, various doctrinal ideas about the structure of legal relations are examined. As the socio-economic system of relations develops, the authors of the article raise the question of the existence of complex legal relations and conduct their analysis.

Keywords: Legal relationship, foreign economic activity, private law, rights.

RESUMEN

Relación jurídica es una comunicación social entre los individuos, se produce en base a la ley, que se caracteriza por la presencia de los derechos y responsabilidades legales subjetivos y apoyado por el poder (garantizado) del gobierno. Relaciones económicas son las actividades comerciales, que están regulados legalmente, o, más precisamente, que están regulados por la legislación aplicable en las relaciones de organización y de propiedad (económicos), formando en el proceso de comercio entre los individuos rusos y extranjeros. En el artículo se analizan los conceptos de la expresión “relación jurídica”, se examinan varias ideas doctrinales acerca de la estructura de las relaciones jurídicas. A medida que el sistema socio-económico de las relaciones se desarrolla, los autores del artículo plantean la cuestión de la existencia de relaciones jurídicas complejas y llevar a cabo su análisis.

Palabras clave: Relación jurídica, la actividad económica exterior, derecho privado, derecho.

INTRODUCTION

Among the categories of legal science, the concept of legal relationship is among the fundamental. As Alekseev (1972), *“legal relations are the main means by which the requirements of legal norms are implemented, embodied in the behavior of people.”* Despite the fact that such importance was attached to legal relations by legal scientists of the Soviet era, research on the legal relationship and its structure began in prerevolutionary legal science, however, they were mainly called *“legal relations”*.

One of the first Russian works on jurisprudence, containing an indication of legal relations, can be considered the work of Shtekgartt *“Legal Propedeutics”*, published in 1843. This essay is based on lectures of Shtekgartt, which were read in 1836 in the Imperial St. Petersburg School of Law. However, despite the mention of the existence of legal relations as such, Stekhardt does not give their definition. With the development of legal science in general and the general theory of law in particular, the number of scientific papers dealing with the concept of *“legal relationship”* or *“legal relationship”* has increased.

Gradually, the concept of legal relations penetrates into the legal terminology of prerevolutionary legal science. At the same time, it has not become generally accepted and has been used much less frequently than the concepts of *“legal relationship”* or *“legal relationship”*.

In the pre-revolutionary period of the development of legal science, legal relationship (legal relationship), as a rule, was considered the connection between people or persons recognized by law, or, more precisely, the synthesis of subjective law and legal obligation. This understanding of the legal relationship was in tune with the conclusions of a number of representatives of Western European legal science.

DEVELOPMENT

The definition of *“legal relationship”* was clarified by Soviet jurists and began to be defined through the category of *“social relations”*. Moreover, the concept of legal relationship has become the most important fundamental category of modern legal science. Deep studies of the theory of legal relations, conducted by Soviet and Russian scientists, allowed to work out several approaches to understanding the legal relationship. For the purposes of the study, we consider it expedient to adopt the definition formulated by Alekseev (1972), according to which legal relationship is recognized as *“an individualized social communication arising between individuals based on the norms of law, characterized by the existence of subjective legal rights*

and obligations and supported (guaranteed) by the coercive power of the state”.

In addition to defining the concept of legal relationship, similar to the modern, the jurists of pre-revolutionary Russia identified elements of the legal relationship: subject, object, subjective rights and legal obligations. Modern Russian legal science defines the following structural elements of the legal relationship:

1. Subject of law (subject of legal relations) - persons who by virtue of legal norms may be carriers of subjective rights and legal obligations;
2. Object of legal relationship - material or immaterial benefit, the use or protection of which are subjective rights and legal obligations;
3. Content of the legal relationship, which is divided into:
 - The legal content of the legal relationship - the combination of subjective rights and legal obligations, a legal link between the obliged and authorized parties;
 - The actual content of the legal relationship - the actions in which the subjective rights and legal obligations of the subjects of the legal relationship are realized.

The legal relationship in its simplest form is a legal relationship in which one subjectivity corresponds to one subjective right. However, as Krasavchikov (2005), such a simple legal relationship - a very rare phenomenon, most of the legal relationship has a more complex structure. Kapustin (1868), was the first Russian jurist who identified the problem of complex legal relations, which differed from simple legal relations with a more complex structure. As the socio-economic system of relations developed, the question of the existence of complex legal relations was thoroughly investigated by Soviet and Russian jurists. Currently, most scientists recognize the existence of complex legal relationships, despite the fact that the opinion is expressed about the existence of only simple legal relations.

Analysis of legal studies affecting the problem of complex legal relationships made it possible to identify the following types of complex legal relationships or as they are also called - complex legal relations:

1. A single complex legal relationship, characterized by the fact that *“each entity has one or even several powers with respect to the other and, therefore, each of the entities bears one or more legal obligations to the other”*. The concept of a single complex legal relationship with regard to labor relations was subjected to fair criticism. Skobelkin (1982), which, however, does not exclude its validity with regard to other legal relations, in particular, bilateral binding legal relations;

2. Complex legal relationship with additional powers and legal obligations - the legal content of the legal relationship, in addition to the basic legal relationship, includes additional powers and legal obligations that are inextricably linked to the basic legal relationship (in particular, the obligation of the creditor to accept the civil legal relationship);
3. A complex relationship with a dynamic structure - the structure of such a legal relationship as the accumulation of legal facts develops, restructures, rights and duties replace each other, supplemented by new ones, mutated;
4. In the monograph "Ownership: Legal Frontiers" Arkhipov (2004), applied to the legal relationship of property is justified the concept of a synthetic legal relationship. Synthetic legal relationship is complex, multi-elemental, consisting of a set of interrelated legal micro-relations, synthesizing elements of constitutional-legal, civil-legal, administrative-legal, tax and other legal relationships that combine the characteristics peculiar to the private-law and public-law type of ties, legal relationship.

The concept of a synthetic legal relationship, in our opinion, is the only solution to the problem of intersectoral legal relations that combine the characteristics peculiar to the private legal and public-law type of legal relations that has been worked out by modern legal science. Interbranch private-public legal relations represent a new stage in the development of the legal regulation mechanism, reflecting a new stage in the development of the system of public relations. The need for subtle regulation of newly emerging and adjusting the legal regulation of already existing social relations determines the search for new ways of legal impact on them and the combination of the entire spectrum of funds existing both in private and in public law. However, often the norms regulating certain aspects of one social relation are placed in different regulatory legal acts and create models of conditionally independent legal relations, which, however, cannot exist without a basic legal relationship, but presume a different subject composition and special character of the legal relations between them and directly affect the dynamics of the development of the basic legal relationship. This model of legal regulation is peculiar, in particular, to foreign economic relations, when private law relations are regulated by international private law and, at the choice of the parties, one of the national legislations, but the fulfillment of obligations of the parties on such legal relationship is due to their entry (jointly and separately) into public legal relations (Customs, currency, administrative and supervisory, etc.).

CONCLUSIONS

The construction of a model of a synthetic legal relationship will allow to define exhaustively all legal relations that arise between subjects of the basic relationship and between the subjects of the basic relationship and the state in the person of its bodies.

Complex legal relations must be distinguished from the totality of legal relationships, groups of legal relations that are in a certain connection. We believe that the main criterion of delimitation should be the purpose of the legal relationship, the subordination of a group of legal relations to one goal may indicate the existence of a complex legal relationship. However, the overall goal of a legal relationship group can not be the only sign of a complex legal relationship. The second qualifying sign that testifies to the formation of a complex legal relationship is, in our opinion, a close interconnection and interdependence of legal relations that form part of a complex legal relationship, as a result of which they can not be separated from each other without harming the achievement of the purpose of the legal relationship.

The theory of law recognizes the possibility of a set of related legal relationships to form a complex system of legal relationships, consisting of a central complex relationship with a dynamic structure, accompanied by derivatives and dependent on it independent legal relationships. Such a system of legal relations is characteristic, in particular, for labor law.

The complex structure of the legal relationship raises to researchers the question of whether it is possible to study complex legal relations in connection with the interlacing of legal ties in them. But the complexity of the structure of the legal relationship and the intertwining of the rights and obligations of the parties is not an obstacle to the study of such a legal relationship, since it can be consistently broken down into constituent elementary legal relations that will allow such a study.

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