

VALUABLE CONTENT OF LEGAL ACTS: THEORETICAL AND PRACTICAL ASPECT

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Abstract.

Purpose: the need for the axiological measurement of a legal act arises in the aspect of studying ways to increase the effectiveness of the right to optimize the implementation of the values of the individual, providing a reliable and guaranteed space for the activities of the person. Normatively secured values, if the developed legal regulation system in the country acts, constitute a normative guarantee of the realization of freedom, equality and justice. **Methods:** methodological basis of the study was the system of methods, approaches and principles of knowledge of legal phenomena, which provided an objective analysis of the chosen subject of research. The paper used general scientific and special-scientific methods of scientific knowledge. Methods of logical analysis and synthesis, not only contributed to the systematization of available factual material, but also allowed to obtain certain theoretical results as a condition for achieving the goals set in the work. **Results:** the theoretical and practical provisions, conclusions and suggestions formulated in the dissertation can be used in the field of law enforcement - to ensure the accurate and correct application of legislation taking into account the role of a person in the system of elements of legal status. **Discussion:** the idea of an axiological approach to the study of the nature of freedom in the law, according to which freedom is considered as an independent scientific category. Value component of law, the essential basis of the legal space, is aimed at providing each individual with the opportunity to receive benefits and is a means of its social security.

Key words: value, freedom, justice, equality, law, legal act.

The new stage in the development of a modern state, which has a pro-European dimension, enables representatives of modern legal science to outline the value content of legal acts through the prism of the categories "freedom", "equality" and "justice". The values should be based on legal acts constitute a fundamental problem because of the complexity and plurality of approaches to their understanding, since the law is the main means of ensuring and implementing the basic axiological categories in the norms of conduct provided by the organized force of the state and its institutions.

The ideas of consciousness of the axiological content of the legal act gained a dynamic development at various stages of its formation and reflected in the following legal documents:

1. The Great Freedom Charter of 1215, the Lithuanian Statutes (1529, 1566 and 1588);

2. The Petition for the Rights of 1628, the Virginia Declaration of 1776 (proclaimed the equality of people in the use of natural rights) [1];

3. Declaration of Independence of the USA in 1776 (defined the list of inalienable human rights and freedoms) [2];

4. Declaration of Human Rights and Citizen of 1789 [3].

It is worth emphasizing the peculiarity of the documents of the United States and France, which have become a model for the legislative consolidation of personal and political human rights.

It should be emphasized that the ideas of freedom, justice and equality of every person advocated, enriched and fought for their realization in the life of prominent thinkers of Ukraine by P. Orlik, T. Shevchenko, M. Drahomanov, I. Franko, M. Hrushevsky and others.

Thus, in the draft Constitution of P. Orlik in 1710, the idea of "correcting and raising of their congenital rights and freedoms", the restoration of "all natural rights and equality" is declared. T. Shevchenko in the poems sang the freedom of the man who working. In addition, M. Drahomanov in the constitutional project provided for personal freedom, ensuring the inviolability of the person, respect for his dignity [4, c. 170].

The legal form of freedom expresses the inner essence of legal formalities, universality, as a single and equal measure of freedom of measure and the denial of privileges. This formality is an internally necessary, and not a random property of law, in particular, the form acts as a meaningful way of expressing the essence of relations - as a measure of individuals in a single scale, thus the right to measure and design the freedom of individuals, freedom in relations. Permits and prohibitions of rights define the normative structure of freedom in public relations, the boundaries between freedom and non-freedom at the appropriate stage of social development [5, c. 168].

Interesting is the approach by O. Orlova, who understands freedom in law as a limitation of arbitrariness generally for all, which imposes an obligation not to violate the same freedom of others [6, c. 56–57].

The value of law is customary to allocate several aspects of the value of law. As a phenomenon whose meaning is to realize the idea of law (the proper value of law) as a special social regulator of social relations (instrumental value of law) as the achievement of the culture of humankind (historical and cultural value of law).

Own value of the right is connected with its essential characteristics. Right is the embodiment of the ideas of freedom, equality, humanism and justice, which is its essence. With the help of their own values, law opposes arbitrariness and lawlessness and provides space for orderly freedom and activity.

That is, the right is a means of ensuring (guaranteeing) freedom and a means of limiting it. On the one hand, it is in the right of freedom that it receives its most concentrated expression, it is materialize in specific legal forms, principles, institu-

tions. However, on the other hand, the law does not establish absolute freedom of the subjects of law, but only a certain measure, which is objectively predetermined and determined in the light of the system of relevant conceptual foundations. The right acts on a general scale and an equal measure of freedom in public life [7, c. 160].

Thus, freedom of the individual and the opportunity to be themselves, not isolated from society, and in particular through its institutions, transformed into reality only within the legal space. Relations in society as social interaction require regulation, harmonization, and ordering - the essential condition is freedom in law, which involves imposing certain restrictions. It is necessary to divide legal freedom and freedom in the law, because freedom in law is a space for the behavior of subjects, regulated in the rights and obligations, according to which the law defines the limits of freedom of the individual, society and state, and establishes a mechanism for guaranteeing freedom.

In the literature, their own value of the law is also divide into the social value of law, that is, the right become only those rules whose content corresponds to the interests of society. Which are able to ensure the stability of society by which the right serves as a source of individual freedom, the right to solve contradictions between personal freedom and the common good, where the right gives the person freedom and establishes a certain procedure for its use for the full and complete development of personality [8, c. 52].

Equally important is the instrumental value of law as one of the manifestations of its general social value. It consists in the fact that the right is a regulator of social relations, an instrument for solving various problems, including ensuring the functioning of other social institutions (state, social management, morals, etc.) and other social benefits. As a tool various subjects of social life - the state, the church, public associations, commercial organizations, citizens, use the right. In a developed society, the very right is one of the main instruments capable of ensuring its livelihoods, social harmony, organization, overcoming social tension [9, c. 344].

In addition, in the scientific literature, the historical and cultural value of law found, which consists

in the fact that freedom belongs to the fundamental values of world culture, produced by humanity in the process of its development. In such a significant right seen as an attribute of civilization, as the embodiment of the humanist aspirations of humankind, because of the struggle for freedom [7, c. 161].

In view of this instrumental value of law is directed to its external manifestation, which is associated with ensuring the stability of public relations with the help of regulators, and the own value of the law is connected with its internal manifestation, reflecting the versatility of this category and the most important elements such as freedom and justice.

The universal (world) level of value of law is manifest in the formation of legal values that become global values. That is, the right is the most humane, the only acceptable means of solving the global problems of the present (ecological crisis, regional military conflicts, religious and ethical conflicts, etc.). The right as an affirmation of the ideas of humanism, freedom, and values of democracy is an essential basis for international relations that can ensure the harmonious coexistence of humanity as a whole.

The general social value of law contributes to the formation of social relations necessary for the development and existence of society; guarantees the safety, orderliness and harmonization of social relations, the stability of the social system, the integrity of society. Only the norms, whose content corresponds to the interests of society, which are capable of providing stability, progressive development of society, adequate to the historical conditions of the combination of individual and social [7, c. 161].

The personal level of the value of law has a manifestation in the deep personal sense of law, since the right serves as a measure of freedom in society and acts as a fair measure of equality. Right is a force that is able to withstand lawlessness, to open access to social benefits to the person (welfare, security, position, education, etc.), to eliminate contradictions between personal freedom and social well-being, to give guidance on human behavior in

accordance with the values of the legal culture of society [10, c. 234].

A characteristic feature of the category "freedom in law" is the ability of the subject to choose a certain necessary behavior for the realization of their vital needs. Thus, freedom in law is an indicator of the progress of society as a whole, and the real legal status of a person in particular.

Consequently, in view of the above, one can define freedom in the broad (natural-legal) understanding as an opportunity given to a person by nature. In the narrow (positive) sense as a principle of law, according to which freedom is the fundamental idea of the formation, functioning and development of society, and right is the direct expression (manifestation) of freedom in the subjective rights and legal obligations of a person.

The mentioned documents and aspirations, which were laid down in them, became the precondition for a turning point and a global coup in legal culture concerning the complex process of formation of the value content of a legal act, which is clearly manifested in modern national and international normative legal documents [11, c. 147–205].

Consequently, the idea of the axiological content of a legal act formed as a certain legal ideal, where freedom, equality and justice be realized as a value only when the basic principles are embodied, implemented in the actions of subjects of social communication. Therefore, one of the tasks of legal science and practice is to create a scientific and methodological theoretical and legal basis for lawmaking and the realization of law in terms of understanding the value and order of the realization of the categories "freedom", "equality" and "justice" in legal acts.

The need for the axiological dimension of a legal act also arises in the aspect of studying ways to increase the effectiveness of the right to optimize the implementation of the individual values, providing a reliable and guaranteed space for the person's activities. After all, the establishment of rights and freedoms of man and citizen in a legal act, which has the highest legal force, does not yet mean the reality of the proclaimed norms. Of great importance is the implementation of the norms laid down in legal acts, the opportunity to enjoy their

freedom, to be equal in their rights among other subjects of social relations, which are signs of a democratic and rule of law.

It is thanks to the legal form that freedom, equality and justice ensured by the norms guaranteed by the force of state coercion. However, the formation of a democratic society, changes the approaches to legal regulation of the status of man and the state. Man as an autonomous subject freely disposes of his powers, abilities, and property. Moreover, law as a form and measure of freedom should maximize the possibilities of personality. Consequently, the basic individual values should be in the first place, and the legal regime of their restriction, laws, etc., should be established only for a fair balance of relations in society and for the state.

There is an important link between law and freedom, since law is a necessary condition for the achievement of freedom. If there is no right, then there is no real opportunity to protect freedom, to give it a form by which it can turn from reality into reality. Freedom not may be real if it is not legal and does not materialize (subjective rights and legal obligations, permissions, prohibitions, obligations, legal incentives, legal restrictions), at the same time, these processes should, in their essence, include and reflection to act freedom, justice, equality.

It is the normative consolidation of the basic values of society (freedom, equality and justice) with the help of rights is necessary in order to help people to realize their possibilities. Nevertheless, none of the set of rights exhaust the meaning of freedom, justice, and a certain restriction of rights is possible in order to promote the general improvement in democratic society [12, c. 15–20].

Consequently, subjective rights and legal obligations are the measure of behavior of subjects that fill the content with our ideas about freedom, equality and justice. However, for real freedom it is not enough that a person only knew about his freedom. Every person should clearly imagine the limits of freedom that can be realized in modern society.

Thus, normatively secured values, if the developed system of legal regulation in the country is in effect, is a normative guarantee of the realization of freedom, equality and justice [13, c. 56–66].

However, it is obvious that a democratic society today requires not only declarative provisions, but also the creation of effective ways and means that will fully realize their rights and freedoms, taking an active life position.

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ЦІННІСНИЙ ЗМІСТ ПРАВОВИХ АКТИВ: ТЕОРЕТИКО-ПРАВОВИЙ АСПЕКТ

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Мета: потреба аксіологічного виміру правового акту виникає в аспекті дослідження шляхів підвищення ефективності дії права щодо оптимальної реалізації цінностей особистості, забезпечення надійного і гарантованого простору для діяльності особи. Нормативно забезпечені цінності, за умови дії в країні розвиненої системи юридичного регулювання, являють собою нормативну гарантію реалізації свободи, рівності та справедливості. **Методи:** методологічною основою дослідження стала система методів, підходів і принципів пізнання правових явищ, які забезпечили об'єктивний аналіз обраного предмета дослідження. У роботі застосовувалися загальнонаукові та спеціально-наукові методи наукового пізнання. Методи логічного аналізу і синтезу, не лише сприяли систематизації наявного фактичного матеріалу, а й дали змогу отримати певні теоретичні результати як умову досягнення поставленої в роботі мети. **Результат:** сформульовані в роботі теоретичні та практичні положення, висновки і пропозиції можуть бути використані у правозастосовній сфері – для забезпечення точного і правильного застосування законодавства з урахуванням ролі особи в системі елементів правового статусу. **Обговорення:** уявлення про аксіологічний підхід до дослідження природи свободи у праві, згідно з яким свобода розглядається як самостійна наукова категорія та ціннісна складова права, сутнісна основа юридичного простору, спрямована на надання кожній окремій людині можливості отримувати блага, а право є засобом її соціальної захищеності.

Ключові слова: цінність, свобода, справедливість, рівність, право, нормативно – правовий акт.

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ЦЕННОСТНОЕ СОДЕРЖАНИЕ ПРАВОВЫХ АКТОВ: ТЕОРЕТИКО-ПРАВОВОЙ АСПЕКТ

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Цель: необходимость аксиологического измерения правового акта возникает в аспекте исследования путей повышения эффективности права с целью оптимальной реализации ценностей личности, обеспечение надежного и гарантированного пространства для деятельности человека. Нормативно обеспечены ценности, при условии действия в стране развитой системы юридического регулирования, представляют собой нормативную гарантию реализации свободы, равенства и справедливости. **Методы:** методологической основой исследования стала система методов, подходов и принципов познания правовых явлений, которые обеспечили объективный анализ выбранного предмета исследования. В работе применялись общие и специальные методы научного познания. Методы логического анализа и синтеза, не только способствовали систематизации имеющегося фактического материала, но и позволили получить определенные теоретические результаты как условие достижения поставленной в работе цели. **Результат:** сформулированные в работе теоретические и практические положения, выводы и предложения могут быть использованы в правоприменительной

сфере - для обеспечения точного и правильного применения законодательства с учетом роли личности в системе элементов правового статуса. **Обсуждение:** представление аксиологического подхода к исследованию природы свободы в праве, согласно которому свобода рассматривается как самостоятельная научная категория и ценностная составляющая права, основа юридического пространства, направленная на оказание каждому отдельному человеку возможности получать блага, а право является средством ее социальной защиты.

Ключевые слова: ценность, свобода, справедливость, равенство, право, нормативно - правовой акт.