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THE CONTRACTUAL COOPERATION PRINCIPLES OF STATE AUTHORITIES OF THE SUBJECTS OF THE RUSSIAN FEDERATION

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Abstract.In article the place and manifestation of separate sides of the contract in legal system of society are explored. Various scientific approaches in interpretation of legal system of society assume distinctions in structural elements and classification criteria. Use of methodology of system approach allowed to consider legal system of society in dynamic and static aspects, as well as to allocate macro - and micro-levels of structural elements. The category "contract" both in the general theory of the law and in branch jurisprudence has a set of interpretations that also causes complexity of definition of its place (value, functions) in legal system of society. The contract research as legal means and source of the law assumes studying of its interrelations with the structural elements of legal system of society allocated in legal literature. The conclusion is drawn that the place of the contract in legal system of society is defined with the following objective factors: methodological approach, type of law understanding, macro - or the research micro-level, dynamic or static layers of a research, classification criteria and others which will allow to systematize separate knowledge of legal system of society, to open new sides of the contract, as well as to solve a number of practical problems in the sphere of contractual legal regulation of the public relations.

Keywords: legal system of society, contract, system approach, law understanding types, principles of the law, contractual legal regulation.

1. INTRODUCTION

In the general theory of the law there were several approaches to understanding of legal system of society which reflect various models of interaction of society, state and law. The legal system of society is considered as legal reality (legal reality), state and legal reality or in the form of social and legal reality.

In the theory of legal system most of authors divides broad interpretation of the studied phenomenon. For example, V. N. Sinyukov defines modern legal system of Russia as the most difficult complex of elements, structures, norms, sense of justice, traditions, images of the national and historical, technical and legal, social and psychological nature (Sinyukov, 2010, S. 9). The position of Y. A. Tikhomirov who refers law understanding to number of the uniform legal phenomena making the ordered unity in legal system is original; law-making; the legal massif in the form of set of legal acts; law enforcement (Tikhomirov, 1998).

In foreign legal literature the conversation on legal system began since the 18th century (Bergel, 2001, P. 24). Already it is possible to find interpretation of the legal system based on the systematization of laws but at the same time causing existence and other legal phenomena (Hart, 1970) in I. Bentam's works as "Of laws in general". I. Bentam as the adherent of legal positivism did not tear off rule of law from the idea of the law, by nature public relations. In this treatment it is possible to see deep dialectic unity of regulation including free contractual regulation with objective realities of legal system of society.

In relation to the contract as a typical or atypical source of the law in legal literature there is also a set of the theoretical constructs which are in details developed in branch, especially - civil, sciences. In the general theory of the law it is noted that the contract represents universal remedy of a legal regulation which is widely applied in branches of public and private law, showing the following unique properties: 1) it is a special legal form of the public relations; 2) means of legal regulation; 3) law source; 4) all-legal concept; 5) legal fact; 6) means of substandard regulation; 7) holds a specific place in national legal system (Morozova, 2013, S. 511). However versatility of the contract as legal phenomenon is not exhausted by the presented properties defining its legal nature; making a part of legal system of society, contracts gain the new

properties and characteristics demanding the scientific judgment.

Let's note that it is important to understand a certain universality, and at the same time relativity of the studied designs in relation to a certain national legal system and legal realities of interaction of different legal systems. This thesis confirms relevance of the real research in the conditions of the formed "global law and order", developments of "a global legal universum" (Rosenfeld, 2008, P. 420). At the same time in jurisprudence the doctrine of legal regulation based on the accounting of "a global disorder of standard orders" (Walker, 2008) is created. It means that subjects of legal regulation are subordinated by a miscellaneous, sometimes even to the contradicting modes that aggravates need of development of the doctrine of contractual legal regulation at the level of legal system and the level of intersystem interaction. Such doctrine will be capable to a conclusion of legal practice to qualitatively new level, will increase efficiency of legal regulation at the expense of opportunities of the contract to smooth shortcomings and to overcome the collisions arising both on intra-social and on exo-social layers of legal system.

2. METHODS

For creation of the general design of legal system of society the developed law understanding types which give backbone character to various elements of legal system have essential value.

Use of methodology of system approach allows to consider legal system of society in two aspects - formal and substantial, as well as to allocate structural levels within which uniform legal means, the phenomena, processes are grouped. It should be noted that different authors' use of system approach in studying of legal system of society assumes identification of its various sides.

The system approach used by many authors, on one hand, supplements idea of the element device of legal system, and on the other - orders component structure of this system by allocation of certain spheres, blocks, levels, subsystems, etc. However the number of these levels, blocks, etc. at some similarity of the allocated structural elements differs at different authors. So, many researchers carry to number of basic elements of legal system: positive (objective) law, sense of justice, legal culture, legal relationship, legal practice, legal acts documents, law-making, law enforcement, realization of the law, legal education and education, etc.

The theory and methodology approaches developed by jurisprudence for understanding of essence and the maintenance of legal system of society it is obviously possible to extend to the contents taken in unity and forms law sources (legal customs, precedents, regulations, standard contracts, the legal doctrine) which form logic-philosophical structure of legal system of society along with other types of its structure (genetic, functional, temporary, spatial and stochastic and others) (Kartashov, 2005, S. 59-64). It will allow defining the place of the contract in legal system of society as a source of the law and legal means.

3. RESULTS AND DISCUSSION

Different types of law understanding assume need of a research of the contract for legal system of society taking into account various characteristics. The developed law understanding types determining intrinsic parameters of legal system of society demonstrate that various sense as to the independent phenomenon of legal reality can be given to contracts.

So, the theory of legal communications (A. V. Polyakov) considering the law as inter-subject sociocultural reality in communicative and active, valuable, semiotics and psychological aspects assumes existence among qualitative characteristics of legal system of society of the subsystem of legal communications incorporating communications of interaction between elements (levels, blocks) of legal system with a legal superstructure of society, with political, economic, social, spiritual and cultural subsystems of society, with legal system of the certain foreign state or group of the foreign states, the international legal system, the conventional principles and rules of international law and so forth.

In the context of the theory of legal communications the contract as the phenomenon of social and legal reality, can be also treated as sociocultural reality and be considered in the form of multiple unity in which both the purposes of contractual legal regulation, and contractual legal relationship as the social and legal values caused by the contract and the corresponding sense of justice, both the legal text, and activities for their realization and interpretation connect.

The tool theory classifies all phenomena of legal reality on several main groups: a) legal phenomena results (rules of law, legal relationship, legal capacity, competences and competence, subjective rights and duties, contracts, legal responsibility and

measures of protection, etc.); b) phenomena of a legal form (regulations, individual acts, other legal documents, legal equipment); c) legal activity (law-making, law realizing, including law-enforcement activity, interpretation of the law, systematization of the legislation); d) subjective phenomena of legal reality (legal ideology, legal culture, sense of justice, legal doctrine) (Sapun, 2003, p. 25-26).

Within the tool theory it is obviously possible to classify the phenomena determined by the legal nature of the contract and its value as legal means, as follows: 1) the contract as the phenomenon regulator groups contractual norms, contractual legal relationship, contractual legal personality, contractual responsibility and so forth; 2) the contract as a legal form it is presented by standard legal instruments, individual legal instruments, as well as system of rules and receptions on their preparation; 3) legal (legal) activity as system of the actions and operations connected with use of contractual legal forms and establishments including contractual law-making, contractual law enforcement, interpretation of contracts and systematization of the contractual legal massif; 4) the subjective phenomena in the mechanism of contractual legal regulation (sense of justice, legal psychology and legal ideology as which component the general theory of the contract and industry conventional theories acts).

In turn representatives of branch jurisprudence pay attention to need of development of the theory of legal means of regulation of the public relations to which number contractual legal means where would receive the reflection as the general questions (concepts, signs and types of legal means), and special (features of these or those types of legal means belong), including mechanisms of their interaction. The contract as the universal regulator of the public relations, and in this case can apply for own complete concept.

In the context of approach to the device of legal system of society as the sets of the uniform legal phenomena (Y. A. Tikhomirov) the contract as the phenomenon of legal reality, forms own autonomous subsystem with the ordered structure into which enter:

1. contractual law understanding, or doctrinal perception of the contract as forms and (or) a source of the law in the schools of sciences representing various types of law understanding;
2. the contractual law-making understood as one of ways of the law-making activity based on

coordination of the isolated wills of subjects of law-making, directed to establishment of precepts of law;

3. the contractual legal massif which in the most generalized view is characterized as set of public and private-law contracts, international treaties, standard and substandard contracts. At the same time in a legal array of standard contracts allocate kinds of the main contractual legal designs (constituent, competence-differentiating, about delegation of powers, treaties of friendship and cooperation, functional and administrative (security) agreements, about civil consent, the international contracts, collective standard agreements, etc.).

4. contracts as an external form of expression of law realizable practice, can have standard or individual character, act as acts of federal, regional or local regulation, as well as govern the relations in the sphere of public and private law and act as means of legal regulation of the interstate and international relations.

Conceptual approaches to internal structure of legal system of society, as well as contract belonging to the legal phenomena, institutes and processes mending and maintaining standard stability of the relations in state and organized society as well as to its limits change idea of the principles of contractual legal regulation. In particular, subjects of contractual law-making in the practical activities on creation of contractual norms have to be guided by the following principles: a) initial beginnings of separate institutes of the law; b) principles characteristic of adjacent institutes of the law; c) branch principles; d) the inter-industry standard leading beginnings; e) principles of separate national and legal system; e) principles of a legal family; g) the principles of international law which, in turn, are subdivided into the principles of separate institutes, branch, inter-institutional, inter-industry and, at last, the general principles of international law.

Plurality and divergence of intersystem communications of the contractual norms united in simple or complex sub-institutes, legal institutes, as well as other legal educations (inter-institute one-branch and inter-industry) covering including branches of public and private law, allows to claim that set of the principles of contractual regulation gains lines of system and legal education.

The subsystem of the principles of contractual regulation determining existence various by the scale and a subject orientation of contract precepts of law holds the isolated position in system of the principles of the law. A kernel of a subsystem of the principles of contractual legal regulation are such leading beginnings which cause essence and the nature of the contract as universal remedy of legal regulation (disposition, autonomy of will and legal equality of contracting parties, equivalent character, mutual responsibility etc.).

Other understanding of the principles of contractual legal regulation is possible in the context of their consideration with the principles of legal system of society. It should be noted that the principles of legal system of society are rather new general-theoretical design which is at an initial stage of scientific and methodological justification.

Distinguish the system-wide principles which are brought out of the system qualities inherent in legal system of society as to law system education, and its components as to the system and legal phenomena of the law from the principles of legal system of society. The system-wide principles of legal system of society are subdivided into organizational (static) and functional (dynamic). And if to the first group hierarchy, balance, coherence of elements of legal system and their coherence, then concern to the second - unity, openness, dynamism, system coordination, development, self-sufficiency, etc.

Besides the system-wide principles allocate social (historicity, coordination of private, public and state interests, continuity, democracy), culturological (the principles of cultural development, evolution of cultural and historical forms, cultural originality) and the special legal principles disclosing legal regularities in existence of legal system of society.

The legal reality covers a set of the social and legal phenomena which depending on a way of association and differentiation of legal norms at historical stages of development of the law and the state belong to primary or secondary law system educations. So, the system of international law as objectively existing integrity of internally interconnected elements in the form of the conventional principles of international law, contractual and usual precepts of law, branches and international law institutions, includes the law of international treaties as one of autonomous legal formations (branch) of international law.

The principles of the law which in international legal science and practice are treated in quality officially recognized as obligatory by all countries of the world community or their absolute majority (Malcolm, 2008, P act as one of elements of system of international law. 98-100). It is possible to refer their universality to intrinsic properties of the conventional principles of the law (prevalence of action equally on all system formations of international legal norms), ability to reflect the most important interests of the people and the states, generality and imperativeness, a variety of forms of presentation (including to a custom form). All this predetermines their close cooperation with institutes of legal system of separate state and organized societies, including institute of the contract law and its sources.

4. SUMMARY

The developed law understanding types determining intrinsic parameters of legal system of society influence interpretation of the contract, giving it various sense as to the independent phenomenon of legal reality - as communicative legal means and result of law realizable practice as typical and atypical source of the law, etc.

Use of methodology of system approach to studying of the contract in legal system of society, allowed to add, on one hand, scientific ideas of the element device of legal system, and on the other - to reveal micro and macro-system properties of the contract as element of legal system of society.

Contractual legal regulation is based on the all-legal and special principles of the law. The subsystem of the principles of contractual regulation holds the isolated position in system of the principles of the law.

The place of the contract in legal system of society is defined with the following objective factors: methodological approach, type of law understanding, macro - or the research micro-level, dynamic or static layers of a research, classification criteria, etc. which will allow to systematize separate knowledge of legal system of society, to open new sides of the contract, as well as to solve a number of practical problems in the sphere of contractual legal regulation of the public relations.

5. CONCLUSIONS

Various scientific approaches in interpretation of legal system of society assume distinctions in structural elements and classification criteria. Use

of methodology of system approach allowed considering legal system of society as the diversely structured education having all system properties.

The category "contract" both in the general theory of the law and in branch jurisprudence has a set of interpretations that also causes complexity of definition of its place (value, functions) in legal system of society. The contract research as legal means and source of the law assumes studying of its interrelations with the structural elements of legal system of society allocated in legal literature.

The great value in legal system of society is played by the conventional principles of the law. We consider the research of mechanisms of coordination and interaction of the conventional principles and rules of international law with national legal system of society and its structural elements is urgent for the general theory of the law.

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