

Methodological foundations of legal communication in the context of european integration processes



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Abstract. *The article deals with the methodological principles of legal communication in the conditions of Ukraine's integration into the European space. It is proved that legal communication is a means of ensuring a dialogue between the state and citizens, and it acts as a regulatory and social constructive factor of social development. The conclusion on the necessity of introducing new forms of legal communication of interaction between the authorities and society in accordance with European standards is made.*

Key words: *methodology, communicative theory of law, legal communication, European integration processes.*

Problem statement

Integration of Ukraine into the European space implies transformations in all spheres of public life, in particular, in the field of jurisprudence. Today, legal practice requires the improvement of the methodology, updating of the essence of law, its principles and functions from the theory of law. Under new conditions, the theoretical and legal paradigm is based on the achievements of many humanities, which include: philosophy, theory and history of state and law, political science, information theory, etc. The processes of European integration that take place in Ukraine, the implementation of information and communication technologies in all spheres of social life lead to the improvement of forms and types of communication activity. Taking into account the increased attention to the problems of the search for new methodological tools, understanding of the essence of law, clarification of its functional purpose, it becomes necessary to study the methodological foundations of legal communication under conditions of European integration processes.

Analysis of research and publications.

Issues related to legal communication were studied by the following foreign scholars: Mark van Hoek considered law as communication, J. Peters studied the history of communication, J. Habermas studied a communicative act, A.V. Polyakov is a representative of a communicative approach to the law, I.P. Chestnov analyzed dialogic interaction in the law. In domestic scientific legal idea A.S. Tokarska investigated legal communication in the context of non-classical legal consciousness, O.M. Balynska developed a communicative theory of the law, studied legal communication from the point of view of semiotics of law; some aspects of legal communication were investigated by V.

Bachynin, S.I. Maksymov, N.M. Onishchenko, N.V. Savinova and others. The scientific analysis of the works of scientists gives grounds to state the necessity of scientific study of the methodological foundations of legal communication under conditions of Ukraine's integration into the EU.

The purpose of the article is to study the methodological foundations of legal communication in the context of European integration processes.

Presenting main material. The study of the problems of modern methodology of justification of the law in general and legal communication in particular, shows that there are contentious views and approaches among legal scholars. Under modern

conditions, it is necessary to study the issue of avoiding legalism and giving preference to natural and legal concepts of understanding the essence and social purpose of the law under conditions of transformation of the legal system of Ukraine and European integration processes. As we know, the European Union Association Agreement aims at gradual rapprochement of Ukraine and the EU, the formation of the necessary framework for political and legal dialogue in all spheres, strengthening of cooperation in the spheres of justice, freedom and security in order to ensure the rule of law, respect for human rights and fundamental freedoms, gender equality and the elimination of discrimination in all its forms and manifestations.

Together with the historical evolution of the essential nature of a human being, his ideas of freedom and justice are being transformed as ontological foundations of the law. Today the essence of the law is redefined depending on how it ceases to correspond to the dominant forms of manifestation and enforcement of the subjective rights of an individual. According to A.V. Hirsin, the condition of the fundamentally formed theory and practice of the philosophy of law is "the will of the subjects" concerning the interaction within the framework of international legal relations in order to establish the relations of "common will". Such means are "moral foundations of the law", and from the point of view of the researcher, they should be understood not as absolute and constant values, but as "normative measures of humanity", which are constituted in the process of communicative unity of mankind and evolve together with the change of forms and scales of this communications [1, p. 11]. The law is such a unique phenomenon, which is simultaneously not only the direct communication between the subjects entering the relations, but also the indirect one, which occurs between each subject of legal relations and the legislator, that has entrenched desired or necessary behavior as a standard. In this case, legal norms are intended to be an instrument for ensuring the safety of people's lives and guaranteeing their rights and freedoms.

There are several approaches to the definition of the essence of social and legal communication (SLC) in scientific literature. The first one defines SLC as a process of exchange of legal information used by various

social and communicative structures in management processes. The second one is associated with the implementation of SLC at the level of society through the activities of social institutions that create and transmit socially meaningful legal information in time and space, and this information should be interactive, aim at finding the meaning of legal texts and normative content of current law. The third one includes the definition of the nature of SLC as interpersonal communication in the process of communicative relations and interactions between systems, one of which is a person or society [2, p. 10].

The methodology of legal science provides an informational and communicative function, which involves obtaining comprehensive information, as well as specification, systematization and enrichment of scientific terms and concepts; creation of a system of scientific information that focuses on the facts and logical and analytical tools of scientific knowledge. The processes of provision and transmission of legal information are provided through legal communication.

According to the well-known European scientist Mark van Hoek, the law in its essence is always based on communication: communication between the legislator and citizens, between the legislator and the judiciary, communication between the parties under the contract, communication during the trial. Today this communicative aspect is considered within the framework of the legitimization of the law: a rational dialogue between lawyers as the main guarantee for "correct" interpretation and enforcement of the law [3, p. 20].

Under the conditions of European integration and the formation of an information-oriented society in Ukraine, the improvement of various forms of legal communication, in particular the use of modern information and communication technologies (ICT), is needed. The underestimation of the influence of the law on the development of information-oriented society can have negative consequences. At the same time, in order to modernize the society, appropriate legal support is needed, which, first of all, needs to be modernized on the basis of new opportunities and technologies.

According to A.M. Tokarska, an active subject of communication, including crisis and conflict ones, is the state, which has to create

the conditions for the enforcement of the right for communication through the transfer of information, its collection and storage, and also it must ensure harmonious and just relations in society. Consequently, the intentions regarding the essence of legal communication in a democratic state are aimed at transformation through the development of communication as being endowed with a strategy of general progress based on the principles of respect for dignity, solidarity and formal equal participation in the interactions [4, p. 29].

From the point of view of methodology, the axiological approach to the study of legal communication is interesting, since under conditions of globalization and European integration processes the role of consolidating factor in society is increasing. It is important to solve the problems connected with the extension of social and legal interaction in society, which should provide communication links between an individual and a social group, between a citizen and a state, and between civil society institutions. Social and legal values that are inherent in this society are important in these processes. Consequently, in this case legal communication acts as a consolidating factor of social development, which transmits and transforms legal values in society by providing legal information to citizens. The essence of communication processes is to ensure the quality and efficiency of the development and adoption of legislative solutions, to implement European rules and approaches in relations between the state and the public, to form legal consciousness and legal culture of society.

The idea of communication creates the preconditions for considering the connection between the law and the authority not from the point of view of confrontation, but from the point of view of harmonious interaction, since it becomes obvious that the effectiveness of legal influence depends not on whether the laws are considered to be fair or unfair, but on whether the procedure for their creation became transparent and rational. Integration in understanding of the law, as well as its methodological consequences for the perception of the relations between the law and the authority, lead to another understanding of legal normativity [5, p. 23]. In this context, communication mechanisms play a special role, because they must

significantly strengthen the role of civil institutions, first of all, in overcoming a low level of legal knowledge of general population. The solution of this problem is the development of effective mechanisms for the formation of national consciousness, as well as targeted systematic work on legal awareness.

It should be noted that during current decade the study of the problem of legal communication is necessary, since it is used almost in all spheres of social relations that require legal regulation. This is facilitated by the implementation of e-government technologies (e-government), e-justice, e-democracy, e-parliamentarism (e-parliament), the need to confront cybercrime and cyberterrorism, and regulation of the Internet. In order to modernize the law in modern conditions, intended support of citizens is highly required, which will be provided by ICT in the process of new forms of interaction between the authority and society in accordance with the principles of deliberative democracy. A large set of theoretical and practical problems has recently been developed autonomously in this regard within the framework of the concept of electronic rulemaking (e-rulemaking). Significantly, with the support of the world's leading law schools - Yale, Harvard, New York, and others, theory, methodology and technology have been supported and disseminated not only in the US but also in leading countries around the world [6].

Under new conditions, the purpose of the state is not to bring the citizens under control of a single authority, but to create a system of legal communication aimed at reconciling the will of the citizens who participate in it, to form legal relations that ensure the implementation of their legal interests. The law as a subjective and communicative system is characterized by a special mode of communication. Legal communication is based on the idea of forming a general legal will, in which the will of one person correlates with the will of another person. According to L.A. Gorbenko, a legal way of communication should not concern the content of the will, but the external side (the form of the will). This method of communication involves the unification of self-goals, it is based on the freedom of subjects and on the establishment of their mutual interest. In the early stages of social

development, legal communication becomes the result of legal regulation, which is understood as the purposeful influence of the regulatory system on society, its subjects. This system is an integral part of legal regulation [7, p. 10]. Thus, legal communication exercises influence on the mechanism of legal regulation.

Under the conditions of reforming state administration in Ukraine, one of the most urgent tasks is to modernize the system of public communications, bring it closer to the standards of the EU and advanced countries of the world, and to build an effective model of communicative activity of public authorities. An important component of this process is the creation of effective mechanisms for coordinating communicative efforts of the authorities, which will give the opportunity to

join the efforts to solve common tasks, avoid duplication of functions and simplify the organizational structure. In Ukraine, the sphere of legal communication "authority-public" is regulated by information legislation, which corresponded to key democratic standards at the time of adoption, but now it is unable to meet the needs of society. The authorities are still obliged to "inform" and "cover" their activities, rather than make decisions in the process of dialogue with the public. Despite the fact that de facto relevant rules of the law (openness, transparency of the activities of state authorities and local self-government bodies, participation of citizens in the development and implementation of state policy) are quite developed, their implementation is affected by inadequate quality.

Conclusion

To summarize, it should be noted that the study of the methodological foundations of legal communication forms modern postclassical legal understanding, which is aimed at ensuring the rights, freedoms and legitimate interests of citizens. The renewal of the essence of modern social and legal relations, first of all, between the state and society, requires scientific substantiation and introduction of new forms of communication. Legal communication in the context of European integration processes serves as a means of ensuring a dialogue between the state and citizens as a regulatory and socially constructive factor of social development. At the stage of transition to an information and legal society, the relationship between legal communication and legal regulation is changing. Legal communication becomes independent in terms of legal regulation, and the latest itself is becoming a system, a derivative element of legal communication. We hope that in future information legislation will comply with the norms of the European Union, and the model of dialogue interaction between the authorities and the public should be based on a clear conceptual and categorical apparatus and an appropriate organizational and legal mechanism, which calls for the introduction of new forms of legal communication in accordance with European democratic standards.

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