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FORMAREA NORMELOR DE COMUNICARE JURIDICĂ ÎN MODELUL EUROPEAN DE DEZVOLTARE DURABILĂ A SISTEMULUI JURIDIC[37]

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Rezumat: *Problematica formării normelor de comunicare juridică nu este atât de univocă pe cât ar putea părea la prima vedere. Propunem să acordăm atenție legităților acestui proces, inerente* ***modelului european de dezvoltare durabilă a sistemului juridic****. Acest model regional sintetizează experiența de dezvoltare a sistemelor juridice naționale din Europa de Vest de după cel de-al Doilea Război Mondial. Utilizând acest exemplu, analizăm: natura comunicativă a funcționării componentei normative a sistemului juridic; diversificarea normelor de comunicare juridică; etapele mecanismului de selecție a experienței juridice și sistemul dezvoltat de canale de feedback între societate și autoritățile publice în contextul activității legislative. Considerăm că aceste canale pot fi privite ca fundamentul real al modelului european de dezvoltare juridică* ***durabilă*** *și acea „platformă de dialog" care a creat condițiile juridice democratice pentru aprofundarea și extinderea integrării europene în secolele XX și XXI. Concluzionăm că studierea legităților modelului european al unui sistem juridic cu dezvoltare durabilă este deosebit de relevantă pentru educația civică a juriștilor din Republica Moldova, deoarece încurajează studenții să se implice în iden-*

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tificarea unor modalități armonioase de integrare a sistemului juridic al țării în spațiul juridic european, având la bază un model comunicativ de interacțiune între autoritatea statală și societatea civilă.

Cuvinte cheie: comunicare juridică, norme, sistem juridic, dezvoltare durabilă, model european.

FORMATION OF LEGAL COMMUNICATION NORMS IN THE EUROPEAN MODEL OF LEGAL SYSTEM'S SUSTAINABLE DEVELOPMENT

Abstract: *The issue of the formation of legal communication norms is not as straightforward as it might initially appear. We propose to pay attention to the patterns of this process inherent in the European model of a sustainably developing legal system. This regional model summarizes the development experience of national legal systems in Western Europe after the Second World War. Using this example, we analyze: the communicative nature of the functioning of the normative component of the legal system; the diversification of legal communication norms; the stages of the mechanism for selecting legal experience and the developed system of feedback channels between society and public authorities associated with lawmaking. We believe that these channels can be considered the real foundation of the European model of sustainable legal development and the very „dialogue platform" that formed the* democratic legal conditions for deepening and expanding European integration in the 20th and 21st centuries. We conclude that studying the patterns of the European model of a sustainably *developing legal system is particularly relevant for the civic education of lawyers in Moldova, as it encourages students to engage in the search for harmonious ways to integrate their country's legal system into the European legal space based on a communicative model of interaction between state authority and civil society.*

Keywords: legal communication, norms, legal system, sustainable development, european model.

Introduction

Modern civic education in the field of jurisprudence entails fostering students' skills in constructive critical analysis, directed not only at specific legal cases but also at the broader patterns governing the legal system's

functioning. The capacity for abstract generalization underpins a future lawyer's general humanitarian competence and breadth of vision, which in turn determine the degree of mindfulness in their own civic stance. Cultivating such a skill enables the future specialist to competently communicate their legal position and channel their civic engagement toward finding constructive solutions to specific problems. Consequently, it is essential for students to study not only the patterns traditionally addressed by the general theory of law. From the perspective of civic education, it is equally vital to implement a problem-based learning approach, wherein the student becomes an active participant in investigating as-yet-undiscovered legal patterns.

One potential avenue for collaborative research into these patterns is the formation of legal communication norms. This issue has remained underdeveloped in the general theory of law and is far less straightforward than it might initially appear. To encourage students to formulate their own judgments through logical synthesis, it is necessary to focus their attention on specific factual data, defining the regional and chronological parameters through which these patterns can be analyzed. Furthermore, students can be presented with a „working model" of a logical synthesis of this data, intended to serve as a subject for discussion and constructive criticism

To focus on specific factual data in the study of general patterns governing the formation of legal communication norms, we propose examining the European model of a sustainably developing legal system. The features of this generalized typological model have been evident in the evolution of Western European national legal systems since the second half of the 20th century. This model demonstrates the European experience in establishing a legal dialogue between state authorities and civil society during the reconstruction period following the Second World War. This experience facilitated the formation of legal communication norms and values that laid the democratic foundations not only for the region's national legal systems but also for a unified European legal space. Consequently, these developments created the legal prerequisites for the deepening and expansion of European integration processes.

Applied methodology. To generalize the European experience of legal development, this study employed *the method of theoretical legal modeling* [6]. This approach allows for the integration of common deve-

lopmental features observed in Western European national legal systems following the Second World War into a typological regional model of legal system dynamics. This model can be characterized as a „conceptual model of sustainable development", reflecting gradual and consistent transformations of its components that establish and prolong legal conditions with a constructive impact on socio-economic and other spheres of public life [7]. By identifying the normative component as a relatively distinct element of this model, we utilize *methods of systemic-structural and functional analysis* to identify the patterns underlying the formation of legal communication norms, which constitute the dynamic content of the normative component.

In doing so, we effectively implement *a communicative approach* to the content and functional purpose of the normative component of the legal system. In our view, such an approach not only correlates with the contemporary scientific paradigm within the social sciences and humanities [15] but also reveals the actual dynamics within this component's content, manifested in the stages of legal experience selection and the formation of a diversified system of legal communication norms reflecting their actual relevance in legal practice.

Research results. One of the key areas for advancing the civic education of law students is the development of analytical thinking skills through a problem-based learning approach [18]. Within this framework, students are encouraged to participate in the analysis of under-researched issues in legal science, such as the underlying patterns of the formation of legal communication norms.

The issue of the formation of legal communication norms is not as straightforward as it might appear at first glance. Legal science in the post-Soviet space is characterized by a rather limited understanding of the normative component of the legal system as a collection of rules established in official formal sources of law [2]. This narrow doctrinal approach fosters an overly one-sided perspective, reducing the normative regulators of legal behavior to the legal texts that constitute the national legislation. However, in the actual legal life of a society – which is shaped by legal communications between actors of the legal system – some of these legal texts may remain unutilized and effectively „dead letters" [17], failing to be implemented in practice.

From the point of view of the doctrine of „living law", which was developed by Eugen Ehrlich and other representatives of sociological jurisprudence [10], and taking into account modern scientific ideas about the mechanism of social communications, we can present a broader and, as it seems to us, more objective and closer to reality view of the content of the legal system's normative component.

Aligning with Niklas Luhmann's sociological concept of communication as a sort of „*fundamental basis*" of the social system [14], we consider that the content of the legal system's normative component – given its social nature – is formed precisely thanks to the *mechanism of legal communications*.

Further developing this idea of the communicative nature of the legal system's normative component – which aligns logically with the contemporary scientific paradigm within the social sciences and humanities – we consider that the legal experience emerging from legal communications serves as the foundation of certain „patterns" of legal communication. Actors of the legal system orient their behavior towards these patterns treating them as *communicative practices recognized as legitimate*.

However, the greater or lesser recognition of certain communicative practices as legitimate within a specific environment – or even their widespread recognition across the national legal system – does not necessarily entail their binding force on all actors of that system. It must be understood that the formation of the normative component of the legal system and, consequently, the formation of the legal communication norms that constitute its dynamic content, is *a longer and more complex process*, which is also communicative in nature.

The transformation of legal behavior experience – arising within legal communications – into a binding „general norm" necessitates the initiation of *an entirely different level of legal communication*. The subject of this new communication is no longer the individual rights and duties of participants in specific legal interactions, but the „norms" of legal communications themselves.

At the same time, we can see a transition from private legal dialogue (which, it should be noted, may be widespread and recurrent, yet exist only as a set of isolated precedents) between individual actors within the legal system regarding their respective „interests" to a public legal dialogue be-

tween society and the public authorities concerning the „generally binding norms" of legal communication. This public dialogue unfolds within *the law-making process*; however, considering the communicative nature of all social processes, including the dynamics of a society's legal system, it would be erroneous to assume that this dialogue concludes upon the completion of formal legislative procedures.

It is essential to recognize that this „legal dialogue" – or, in other words, the „legal communication" between society and the public authorities regarding the norms of legal communications does not cease upon the conclusion of the law-making process; rather, *it persists through the implementation of the established norms*.

Furthermore, within any national legal system, some of these norms seamlessly integrate into *the continuous flow* of individual legal communications between actors of this system. Other norms enter this „flow" primarily through coercion (the mechanism of state coercion), the effectiveness of which, however, has its objective limits. Another subset of norms fails to gain actual recognition and is effectively ignored by actors of the legal system, resulting in „dead letter" or redundant provisions; finally, certain norms are effectively replaced by alternative and usually latent practices, including so-called „shadow law" [1, 12].

Thus, the process of forming legal communication norms that constitute the normative component of any national legal system is inherently *a mechanism for the selection of legal experience*. This mechanism operates across *two levels of legal dialogue* and evolves through *three stages*:

1) *The preliminary stage of primary selection*, occurring at the level of individual legal interactions. These interactions give rise to legal communications, which function here as first-level private legal dialogues;

2) *The main stage of intermediate selection*, taking place within the law-making process and involving a transition to a broader, second-level public legal dialogue;

3) *The final stage of selection*, characterized by the diversification of legal communication norms based on their efficacy. This stage unfolds primarily at the level of first-level legal dialogue, while maintaining the potential for reinitiating the second-level public legal dialogue.

Furthermore, in recognizing *the feedback mechanism* as an essential element of any effective communication, we posit that at all stages of legal

experience selection, *the quality of this feedback directly determines the quality of the emerging legal communication norms*. These norms, in turn, define the „sustainability" of the diversified system of legal communication norms taking shape at the final stage. Feedback mechanisms operating during the main stage of legal experience selection within the law-making process are of particular importance. If norms formed through law-making prove ineffective in first-level legal dialogue, the influence of *compensatory and substitutive regulatory mechanisms* increases. This exacerbates internal contradictions within the diversified system of legal communication norms, thereby undermining its „sustainability".

Drawing on the evolution of Western European legal systems following the Second World War, we can observe the formation of *a typological regional model of a sustainably developing legal system*. Its defining features include: 1) *democratic trends* that stimulated the progressive development of national law within the region [4, 16], provided a „democratic impetus" to the development of legally regulated socio-economic relations, and influenced the emergence of corresponding global legal trends and 2) *established forms of public legal dialogue between society and the public authorities*. These forms contributed to the development of a dialogic „legal platform", which ensured the formation of *a unified European legal communication space* and created favorable legal conditions for advancing the idea of European integration [11].

Of particular interest within the analysis of the European experience of sustainable legal system development – especially in the context of Moldova's current stage of integration into the European legal space – are *the specific forms of public legal dialogue between society and the public authorities*, which we shall examine in greater detail.

It should be noted that in accordance with the **Code of Good Practice for Civil Participation in the Decision-Making Process** [3], adopted by the Conference of **International Non-Governmental Organizations** on October 1, 2009, there is a specific **„matrix of civil participation"**. Within this framework, *the **dialogue*** between public authorities and civil society occupies an intermediate position between **„consultation"** and **„partnership"**.

However, considering the public dialogue between society and the public authorities as a level of the formation of legal communication norms

– which has received sustainable development within the European model under consideration – *we must shift from the political discourse of „decision-making" to the legal discourse of the „law-making"*. The last involves a corresponding *legal* dialogue centered on a specific subject: *the norms of legal communications*.

In this regard, it is possible to identify the following *„feedback channels" between society and public authorities*, which are characteristic of the European model of sustainable legal system development and linked to official law-making procedures:

1) **direct popular law-making** through the direct adoption of a legal act or its direct repeal;

2) official forms of civil participation in specific law-making procedures of public authorities that do not exert a direct impact on the adoption or repeal of legal acts;

3) official forms of indirect (mediated) „influence" by society on the law-making procedures of public authorities.

(1) ***Direct popular law-making*** *through the direct adoption of a legal act* **within the framework of** referendum or „popular choice" procedures *or its direct repeal* **within the framework of** „popular veto" procedures [9].

It should be noted that while referendum procedures existed in European countries during the pre-war period, their application expanded significantly following the Second World War. Moreover, in certain European nations, the introduction of the referendum was accompanied by the abolition of the upper house of parliament; thus, the referendum effectively became a *„substitute mechanism*" with functions analogous to those of an upper chamber. For instance, in 1953, Denmark abolished its upper house while simultaneously introducing the referendum procedure [13]. According to statistical data, the number of referendums held in Europe began to rise steadily after the Second World War [8], and to this day, Europe remains the consistent leader in this regard compared to other regions worldwide.

(2) *Official forms of civil participation in specific law-making procedures of public authorities* that do not exert a direct impact on the adoption or repeal of legal acts include:

- Popular initiative as a form of direct exercise of law-making initiative

by the people, serving as the initial stage of the law-making process;
- Petitions;
- Public consultation on draft legal acts;
- Public expertise (public legal review) of legal acts in cases where such review is mandatory;
- Participation of civil society representatives in the law-making process within working groups and committees;
- Participation in public hearings on draft legal acts held by public authorities.

(3) *Official forms of indirect (mediated) „influence" by society on the law-making procedures of public authorities* include:
- Public campaigning for legislative changes within the framework of lawful political activity and regulated lobbying practices (in accordance with Recommendation of the Committee of Ministers of the Council of Europe to member States on the legal regulation of lobbying activities in the context of public decision-making, adopted by the Committee of Ministers on 22 March 2017 [5]), including advocacy, awareness-raising, and public demonstrations;
- Influence through the mass media;
- Influence through public opinion polls;
- Influence through research and public expertise (public legal reviews) conducted at the initiative of civil society;
- Influence through intermediary structures in the dialogue between the state and civil society (public advisory boards attached to public authorities, public chambers, and other similar structures);
- Initiating constitutional review based on individual complaints by citizens in cases of violations of their rights by law.

Conclusions

Firstly, by examining within the European model the consistently functioning feedback channels between society and public authorities during the process of forming legal communication norms, we can observe that the legalization of lobbying practices, which significantly expanded these „channels", developed particularly actively during the 1990s and 2000s.

On the one hand, this indicates a natural intensification of the legal dialogue between society and public authorities regarding legal commu-

nication norms in the context of digital technology development; this is driven by a significant increase in both the number of information triggers and the technical means to ensure transparency.

On the other hand, this suggests that the European model of sustainable legal system development, which began to emerge after the Second World War, *remains a highly functional and viable conceptual model for legal system dynamics*. Furthermore, in the current digital era, this model is likely undergoing a new, more active cycle of evolution, following the post-war wave of constitutional reforms and the wave of active civic movement engagement in dialogue with the state during the 1960s and 1970s.

The current intensification of legal dialogue regarding legal communication norms necessitates a parallel *intensification of its study*, moving beyond the relatively narrow doctrinal methods of jurisprudence toward *broader interdisciplinary methodological approaches*, including the integration of existing sociological perspectives on communication mechanisms.

Furthermore, the conducted research leads to the conclusion that the European model of sustainable legal system development reflects *a communicative model of interaction between public authorities and civil society* on issues that constitute the content of the legal life of a specific society. Establishing such a communicative model is a prerequisite for the deep integration of modern Moldova's legal system into the European legal space; it requires the development of harmonious direct and feedback links between state institutions and civil society in the country. In this regard, a more profound study of the underlying patterns of the European model of sustainable legal system development is particularly relevant for the civic education of future lawyers in Moldova.

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