LAW AS A MEASURE OF INDIVIDUAL FREEDOM AND RESPONSIBILITY

LEGEA CA MĂSURĂ A LIBERTĂȚII ȘI RESPONSABILITĂȚII INDIVIDUALE

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CZU: 340.13:342.7 **DOI:** https://doi.org/10.59295/ssdoed2025.14

Abstract: *The connections between law and personality can be very fully characterized through the concept of legal status, which reflects all the main aspects of the legal existence of an individual, namely: interests, needs, relationships with the state, labor and socio-political activities. Legal status is reflected in science as a reflection of the legal status of an individual in society. The legal status is based on the real position of a person in the system of social relations, where the law consolidates this position by introducing it into the legislative framework.*

Keywords: *human rights, legal obligations, public relations, subject of law.*

Rezumat: *Legăturile dintre drept și personalitate pot fi foarte pe deplin caracterizate prin conceptul de statut juridic, care reflectă toate aspectele principale ale existenței juridice a unui individ, și anume: interese, nevoi, relații cu statul, muncă și activități socio-politice. Statutul juridic este reflectat în știință ca o reflectare a statutului juridic al unui individ în societate. Statutul juridic se bazează pe poziția reală a unei persoane în sistemul relațiilor sociale, unde legea consolidează această poziție prin introducerea ei în cadrul legislativ.*

Cuvinte-cheie: *drepturile omului, obligații legale, relații sociale, subiect de drept.*

Introduction

Legal registration of an individual's position is possible through various ways and means, a number of specific means, starting with the recognition of a person as a subject of law and endowing him with a special quality - legal capacity, allowing him to enter into legal relations, bearing responsibility for his actions. "Status," translated from Latin, implies the condition of someone or something. The basis of the legal status of an individual is formed by his rights, freedoms and obligations, which are reflected in the Constitution and other legislative acts.

Legal status is a complex, integration category that determines the relationship between the individual and society, citizen and state. There are types of legal status: a) general status of a citizen; b) special status of certain categories of citizens; c) individual status; d) status of individuals and legal entities; e) status of foreigners, stateless persons, persons with dual citizenship, refugees and others. ***General legal status*** is the status of a person as a citizen of the state, determined by the Constitution of the Republic of Moldova, is the same for everyone, is characterized by relative generality, therefore the general legal status is basic, initial. ***Special status*** reflects the characteristics of the status of individual citizens. ***Individual status*** determines the specifics of an individual - a set of personal rights and obligations of citizens. Individual legal status is dynamic, changing with all the changes that occur in a person's life. There is one general legal status, many special statuses, and as many individual statuses as there are citizens. ***Thus, legal status is a collective category that reflects the entire complex of a person's connections with society, the state, the team, and people. The structure of legal status includes the following elements: 1) basic rights and obligations; 2) legitimate interests; 3) legal personality; 4) citizenship; 5) legal liability; 6) principles; 7) legal norms establishing this status and a number of others.***

When writing the article, the following **methods** were used: comparative legal, logical, imperial, historical.

A human and his/her rights occupy a central and significant place above all others. Their priority and significance are undeniable, their role and purpose are obvious. In any democratic system, the rights, freedoms and responsibilities of citizens form the main political and legal institution - an indicator of the achievements and civilization of a given society. Human rights must be respected outside depending on territory and nationality. The Republic of Moldova has also proclaimed these val-

ues as significant, recognizing international standards reflected in such acts as: the Universal Declaration of Human Rights (1948), the European Convention for the Protection of Rights and Fundamental Freedoms (1950), etc. Thus, recognition, respect and protection human rights are the responsibility of the state, because every person has the right to life, health, personal safety and integrity, protection of honor, dignity, good name, freedom of thought and speech, expression of opinions and beliefs, choice of place of residence; can acquire, own, use and dispose of property, engage in entrepreneurial activities, leave the country and return back [12, p. 234].

Human rights represent the highest value belonging to the international community, because their respect and protection are the responsibility of the state, otherwise serious conflicts arise that pose a threat to peace. Human rights and freedoms, according to the general classification, are divided into socio-economic, political, civil, cultural and personal, which are closely interrelated. Regarding the differences between human and civil rights: 1. human rights can exist regardless of their state recognition; 2. stateless persons are formally the holders of human rights, but not the rights of a citizen.

Thus, the most important distinctive features of the fundamental rights and freedoms enshrined in the Constitution of the Republic of Moldova are that they are given to man by nature, are of a natural and inalienable nature, act as the highest social value, are directly effective, are under the protection of the state, and correspond to international standards [12, p. 237].

An essential component of better interaction between the state, law and the individual are legal obligations, otherwise neither a balanced legal system, nor effective legal regulation, nor a clear legal order are possible. ***A legal obligation is a measure of proper, necessary behavior defined by law, where personal and generally significant interests are expressed.*** Through responsibilities, the following are given to the state: civil sustainability, equal ecological balance. Legal duty is the type and measure of reasonable, useful, objectively determined behavior that brings order to life. If it is believed that subjective right represents the sphere of power and freedom of the individual, then legal duty represents the sphere of necessity and subordination. All subjective rights are realized through someone's duties, and vice versa, duties presuppose someone's right to demand their fulfillment. The principle of merging rights and responsibilities was reflected in the UN General Assembly's

Universal Declaration of Human Rights in 1948 [20]. proclaiming in Art. 29 that "every person has responsibilities to society, in which alone the free and full development of his personality is possible", that the exercise of rights and freedoms by a citizen requires "due recognition and respect for the rights and freedoms of others, satisfaction of the just demands of morality, general order and welfare in a democratic society".

The problem of combining rights and responsibilities is multifaceted, consisting of a number of aspects: historical, socio-political, philosophical, legal, moral, psychological, etc. Responsibilities are a register of requirements that society places on an individual and without which no "normal" society can do, and their volume depends on many reasons: national traditions, the development of democracy, the level of political and legal culture, etc. "People who do not know their duties," according to the jurist I.A. Ilyin, "are not able to observe them; people who do not know their powers arbitrarily exceed them or cowardly yield in power; people who do not want to recognize prohibitions, they easily forget all restraint and discipline or find themselves doomed to legal insanity [7, p. 67].

Natural human rights presuppose natural duties, thus they interact and balance each other.

Law is an ordered, standardized form of freedom, otherwise freedom outside the legal framework turns into anarchy. The main task of law is to prevent chaos and ensure order, but law presupposes not only sanctions, but also permission, permission, and the possibility of personal choice. According to N.A. Berdyaev, law is "only the minimum of human freedom" [4, p. 65].

Freedom is like air, without which people suffocate, but at the same time, personal freedom presupposes freedom from the arbitrariness of power, where the law acts as a mediator. According to Aristotle: the state should be ruled by law, it "rules over everyone" [3, p. 87]. "He who lives according to the law harms no one," said the ancient Romans [14, p. 164]. Law is the embodiment of impartiality and objectivity. In practice, the law represents the court. According to R. Iering, "The goddess of justice holds in one hand scales on which she weighs the law, in the other a sword with which she defends it. A sword without scales is naked violence, scales without a sword is the powerlessness of law" [12, p. 240]. Also Sh.L. Montesquieu noted: "Allow a man to do whatever he wants, and you will destroy him" [5, p. 86]. According to Hegel, "When we hear that freedom generally consists in the ability to do whatever one wants, then we can recognize such an idea as a complete lack of culture of thought: in this

idea there is not yet the slightest hint of understanding of what is in oneself and for oneself", free will, law, morality" [6]. In addition to freedom, we should also talk about the problem of responsibility, since the role of man in the world around him has increased, his freedom has expanded, as well as dependence on the external social and natural environment, because irresponsibility and impunity breed new crimes and undermine law and order. As C. Montesquieu noted: "Dig into the reasons for all licentiousness and you will see that it stems from impunity" [13].

As was presented earlier, law is a complex and multi-valued phenomenon that affects the interests of all participants in social relations, both individual and collective. Naturally, there has always been and is still ongoing scientific debate around it. There are different interpretations of the presented phenomenon; schools and doctrines have been formed that explain the essence, nature, and purpose of law. Let's explore some concepts: 1. Law is the order of relations that are protected and protected by the state. 2. Law is not laws that are adopted by elected representative institutions and reflect the sovereign will of the people, but the principles of justice, humanism and morality. 3. It is worth distinguishing between the right of government and the right of civil society [1, p. 103].

If law is reflected in laws and a number of other regulations, then it always promotes order and opposes lawlessness. 4. Unreasonable gap between natural and positive law according to the principle: "either - or" [10, p. 98]. As noted by I.A. Ilyin: "The main task of positive law is to absorb the content of natural law, develop it in the form of a series of rules of external behavior, adapted to the conditions of a given life and to the needs of a given time, give these rules a semantic form and verbal consolidation, and then penetrate into the consciousness and will of people as a priority connecting command. Positive law is an expedient form of maintaining natural law" [8, p. 58].

The sources of law include legal precedents, judicial practice, normative treaties, human rights, and no one has the right to create law outside the will of the state, otherwise one cannot talk about the sovereignty of power. Law cannot be interpreted too freely, otherwise, as the French lawyer P. Sandevoir noted, "it becomes a set of "norms of good will" that can be observed or ignored in accordance with personal desire" [16, p. 306]. Thus, a more "down-to-earth" view of law is needed in order to use it to solve life's problems and issues, as well as regulate social relations, ensure order and stability in society. As the American legal scholar L. Friedman noted, "giving a precise definition of law is a rather difficult

task; law is a word for everyday use, part of our colloquial vocabulary. It has many meanings, fragile as glass, unstable as a soap bubble, and elusive as time [12, p. 194].

Each branch of law has both general and special principles [17, p. 15]. The principles of law are the initial principles, ideas that express the essence of law as a social regulator. The principles of law embody the laws of law, its nature and purpose, and are presented in the form of general rules of behavior that are formulated in the law or based on its meaning.

The principles of law are intended to reflect the basic values on which law is oriented, i.e. they are starting points showing the vector of legal regulation. The principles are presented in the form of a structure on the basis of which the entire legal system is created and implemented. Depending on the scope of distribution, general legal, intersectoral and sectoral principles are distinguished. ***General legal principles*** include such principles as: 1) Justice - the correspondence between the role of a person in society and his social and legal status; 2) Legal equality of citizens before the law and the court, proclaiming the equal legal status of all subjects; 3) Humanism, which assumes that the Constitution and laws should secure the rights and freedoms of man and citizen, and suppress various acts that infringe on human dignity; 4) Democracy - a reflection of the mechanisms and institutions of democracy, with the help of which citizens can participate in the management of state and public affairs, protect their rights and freedoms; 5) Unity of rights and obligations; 6) legality - a system of requirements of society and the state, consisting in the exact implementation of the rules of law by everyone; 7) combining persuasion and coercion - universal methods of social management. The main forms of persuasion include: legal educational work, discussion of bills, justification of regulations, goals and objectives of their adoption. If the principles characterize the essential features of several branches of law, then they should be classified as ***intersectoral***: the principle of adversarialism and publicity of legal proceedings, etc., and those principles that operate within one branch of law are called ***sectoral*** - the principle of equality of parties in property relations; in criminal law - the presumption of innocence; in labor law - the principle of freedom of labor, etc.

Law as a social institution functions on a par with the state apparatus, morality and other social regulators. The purpose of law and its role in the life of society are determined by the functions that law performs in the process of influencing social relations. In turn, the functions of law

are the main channels of legal influence, which reflect the role of law in regulating social relations.

The most important purpose of law is to ensure law and order in society and the state. At the special legal level, law performs two functions: ***regulatory*** and ***protective*** functions, where ***the regulatory*** function performs the primary task, being creative in nature. ***The forms*** of implementation of the regulatory function are recognized as: determination of legal facts in hypotheses of legal norms; establishing and changing the legal status of subjects of law, one or another type of legal regulation; consolidation in legislation of measures of incentives, benefits, privileges, and other permissions; fixation of models of legal relations [12, p. 202].

The protective function is implemented through legal restrictions, being of a secondary nature, it is designed to ensure the protection and protection of fundamental values - life, health, honor, dignity, freedom, property, law and order, security, etc. The specificity of the protective function lies in: characterizing law as a special way of influencing people's behavior, influencing sanctions, prohibitions and legal liability; indicative of the political and cultural level of development of society, its humane principles contained in the law, because methods of protection very often depend on the civil maturity of a given society, on its political essence [15, p. 56]. The forms through which the protective function of law is carried out are: the establishment of duties, prohibitions, coercive measures, and punishments. Thus, both functions complement each other, contributing to the ordering of social connections, because law performs various functions, influencing social relations in various directions and using various types of legal means.

The concepts of law and the concept of the legal system are compared as part and whole, because law refers to norms emanating from the state that are binding, while the legal system covers a set of coordinated, interconnected, homogeneous legal phenomena through which public power has a regulatory, organizing and stabilizing effect on social relations, as well as people's behavior. As the French jurist J. Carbonnier noted, the legal system is "a container, a focus of various legal phenomena" [11].

Law - acts as the core and normative basis of the legal system, the link that connects the sub-units, the core element of the entire legal system, which includes many others: justice, legal practice, regulatory, law enforcement and law-interpreting acts, legal relations, subjective rights and obligations, legal institutions (court, prosecutor's office, legal profession), legality and others. The value of the concept of a legal system in-

volves providing additional opportunities for analyzing the legal sphere of society. Those components that are included in the legal system are ambiguous in terms of their relative weight, independence, and degree of impact on social relations. Consequently, modern legal theory must rise to such a level of generalization in order to comprehensively analyze and evaluate the emerging legal reality. First, a number of components of the legal environment have been extensively studied. Secondly, new tasks have emerged that will involve all legal levers. Thirdly, this concept allows us to apply a systemic-structural approach to the study of legal reality. The concepts of a legal system and a legal superstructure, although close, are in no way interchangeable, because the legal system very fully reflects all the smallest connections, and the legal superstructure is presented in the form of a unity of views, relationships, and institutions. The legal system and the legal superstructure differ in their content, elemental composition, epistemological functions, social purpose, role in public life, the nature of determination by material and other factors, and genesis [12, p. 214]. The legal system is a highly differentiated category because of being multi-element and hierarchical.

The category of superstructure "reveals the location of legal phenomena primarily in relation to the economic basis; the concept of a legal system serves mainly to express internal connections, their organization, structure" [9, p. 57]. The superstructure reflects the most general level of the legal system, so here attention is concentrated on the most general manifestations of legal reality [19, p. 49]. Law rules in the legal system and plays the role of a consolidating factor. According to the American lawyer L. Friedman, in modern American society the legal system accompanies a person in all his affairs. Not a day - not even an hour - goes by without the individual interacting with the law in the broadest sense of the word, thus the legal system is omnipresent [2, p. 45-52]. The law of any state is closely related to international law; this kind of interaction reflects modern global integration processes.

There are various legal systems and legal families that reflect the characteristics of the respective eras, civilizations, countries, peoples, and continents. There are national legal systems and international ones, of which ***the national legal system*** is an organic element of a particular society, its history, culture, traditions, and ***the legal family*** is a set of related national legal systems characterized by the similarity of important features. There are main legal families, of which: a) Romano-Germanic; b) Anglo-Saxon; c) religious; d) traditional. Legal systems assigned

to the Romano-Germanic legal family: France, Spain, Portugal, Germany, Austria, etc. Within the Romano-Germanic legal family, Slavic legal systems should be distinguished, for example, Yugoslavia, Bulgaria. The Romano-Germanic legal family has three stages: 1) the era of the Roman Empire - the 12th century. AD - the origin of Roman law and its decline; 2) Revival of Roman law XIII - XVII centuries; 3) - Codification of law XVIII - XX centuries.

The Anglo-Saxon legal family includes the national legal systems of the USA, Canada, Australia and others, where judicial precedent acts as a source of law, and the main role is assigned to the court. The family of religious law includes such countries as: Iran, Iraq, Pakistan and others, where the characteristic features of the legal family are: 1. God is the creator of law; 2. sources of law are religious and moral norms and values. The family of traditional law includes the legal systems of Madagascar, Africa, the Far East, where primary importance in the system of sources of law is given to customs and traditions of an unwritten nature, moral, where customs and traditions regulate the relations of groups or communities, not individuals, normative acts occupy a secondary position place, judicial practice is not the main source of law. The listed families have their own characteristics, features characteristic of any law, legal system, but a common feature is that they are regulators of social life, a means of managing society, perform a protective, protective and coercive role, and also guard the rights of man and citizen [18, p. 105].

Conclusions

Freedom is a complex and multifaceted concept, where necessity comes first, which finds its expression in law, in which it materializes in forms, principles, institutions. Law acts as the official measure of freedom, its norm, a guarantee of the implementation of freedom, a means of its protection and defense. The right is necessary for a person, because It is with the help of law, laws that subjects of social relations are placed under the jurisdiction of the state, which, in the interests of society, prohibits or permits actions, limits or expands the scope of personal desires, grants rights, imposes duties and responsibilities.

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