INTERNAL AND EXTERNAL FUNCTIONS OF THE CONCEPTUAL MODEL OF SUSTAINABLE DEVELOPMENT OF MOLDOVA'S LEGAL SYSTEM

FUNCŢII INTERNE ŞI EXTERNE ALE MODELULUI CONCEPTUAL DE DEZVOLTARE DURABILĂ ALE SISTEMULUI JURIDIC AL REPUBLICII MOLDOVEI

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Sumar. *Articolul examinează funcţiile modelului conceptual al dezvoltării durabile a sistemului juridic din Republica Moldova, considerat de autor ca un model realist, social-orientat, al dinamicii sale constructive, menit să satisfacă cererea socială de „dezvoltare" şi „stabilitate" comună întregului spaţiu post-sovietic. Scopul studiului este de a specifica funcţiile interne şi externe ale modelului specificat, ţinând cont de caracteristicile scopului său şi de sarcinile componentelor individuale ale sistemului juridic care alcătuiesc structura internă a modelului dinamic analizat. Metode de cercetare: modelare juridică teoretică, analiză funcţională şi sistemico-structurală. Rezultatele cercetării: 1) a fost stabilită dependenţa funcţiilor externe ale fenomenelor juridice sistemice de caracteristicile interacţiunilor interne ale componentelor lor, adică de funcţiile interne ale acestor fenomene; 2) specificarea funcţiilor interne ale modelului conceptual de dezvoltare durabilă a sistemului juridic a permis identificarea principiului interacţiunii consecvente a componentelor modelului considerat, diferenţiind conexiunile directe şi indirecte dintre componentele specificate, precum şi principiul interacţiunilor ciclice ale acestor componente, explicând natura dinamicii unui sistem juridic durabil, condiţionată de dinamica internă a componentelor acestui sistem; 3) specificarea funcţiilor externe a permis stabilirea unei legături între tiparele de funcţionare ale modelului unui sistem juridic în dezvoltare durabilă şi condiţiile integrării profunde şi pe termen lung a instituţiilor juridice ale Republicii Moldova în spaţiul juridic european.*

Cuvinte-cheie: *dezvoltare durabilă, sistem juridic, funcţii, model.*

INTRODUCTION

Analyzing the research conducted in the post-Soviet space, devoted to the functions of the legal system, following professor V.N. Kartashov, it can be noted that the functions of the legal system here are often identified with the functions of law and legal regulation [1, p.68-69]. In addition, our analysis shows that existing studies pay attention almost exclusively to the external aspect of the functioning of the legal system, while

the functions determined by the internal interaction of the components of this complex systemic phenomenon with each other almost always come down to the statement of one single and universal „integrative function" inherent in the legal system as a whole, but not differentiated depending on the characteristics of the dynamics and nature of the individual components of this system, which does not allow us to establish the mechanism of their internal interaction formed by the combination of functions of different components, which generates the „integrative effect" attributed to this system. In this regard, the category of „functions of the legal system" is often considered as a certain constant parameter in the characteristic of the interaction of the legal system with the external environment and is almost not analyzed at all as a parameter of the internal dynamics of this system, which is reflected at the conceptual level in attempts to formulate a definition of the category of „function" in post-Soviet jurisprudence [1, p.69-70], and the problem of the objectively existing variability of the external dynamics of the legal system, depending not only on the system itself, but also on the specific conditions of its external environment, is little analyzed. However, in our opinion, it is the development of the idea of differentiating the external and internal aspects of the functioning of the legal system [2] from the position of distinguishing its systemic and structural characteristics that is able to offer a functional characteristic of the legal system that takes into account its specificity as a complexly organized systemic formation. It is noteworthy that in foreign literature one can also find similar attempts to differentiate „macro-" and „micro-functions" [3] of legal phenomena with systemic properties, which may include not only the legal system, but also the law itself [4, pp. 9-10].

MATERIALS AND METHODS

The study was conducted using a comprehensive methodology that combines the method of theoretical legal modeling with methods of systemic-structural and functional analysis of the studied dynamic state of the legal system.

RESULTS AND DISCUSSION

By establishing the functions of the model under study, we are in fact solving the question of how its individual components are able to interact with each other and with the environment around them, so that this way of interaction allows to solve the sustainable development problems facing these components.

When defining *internal functions* that reflect the way in which some components of the modeled legal system interact with its other components, it is logical to assume that it is the common nature that unites homogeneous elements of the legal system into relatively independent components of its model that allows us to most objectively and reasonably identify the internal function that similar elements demonstrate in the process of their dynamics, subject to the same rates of dynamic due to the same properties inherent in them by nature. It seems that it is precisely under the conditions of sustainable

development, which assumes the evolutionary nature of the dynamics of the components of the legal system without sharp leaps, that the functioning of the legal system is subject to the greatest extent to the natural evolutionary rhythms of development, corresponding to the speed of the dynamics of these components that is inherent in them by nature.

Analyzing from the above positions the features of interaction of the *spiritual-cultural component* with other components of the legal system, it is necessary to pay attention to the fact that the ideal nature of subjective manifestations of legal consciousness accumulated in the structure of this component requires, first of all, its objectification, which it receives in the actions and deeds of participants in the legal life of society, constituting the structure of the *organizational component* of the legal system. In this regard, in the process of its functioning within the legal system, the spiritual and cultural component enters into direct interaction with the organizational component, while its interaction with other components turns out to be mediated by its interaction with the organizational component, that is, specific legal actions and activities that have legal significance. Therefore, the main internal function performed by the spiritual-cultural component within the legal system should be considered within the framework of the above interaction of the component under consideration with the organizational component. The study we conducted allowed us to identify *the function of identifying the intentions of legal consciousness as the internal function of the spiritual-cultural component* generated by such interaction, which then acquire a materialized form in objective reality through specific actions and deeds of participants in the legal life of society, constituting legal interactions that organize the legal life of society and are part of the structure of the organizational component. In turn, the dynamics of legal interactions in the structure of the organizational component leads to the formation of legal communications, the oscillations of direct and feedback links within which subordinate the development of this component to their rhythm. Therefore, *the internal function of the organizational component of the legal system is the organization of legal interactions*, as a result of which legal communications of participants in the legal life of society based on direct and feedback links are built from individual legal interactions, the interaction of which acquires legal forms through the passage of the „cycle" of legal communications formed by the said links. The experience that naturally accumulates within the framework of the sustainable development of legal communications logically presupposes its „settling" in the form of examples of „acceptable" and „unacceptable", „desirable", „permissible" and „prohibited" behavior that have arisen in legal practice, which are no longer abstract and speculative, but quite real criteria that give legal interactions a normalized character, which ensures the normalization of the legal life of society by introducing into it attributes of a certain predictability and orderliness. As a result of the interaction of the organizational component of the legal system with its *normative component*, which is built in this way, the implementation of *the internal function of the normative component* is ensured, consisting in *the normalization of legal communications*, the consequence of which is the formation of norms of legal communications, including those norms that can then be sanctioned by authorized

subjects of lawmaking or (in the event of their non-recognition by authorized government structures) can become so-called „latent norms" or „shadow law". In any case, the norms of legal communications formed within the framework of the functioning of the normative component of the legal system are a prerequisite for *the process of institutionalization of legal communications, which is an internal function of the institutional component of the legal system*. The legal institutions of society formed as a result of this process on the basis of the norms of legal communications are the ultimate form of objectification of the intentions of legal consciousness formed by the functioning of the spiritual and cultural component. However, the influence of human and other accompanying factors, „layered" on the process of objectification of the intentions of legal consciousness passing through the functioning of all components of the legal system, again requires the identification of the „legal" in those final objectified forms that they indirectly acquire in the functioning of the institutional component. Thus, the internally determined sequence of interactions of the spiritual and cultural, organizational, normative and institutional components of the legal system receives an impetus for a new „turn" of its development. This circumstance allows us to discern *the cyclical nature of the dynamics of the internal interactions* of the components of the model of sustainable development of the legal system, which is inherent not only in the internal dynamics of the development of the components of this model themselves, which differ from each other in different „tempos" and „rhythms" of their own structural development cycles, but also in the dynamics of the interactions established between the different components of this model with each other within the structure of the legal system that binds them together.

The external functions of the components of the modeled legal system, developing according to the natural rhythms of sustainable development, are, as it were, a logical continuation of the internal functions, since the method of interaction with other components of the legal system, inherent in the internal functions of the components of the legal system, determines how, or, in other words, by means of what „way" the functioning of this component within the system will allow it to interact with the reality surrounding the legal system, that is, with its external environment, striving to satisfy the basic social demand for „stability" and „development" of all spheres of public life, with which the legal system inevitably interacts in the process of its dynamics. This conclusion can be reached by analyzing the features of the dynamics of not only the state of the legal system under study, but also other legal phenomena of a complex nature and possessing systemic properties. Indeed, any complex systemic phenomenon must, first of all, maintain its integrity as a system, as which it interacts with environment. Therefore, the interactions that occur within such a complex system are aimed, first of all, at the self-preservation of this system and therefore the internal functions formed by these interactions acquire a primary character. In turn, the external interactions that are established between this system and the external environment through the components that make up this system are internally determined by intrasystem (structural) interactions, derived from the preservation of the system's integrity. As professor Z.K. Ayupova rightly notes,

„the social and managerial nature of the whole, its direction, depends on the internal organization of the elements" [5]. Thus, we can quite reasonably assert that the external functions of such systems are objectively depend on the internal functions. In this regard, in the internal logic of the functional characteristic of the conceptual model of sustainable development of the legal system, the identification of internal functions logically precedes the definition of external functions of individual components of the modeled system and is logically connected with internal functions. At the same time, if the internal functions reflect to a sufficiently predictable „mechanical" component of the process of functioning of the evolutionarily developing legal system, then the external functions reflect a less obvious „energy charge" that arises not only as a result of the said „internal mechanics", but also as a result of the interaction of the components of the legal system with the surrounding phenomena of reality, which is influenced by a much larger number of external factors. Therefore, in our opinion, the specification of the external functions of any specific dynamic model of the legal system requires, at a minimum, clarification of the cultural and historical paradigm, in the conditions of the external environment of which the corresponding model is „placed".

In our study of the problem of sustainable development of the legal system, we proceed from the fact that the cultural and historical paradigm of the conceptual model of the evolutionary development of the legal system applicable to the analysis of the prospects for the development of the legal system of modern Moldova is the „route" of sustainable development laid by European countries in the post-war period, which is fundamentally different from the models of stagnant „stability" and catch-up „development" proposed by the Soviet model. Studying the European „route" of sustainable development of legal systems after the Second World War, we established the following characteristic methods of overcoming the „gaps in development" that formed in them during the war and pre-war periods: 1) *democratization* of social institutions, accompanying the sustainable development of the institutional component of the legal system; 2) *dialogization* of the space of social communications, accompanying the sustainable development of the organizational component; 3) *legitimation* of normative regulation, accompanying the sustainable development of the normative component; 4) *reflection* of public consciousness, accompanying the sustainable development of the spiritual and cultural component. These processes, demonstrated in the course of the post-war development of European legal systems, which acted as „ways" to overcome the aforementioned „gaps in the development" of European society, can be considered as ways of interaction of the corresponding components of the legal system with the political, economic and other systems, which form the external environment of the functioning of the legal system in society. Since we consider such „ways of interaction" of the legal system with the environment as external functions of the legal system, we can recognize the noted interactions as external functions, attributive to the conceptual model of sustainable development, considered within the framework of the specific historical European paradigm.

Considering the possibility of implementing the presented conceptual model of sustainable development of the legal system in modern Moldova, it is necessary to pay attention to the fact that the satisfaction of the general social demand of the post-Soviet space for „development" and „stability", typical for Moldova, as well as in the situation of post-war development of European countries, requires the elimination of existing „gaps in development". In this regard, we have sufficient grounds to believe that the implementation of the model of sustainable development of legal systems which was used in Europe to overcome these „gaps" can have a constructive impact on the development of the legal system of Moldova. In addition, since it was this model that accompanied the processes of deepening and expanding European integration that intensified in the post-war period and continue today, we can also believe that the implementation of this model can ensure deep and long-term integration of the legal system of Moldova into the European legal space.

CONCLUSIONS

1) objectively existing manifestations of the lawful connection of internal (structural) and external (systemic) characteristics of the dynamics of the legal system substantiate the inherent in the legal system and similar complex systemic legal phenomena, the determinacy of their external functions by the features of the internal interactions of their components;

2) the established internal functions of the model under study demonstrate a certain sequence in the interaction of its components with each other, according to which each individual component reveals a direct connection only with some one component, while its interaction with other components is mediated by this connection, which makes it possible to differentiate direct and indirect connections between the components of the model under study and to identify *the principle of the sequence of interaction*, characteristic of the state in which the components of the legal system are within the framework of this model;

3) the analysis of the internal functions of the model under study also indicates the inherent internal dynamics of its components, *the principle of cyclical interactions* between these components, which indicates the inherent self-sufficiency of the conceptual model of sustainable development of the legal system in maintaining the integrity of this system and the inherent potential of this model for the evolutionary path of development of the legal system at a new „turn" of its cycle;

4) the ability of the external functions of the European model of sustainable development of the legal system to overcome the „gaps" that formed in the previous development of the legal system, allows using this model to overcome the existing „gaps in development" in the legal system of Moldova, common to the post-Soviet space, which is a necessary condition for the deep and long-term integration of the country's legal system into the European legal space.

REFERENCES:

1. КАРТАШОВ, В.Н. *Теория правовой системы общества*. Том 1. Ярославль: Ярославский государственный университет, 2005. 547 с. ISBN 5-8397-038108.
2. РЕУТОВ, В.П. О соотношении функций и структур в правовой системе. В: *Вестник Пермского университета*. 2001. № 1. С. 7-20.
3. PARTINGTON, M. *Introduction to the English Legal System* (15th edition). Oxford: Oxford University Press, 2021. 382 p. ISBN: 9780198852926.
4. BURCHARDT, D. The Functions of Law and Their Challenges: The Differentiated Functionality of International Law. In: *KFG Working Paper Series*. Berlin: Berlin Potsdam Research Group „The International Rule of Law – Rise or Decline?", 2018. nr. 17. ISSN 2509-3762.
5. АЮПОВА, З.К. Структура и функции правовой системы. В: *Современное право*. 2005. № 10. Доступно: https://gclnk.com/YRB8XVxr [Просмотрено: 20.06.2025].

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