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LAW AS A SOURCE OF LAW: CONCEPT, TYPES AND PLACE IN THE SYSTEM OF LEGAL REGULATION

ЗАКОН КАК ИСТОЧНИК ПРАВА: ПОНЯТИЕ, ВИДЫ И МЕСТО В СИСТЕМЕ ПРАВОВОГО РЕГУЛИРОВАНИЯ

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Abstract: This article examines law as a primary source of law in the modern legal system. The study analyzes the concept and essential features of law as a normative legal act of the highest legal force, its types and hierarchical structure. Special attention is paid to the constitutional law as a fundamental source of the national legal order, as well as the role of federal constitutional laws and federal laws in the regulation of social relations. The article considers the correlation between law and subordinate normative acts, explores the principles of supremacy and direct effect of law.

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The research relies predominantly on scholarly articles, normative legal act, and doctrinal sources in the theory of law.

Keywords: law, source of law, normative legal act, legal force, constitution, legislation, legal regulation.

Аннотация: В статье рассматривается закон как основной источник права в современной правовой системе. Анализируются понятие и существенные признаки закона как нормативного правового акта высшей юридической силы, его виды и иерархическая структура. Особое внимание уделяется конституционному закону как основополагающему источнику национального правопорядка, а также роли федеральных конституционных законов и федеральных законов в регулировании общественных отношений. Рассматривается соотношение закона с подзаконными нормативными актами, исследуются принципы верховенства и прямого действия закона.

Ключевые слова: закон, источник права, нормативный правовой акт, юридическая сила, конституция, законодательство, правовое регулирование.

The concept of a source of law occupies one of the central positions in general theory of law and constitutes the foundational element of any legal system. In the continental (Romano-Germanic) legal tradition, to which the Russian legal system belongs, law — understood as a normative legal act adopted by an authorized state body — represents the primary and most authoritative form of legal expression. The importance of law as a source of law stems from its capacity to consolidate the most significant social relations, reflect the sovereign will of the people, and ensure the predictability and stability of legal regulation.

The relevance of this study is determined by the evolving nature of the legislative process, the increasing complexity of normative legal systems, and ongoing scholarly debate concerning the hierarchy of sources of law. As V.S. Nersesyants noted, "law is the primary and most important form of expression of the will of the state in the sphere of legal regulation" [1]. Modern constitutional practice

and doctrinal sources indicate that a precise understanding of the legal nature of law is indispensable both for lawmakers and for practitioners applying legal norms.

The purpose of this article is to analyze the concept of law as a source of law, to examine its essential features, classification, and place within the system of sources of law in the Russian Federation.

1. The Concept of Law as a Source of Law

In the theory of state and law, the term "source of law" is used in several meanings: as a material source (social conditions giving rise to law), a formal source (the form of external expression of legal norms), and a historical source (documents and monuments of law). For the purposes of legal practice and doctrinal analysis, it is the formal source that is of primary significance [2].

Law, in its formal-legal sense, constitutes a normative legal act of the highest legal force, adopted in a special procedure by the supreme representative (legislative) body of state power or directly by the people through a referendum, regulating the most important social relations. This definition incorporates several essential features that distinguish law from other normative acts.

First, law possesses the highest legal force within the domestic normative system: all other normative legal acts must conform to it and may not contradict its provisions. This principle is enshrined in Article 15(2) of the Constitution of the Russian Federation, which establishes the obligation of state bodies, local self-government, officials, citizens and their associations to comply with the Constitution and laws [3].

Second, law is adopted through a special legislative procedure characterized by strict procedural requirements: introduction of a legislative bill, its consideration and passage, signing by the head of state, and official publication. As M.N. Marchenko observes, procedural formality is a guarantor of the quality and legitimacy of legislation [4].

Third, law regulates the most important social relations: the constitutional order, rights and freedoms of individuals, the basis of federalism, and other fundamental matters. This criterion of subject-matter significance distinguishes law from subordinate normative acts, which govern less significant or technical questions.

2. Types of Laws and Their Hierarchical Structure

The legislation of the Russian Federation establishes a clear hierarchy of normative legal acts, at the apex of which stands the Constitution. Based on their legal force and subject-matter, laws may be classified into the following categories.

The Constitution of the Russian Federation occupies a special place as the fundamental law of the state. Its supremacy is absolute: no law or other normative act may contradict constitutional provisions. The Constitution establishes the foundations of the constitutional order, human and civil rights and freedoms, the system of state power, and the federal structure of the state. Its provisions possess direct effect throughout the entire territory of the Russian Federation, which means that citizens may invoke constitutional norms directly, without mediation of any ordinary legislative act [3].

Federal constitutional laws occupy the second level in the hierarchy of normative legal acts. They are adopted on matters specifically designated in the Constitution (Article 108), require a qualified majority in both chambers of the Federal Assembly, and may not be vetoed by the President. Among them are laws regulating the judicial system, the state of emergency, the referendum, and other constitutional matters of special significance.

Federal laws constitute the most numerous categories of legislative acts. They regulate a broad spectrum of social relations and are adopted by simple majority in the State Duma, followed by approval of the Federation Council and signing by the President. Federal laws may be either codified (e.g., the Civil Code, the Criminal Code, the Labor Code) or non-codified (sector-specific legislation).

At the regional level, laws of the constituent entities of the Russian Federation

operate within their subjects of exclusive jurisdiction and shared jurisdiction with the federal center. They must not contradict federal legislation and are subject to the principle of federal law supremacy in cases of conflict [5].

3. The Supremacy of Law and Its Significance in the Legal System

The principle of the supremacy of law constitutes a cornerstone of the rule-of-law state. It implies that law stands above executive and administrative discretion that the activities of all state bodies are bound by legal norms, and that citizens are protected from arbitrary governance. As the Constitutional Court of the Russian Federation has consistently emphasized in its decisions, the principle of legal certainty requires that normative acts be formulated with sufficient clarity and consistency so as to allow citizens to foresee the legal consequences of their conduct [6].

The relationship between law and subordinate normative acts is governed by the criterion of legal force. Subordinate acts — decrees of the President, resolutions of the Government, departmental instructions — are adopted on the basis of and in execution of laws. They may specify, detail, and develop legislative provisions, but may not establish rules contradicting the law. In this connection, scholarly literature emphasizes that subordinate regulation fulfills an auxiliary function, ensuring the operationalization of statutory norms [7].

The direct effect of law is also of critical importance. In the Russian legal system, this principle was elevated following the adoption of the 1993 Constitution. It means that statutory norms (and especially constitutional provisions) apply directly in the resolution of concrete cases, without requiring intermediate normative regulation. This is particularly significant in the field of fundamental rights, where the absence of implementing legislation does not justify the refusal to protect a violated right.

4. Law in the System of Sources of Law: Comparative Perspective

A comparative analysis of legal systems demonstrates that the role of law as a source of law varies significantly across legal families. In common law systems

(England, the United States), legislation coexists with binding judicial precedent, and the latter traditionally played the dominant role in legal development. However, since the twentieth century, the legislative process has expanded considerably even in these jurisdictions, and today statutory law substantially supplements and overrides judge-made law [4].

In the Romano-Germanic legal family, law has historically occupied the paramount position. Countries such as France, Germany, and Russia have developed sophisticated legislative systems underpinned by codification. German legal scholarship, for instance, has elaborated a detailed theory of Stufenbau (hierarchy of norms), associated with Hans Kelsen, which posits that each lower-level norm derives its validity from a higher-level norm, culminating in the Basic Law (Grundgesetz) [8].

In international law, the analogue of domestic legislation is found in international treaties, which under Article 15(4) of the Constitution of the Russian Federation form part of the national legal system and, in cases of conflict with domestic legislation, take precedence over it. This provision reflects the growing integration of international and domestic legal orders and the recognition of international law as an authoritative source of legal norms [3].

Conclusion

The analysis conducted in this article leads to several principal conclusions. Law, as a formal source of law, represents the highest form of normative expression of state will, distinguished by its supreme legal force, special adoption procedure, and subject-matter significance. The hierarchical structure of legislation — from the Constitution through federal constitutional laws and federal laws to regional legislation — ensures the coherence and consistency of the normative legal system.

The principles of the supremacy and direct effect of law guarantee the protection of rights and freedoms and impose clear limits on the discretion of executive bodies. The relationship between law and subordinate acts is built on the

foundational criterion of legal force, according to which all subordinate regulation must conform to statutory provisions.

In the context of the rule-of-law state, law occupies an irreplaceable position as an instrument of organizing social life, protecting human rights, and securing legal certainty. Continued scholarly attention to the theory of law as a source of law is therefore essential for the improvement of legislative technique and the development of constitutional principles in practice.

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