SOциально-философская сущность судебной реализации закона

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Абстракт. Эта статья посвящена рассмотрению социально-философской сущности судебной реализации закона. В статье анализируются различные подходы к определению судебной реализации закона в современном контексте. Судебная реализация закона рассматривается как социальная сущность, функции которой и развития, включая причины и права других лиц для решения споров о реализации закона. Определение сущности судебной реализации закона, определение судебной реализации закона. В юридической науке, судебная реализация закона, отождествление сущности судебной реализации закона, отождествление судебной реализации закона. В юридической науке, судебная реализация закона, отождествление сущности судебной реализации закона, отождествление судебной реализации закона. В юридической науке, судебная реализация закона, отождествление сущности судебной реализации закона, отождествление судебной реализации закона. В юридической науке, судебная реализация закона, отождествление сущности судебной реализации закона, отождествление судебной реализации закона. В юридической науке, судебная реализация закона, отождествление сущности судебной реализации закона, отождествление судебной реализации закона. В юридической науке, судебная реализация закона, отождествление сущности судебной реализации закона, отождествление судебной реализации закона. В юридической науке, судебная реализация закона, отождествление сущности судебной реализации закона, отождествление судебной реализации закона. В юридической науке, судебная реализация закона, отождествление сущности судебной реализации закона, отождествление судебной реализации закона. В юридической науке, судебная реализация закона, отождествление сущности судебной реализации закона, отождествление судебной реализации закона. В юридической науке, судебная реализация закона, отождествление сущности судебной реализации закона, отождествление судебной реализации закона. В юридической науке, судебная реализация закона, отождествление сущности судебной реализации закона, отождествление судебной реализации закона. В юридической науке, судебная реализация закона, отождествление сущности судебной реализации закона, отождествление судебной реализации закона.
framework of the powers granted to him/her by the legislator), the principle of procedural form (strict observance of the stages of law enforcement), the principle of reasonableness (the presence in the case of admissible and relevant evidence allowing to decide on the case), the principle of social justice (protection and respect for the rights and freedoms of the process participants) [3].

The philosophical nature of judicial law enforcement should not be considered as an operation on the rule of law, but an operation on the fact of using this rule as a subject of law. That is, the law enforcement act regulates a specific situation with the general will of the legislator.

The law enforcements acts are categorical in nature, their publication does not depend on the will of those who are affected by the resulting legal relationship. At the same time, the issuance of a judicial law enforcement act is connected with the will of the persons covered by the law enforcement act. Moreover, a legal relationship can be created even against the will of the persons participating in it, but at the initiative of another authorized party (bringing to legal responsibility).

Considering the entire process of judicial law enforcement, it can be concluded that the subject's initiative is a factor that precedes the publication of the law enforcement act. Thus, the issuance of a court decision is impossible without the application submission to the court by the subject of law. At the same time, the application submitted to the court is not a direct basis for issuing the judicial law enforcement act, is not directly related to the nature of these acts and their authoritarianism. The judicial law enforcement act means the decisions made in accordance with the established procedure and directed to the resolution of the case, as well as various records of organizational and functional nature, court documents.

3 RESULTS AND DISCUSSION. Considering judicial law enforcement activity through the prism of social aspect, it can be represented as a conscious purposeful impact of the courts on people's behavior in order to bring their actions in line with the legitimate interests of the state or individuals through the administration of justice. The social nature of law enforcement is determined by the need to organize social relations. That is why the nature of law enforcement can be described as a management. In addition, the nature of judicial law enforcement activity determines the creative nature expressed in the search and selection of a legal reasoned decision in the case by a judge. It is noted that the creative component in the nature of judicial law enforcement activity is objectively limited by the prescriptions of the legislator, expressed in the content and meaning of legal norms. However, it should be noted that a strictly formalized process of judicial law enforcement does not contradict its creative nature, since in this case it is considered as the need for strict compliance with the procedural rules. Thus, the creative nature of judicial law enforcement activity relates to its content, and formalism - to its form [4]. The main purpose of judicial law enforcement is the satisfaction of needs, which do not belong to the court, but to the subject of law. That is, the court in this case is a third-party, not interested authority figure, whose goal is to restore justice and social balance.

I.Ya. Deryagin singles out the law enforcement as a method of legal influence on public relations, which has two functions: security and individual regulation function. At the same time, I.B. Shakhov, not agreeing with this classification, notes that the term “law enforcement” does not reflect the essence and objectives of law enforcement in modern society. The fact is that the law itself is not guaranteed as a regulatory prescription, but its implementation in the process of law enforcement. Within the problem outlined, it seems logical to distinguish the general social and special legal functions of judicial law enforcement. The first reflects the impact of judicial law enforcement on social processes and the impact on various social fields. The specific legal ones include also the cognitive function (manifested at the stage of studying the case materials and finding the applicable norm), the function of regulating public relations (this function is manifested at the stage of deciding on the case and the stage of facilitating its implementation), as well as the law enforcement function.

In addition, it is possible to distinguish the auxiliary functions of judicial law enforcement. They include the educational function, the function of promoting international cooperation, the information function. The value of the first of these functions is obvious, further we will explain the meaning of the rest.

In the modern integration conditions, the courts can (and often should, by virtue of the international legal obligations of a state arising from its participation in the international treaties, its membership in the international organizations, taking into account the legislative norms ensuring compliance with these obligations, addressed to the state bodies, including the courts) perform the function of judicial assistance to facilitate the international cooperation in matters within the competence of a court [5]. In this case, we are talking about such actions of the court, as, for example, sending a request for legal assistance to a court of a foreign state or recognizing and enforcing a decision of an international or foreign judicial body. In the course of law enforcement activity of the court, it is accumulated the information transmitted to the legislator, who evaluates it and makes the necessary changes to the legal system [6]. This is due to the fact that the court as a law enforcer is the first to encounter in the course of its activities with the changes and complications in public relations, which expresses the importance of the information function of judicial law enforcement.

When analyzing the judicial law enforcement, the supporters of a sociological approach highlight the so-called dysfunction of the judicial law enforcement activity [7]. This term describes the process of formation and creation of legal rules by the courts in the course of its law enforcement activity. Despite the fact that the court is the body applying the law, and not the legislator, its interpretation of the legal rule can turn into lawmaking. However, such a function transition is not
necessarily a negative phenomenon. In addition, the dysfunction of judicial law enforcement is represented by the cases where the law enforcer (court) adheres to the literal text of the rule and neglects the development of social relations and the realities of modern life. [8]

4 SUMMARY. Summing up, it can be noted that the nature of judicial law enforcement differs from other forms of law implementation. While the satisfaction of the subject's need in the law implementation is related to compliance with the norm, the rule compliance is primary in the case of judicial law enforcement. At the same time, it is often possible to face a situation where the need of the subject of law does not coincide with the requirement of the rule of law, and a number of factors caused by this discrepancy influence the law enforcer. In this case, there are two ways of settling public relations: the authoritarian subordination of the subject to his/her will (use of state coercion methods) or the search for a compromise option to balance the interests of the state and the interests of the subject of law in the process of judicial law enforcement. [10]

5 CONCLUSIONS. Summing up, it can be concluded that it is impossible to avoid a contradiction of interests in the course of judicial law enforcement, since they are caused by an internal contradiction between the political nature of law and the personal qualities of the law enforcer (judge). Thus, it is obvious that it is necessary to create a single mechanism for overcoming such contradictions and eliminating the negative impact of external factors on the judicial law enforcement activity and its legality [11].

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