SOCIO-PHILOSOPHICAL NATURE OF JUDICIAL LAW ENFORCEMENT

Valeriya Kurnosova,
Kazan Federal University, v.petrushkina@bk.ru

Abstract. The article is devoted to the consideration of the socio-philosophical nature of judicial law enforcement. The paper analyzes various approaches to the nature of law enforcement, in particular judicial, which has made it possible to consider the basic elements of judicial law enforcement as a legal relationship in general. Judicial law enforcement activity refers to the activities of the competent authorities, the main purpose of which is the resolution of legal conflicts through the administration of justice. The formal specific nature of this activity is expressed in the features of the stages and acts of judicial law enforcement activity derived from the features of the court procedure as a whole, the specific nature of the competence and powers of the courts and procedural forms [1]. However, in its nature, judicial law enforcement is a social activity that requires careful study due to the ongoing political, economic events, as well as the development and reform of national and international judicial bodies. Identifying features of the nature of judicial law enforcement, identifying the main functions of judicial law enforcement as a method of state-power influence on public relations is necessary to develop further strategies to improve the efficiency of law enforcement practices of the courts and to form a holistic scientific concept of judicial law enforcement activities reflecting the modern realities of law enforcement practice.

Key words: social nature of judicial law enforcement, functions of judicial law enforcement, legal relations, judicial activities, regulation of public relations.

1 INTRODUCTION. The problems of judicial law enforcement in the context of social detail are distinguished by their versatility and complexity. The development of judicial law enforcement functions and the development of functions of quasi-judicial bodies determine the increasing relevance of the issues involved. The study of this issue is necessary in order to develop actual theoretical ideas about the direction of the future legal policy of the state.

At the present stage of developing legal science in matters of knowledge of law, we may note the trends to self-reflection and rethinking. This factor objectively determines the growing interest of scientists to the problems of the philosophy of law enforcement, especially judicial law enforcement.

2 METHODS. 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 [2].

The study of judicial law enforcement activity in its relationship with the socio-political processes should be carried out taking into account the comprehensive nature of this field of scientific knowledge.

By analyzing the constituent elements of judicial law enforcement, it is possible to identify various approaches of the authors to their content. The domestic scientists began to study the theoretical problems of law enforcement in the early XX century. Thus, G.F. Shershenevich revealed in his works the process of law enforcement as a syllogism, in which a large premise is a legal norm, and a minor premise is a given case, a particualr relationship. A.T. Bonner referred in his writings to law enforcement as summing up a particualr life case under the general formula of the rule of law. This process can be presented as a logical deductive reasoning, the construction of a syllogism, in which the legal norm or a set of norms serves as the main premise, and the actual circumstances of the case are the small premise. The basic elements of judicial law enforcement as a legal relationship can be defined as follows.

The subject of knowledge in the judicial law enforcement is the actual circumstances of the legal case, and the applicable sources of law. Materially, they are presented in the form of evidence and texts of the regulatory legal acts and by-laws. These components of the subject matter of the study most qualitatively reveal the object of study and contribute to the achievement of the ultimate goal of judicial law enforcement - the establishment of truth and the issuance of a law enforcement decision. The object of knowledge is only those circumstances of the case that are relevant to a particular legal case and the rule of law governing these essential factual circumstances.

The objective side refers to law enforcement relations - a special kind of legal relations. These legal relations are characterized by the inequality of the subjects-participants in the law enforcement activity. In legal science, judicial law enforcement is understood as a vertical “power relationship”, the content of which is represented in a legal component by the authority of the competent subject to resolve the disputed legal relationship or the rights of other subjects to resolve the disputed legal relationship, and the actual component is represented by the lawful acts to implement these powers. This circumstance reflects such an aspect of judicial law enforcement as the law enforcement guide (judicial guide) expressed in the traditional relations of the court with the process participants. [2]

The principle of knowledge in the law enforcement activity (with a certain degree of convention) can be the principle of truth - the purpose of this activity is to establish the truth in the case. It should be remembered that the principles of knowledge in law enforcement and the principles of law enforcement are different categories; of course, it is possible to identify such principles of knowledge as the principle of legality (an action of the law enforcer within the

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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