FORMING AND DEVELOPMENT OF LAW-MAKING PRINCIPLES SYSTEM AND ITS MEANING FOR LEGAL ENFORCEMENT OF SUITABLE LEGAL REGULATION MODEL

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Abstract: There is a law-making principles system worked out in the paper. It plays the great role in creation or choice of legal regulation model. When elaborating the latter, the deep interaction between law-making and law principles takes place. The deeper interaction is put by a legislator into model background the better public regulation is carried out. The analysis of law-making principles and their role in model forming performed using the information from law and academic books is carried out. There is an example of using for system cited in paper. The law-making principles turn off maker of law's weakness of professional skills to a certain extent, due to the establishment of legal regulation to a point, create barriers against affecting of lobby and corrupt officials, and indicate the general valuables to be confirmed in legal acts. When drafting the regulations, the maker of law cannot directly neglect the law-making principles. Therefore, to upgrade his/her professional skills, the maker develops a level of his\her competence in law while collegial law-making body invites the specialists from among scientists and practioners to prepare a project of coming act.

Keywords: law-making, principles, system, legal act, model, social valuables, maker of law, legal regulation, project.

1. INTRODUCTION

The law-making principles are a basement for the complex legal phenomenon, which combines both the activity of authorized bodies in legal acts adoption field either the study of objective necessity to adopt them as well as the optimal forms for their legal confirmation. So law-making subjects are guided by not only law-making principles, but law principles as well. Whilst the ones and the others serve the same regulative functions though their tasks

are mostly different [6]. The law principles regulate public relationships through the establishment for their legal order to exercise the rights while the law-making principles regulate the procedure needed for legal acts to be adopted. The first case contains the basement of principles to put in good order the public relationships having an objective integrity and being exercised via drive of social, economic, politic, moral, spiritual and cultural processes formed in society [18]. The second case concerns the regulation of relationships formed during law-making bodies activity aimed to the adoption of legal acts e.g. they are oriented to the law-making process ordering rather than public relationship regulation. Therefore, the law-making principles task is to regulate the intelligent and volitional relations, which carry a subjective nature despite of objectivity of their actualization need.

The nature of law principles is that "they are carried through the stable reproduced life activities in society" [10]. At the same time it is necessary to take into account that "when forming and establishing the main regulative grounds, the law principles create basic conditions and ability to channelize the correct understanding the intentions and the explicit wording of law both in law-making process and in application of law" [5]. It exhibits the universality of law principles, their ability to effect both primary relationships resulted from natural history of state and society either the secondary relationships associated with regulatory activity of law-making process carried out to regulate them. The law principles express the objective need for public relationships to be regulated, form a system of most important valuables to support the maker of law during legal acts issuing and adoption [12].

The law-making principles are the waymarks likewise, but only for law drafting activity and their task is to establish the criteria for issuing and adoption of legal acts of high quality, which are aimed to regulate public relationships. E.g. law-making principles impact zone directly comprises the law-making process and relations linked [22]. However, determining of public relationships range to be influenced by law-making principles is insufficient to form the law-making principles system. At least the scope of enactment needs additionally to be set in order to understand what kind of law-making principles can provide an achievement as well as guiding law principles, which make these law-making principles to correspond therewith.

This is a difficult and patient work filled via researching and legal analytical activities in the framework of which such of issues as scope and justice form of legal act adoption, legal regulation model, determining of the main law principles to be actualized in legal act issued should be resolved. Just after the procedure, the law-making principles constituting a basement for drafting and adoption of legal act considered can be determined [24]. Among these issues, the main one is to choose the suitable model for public relationships regulation. The maker of law shows the level of relationships functioning that's tantamount and the inner potential built-in to provide the actualization of ideals and valuables inherent, indicates an objective need of public relationships to get regulated in a kind of.

It is necessary to bear in mind that "valuables do not determine the norm, concise parameters and standards for people's behavior desired by state can but work out the general direction of activity. The valuables, in a fact, only approve one or another kind of activity aimed to reach certain result" [9]. The valuable figures show only the vector of law-making activities by gearing maker of law towards the result to be achieved when elaborating given legal act. One or another valuable formed in public conscience serves as universally received criterion that tells about state's social dimension. Due to its state of being relevant, this valuable brings about the content of public regulation model in equitable manner. The valuables inherent to the given society are begot by it per se and can be contingent of on the law norms (e.g. those of Russian Constitution, universally received principles and norms of international law), people's moral and spiritual values, long-standing cultural deliveries and folk-laws.

2. METHODS

When choosing a model for regulatory environment, maker of law has to resolve the following topics concerning the scopes and content of legal act issued: 1. What is the matter for given public relationships to be legally regulated? 2. What is the eventual result to be provided via legal act power? 3. Which way of legal regulation should be used: either that based on conventional public regulation procedures or other accounted for possibilities of creative law-making when regulatory command addressee actively joins in their actualization? 4. What is the manner in which the law-making principles system interacts with general and branch law principles when throwing off one point after another to improve the process of working out and adoption. In addition, how will it promote to achieve the scopes of legal act issued? 5. Whether are there monetary, financial, political, organizational and other possibilities to actualize the legal act adopted? 6. Interpreting of law norms through law-making principles application is also important (writing the law in view of its interpretation). Which is the lesson we can draw from the authors of "How to do things with rules "? The first lesson is that we have to write the legislation taking into account the fact that it has to be interpreted. Therefore, we have to keep in mind the legal and cultural rules which support the interpretation of the law.

Having formed the law-making principles system, we can give the term of public regulation model that is an establishment of scientifically based markers telling about governmental and public positions to be achieved in lights of the law-making principles had been actualized in laws. The nature of the model constitutes that it is a row of the main exponents grounding civil society and ruled of law state; there are the exponents that make the legal act issued to meet their requirements; the law-making principles should be also determined in according to it. This is multifaceted gathering concept formed if plurality of structural elements constituting the given need would be considered. At this time, the aforementioned model is idealized characteristic for wording of the needs following from the direct regulatory prescriptions, the goals of legal regulations and long-held public perceptions for state and law destination. It should be emphasized that model is idealized i.e. created by maker of law as discrete quality criteria of coming legal act to be governed by them [15].

At any one time, the model of public relationships regulation can be also a sample for theoretical simulations based on scientific receipt about possibility to enforce legally ideals of civil society and ruled of law state as if the model would have been produced by law science, particularly, by general law-making theory. However, it does not mean that having issued the act, maker could wholeheartedly actualize in law norms the parameters included by the scientists into the model. This is because the process of the model forming itself is of a subjective nature although premised on the objective factors to start with. Though the supreme law-making body of the country is the parliament, it usually delegates [assigns], its power to make the law through the laws it has made to specific authorities in charge of that law. This authority to which power to make law is delegated by the parliament will make a valid and enforceable law only when it does not exceed the powers granted to it. The laws made by delegated power are known as by-laws, regulations and circulars, or subsidiary legislation [11].

3. RESULTS AND DISCUSSION

The model of legal regulation gives certain level of law-making solutions necessary for public relationships emerged, establishes the criteria for relationships to be corresponded to, creates the barriers hurdling to issue and adopt a wrong or non-effective legal act due to the maker's professional weakness and other factors to some extent. Therefore, the law-making process as authorized bodies' activity to issue the acts carries subjective nature [8] However, this activity is associated with regulating law norms forming constituted

via objective need to exercise such of regulation. Therefore, the principles to be underlain in law-making process comprise simultaneously two elements of define. On one hand, they are oriented to control over the subjective component and pose the criteria appointing legal act issuing itself, on the other hand, from objective element position, they are value orientations used by makers of law to rule the public relationships often towards the behavior desirable by state. Legislation is the most effective and important source of law. If the rule of law is to have effect, it must be expressed in the form and content of legislation [9].

It follows that law-making principles designation is double: 1) Inner designation is to regulate the maker's activity within their competence extent; 2) Exterior designation contributes the process of public regulation carried out in combination with law principles (general and individual branch principles) corresponding to the law-making ones. Taking into account the functional use, an analysis of law-making principles shows that they are constituted both of subjective element of whole legal act adoption process either its objective element. So that the principles of professionality [16; 20], feedback of law-making [17; 25], , technical legal perfect [16], feasibility [20], operational efficiency (Ibid), communications with practice (Ibid) express mainly the subjective element of law-making process and constitute the mechanism to put legal acts issuing activity into the order. Their demand appears in the need to resolve the law-making tasks, need to adopt the legal acts of high quality because they set up the landmarks for makers of law to do well. The use of the principles does spring for improvement of public regulation quality.

At the same time, such of principles as democratism [19], publicity (Ibid), constitutionalism [16], legitimateness [19], rightness [14], legal pluralism [7] are the landmarks to control and regulate objective needs of public relationships nothing if not. They correspond to becoming law principles and are guidance for legal framing hic est. regulate the process of public orderings while the process for their creation somewhat of law sense, "law is certainly much more than state law, and that people's laws and their diverse values and ethics should be treated with more respect by legal orders" [13]. When interacting with each other, the law-making principles, in turn, mostly constitute one objective element after another subjective whereas each of them contributes a need to use also the principle of other kind (e.g. *ruling principle* vs *authorized* one or vice versa) which facilitates the improvement of legal act issued.

The law books note there is no law-making principles system formed [7] because "uniform method to understand the role of each principle in law-making process is not found yet. Thereat Russian legislation seems also not to contain the definitive nomenclature of law-making principles that poses extra difficulties for public regulation [27]. We prove that law-making principles system should be formed taking into account their functional use. That is just the method to make clear what regulative role is played by each principle, to sound out what of any other principles can provide the superior public regulation. There are two main law branches: public law and private law, each of them has its own law-making and law principles. "Private Bills usually affect the private rights or interests of particular persons such as corporate bodies, a club or a church.

Public Bills or Government bills deal with matters of general, public interest affecting the entire citizenry such as the prices of goods and services or traffic regulations" [26]. The main problem determining the model of public regulation is the scope of legal act, which indicates the eventual result the maker of law would achieve. Regardless of legal act kind and power, the result as whole legal state system shall be directed towards to the achievement the goals, valuables, ideals which are enforced by Russian constitution and resulted from universally received principles and norms of international law. Firstly, the followings are:

1. Providing of stable forward-step social, economic, political, spiritual and cultural development for the society and state, maintaining of social fairness and stability. Resolving of these tasks is carried out by the state as result of public regulation via the law norms. However, these tasks could be solved if the state's social dimension would be sufficiently high; the state would address to the indigenous public life that provides state's virtue and good observance, creates normalized and observed position for the power [23]. Therefore, maker of law must issue the acts resulted from interests of all layers of society, save human and citizen's rights regardless of any peculiarities of their political, religious, cultural points of view and nationality. The maker of law is authorized state officer who performs public regulations. Due to this, he/she must always achieve the full combination between targeted legal acts issuing and the goals to be resolved by state for "legal regulation can be determined as only such of effects, which set their goals in sufficiently obvious manner.

2. Resolving of any conflict situations (interpersonal, economic, social, political etc) via means of legal remedies, creation of law state statutory framework as the model for organization of the modern democratic society providing a) supremacy of constitution and law in every area of life; b) precedency of human rights and legitimate interests; their recognition as directly applicable; c) state authority's reasonable and lawful solutions; d) combination of state sovereignty and acquiescence of priority of the international principles and norms in some extent.

3. Issuing of legal acts aimed to make the public relationships to correct by themselves, to decrease state participating in private interpersonal relationships.

Example is cited from problems of transport law. The law-enforcement practice and scientific and educational activities should be improved and interposed into uniform registration policy framework, into legal drafting regulation in time and their interrelation. So that, transport policy issues should be revised not only in view of legal acts changes but increasing of limitations for senior management (including PLC, management members) and their relatives. Particularly, their double citizenships and foreign money accounts must be prohibited. Surely, the life of both society itself (fight against corruption and transport infrastructure safety) and social-economic important objects should go forth taking into account modern requirements. It should develop in the framework of the requirements posed via suitable Federal Laws, particularly, in accordance to Federal Laws:

- 09.02.2007 # 16 "O transportnoy bezopasnosti" (in accord. to changes 02.08.2019). Particularly, sec. 5 of this FL should be added with term mutual legal personal, society and state responsibility in the field of transport safety providing (TSP). Moreover, operational personal and their relatives' double citizenships and foreign money accounts must be prohibited. Directly due to the lack of such prohibitions, multi-billion frauds in the OAO RZHD and Roszheldor systems took place [1];

- 25.12.2008 # 273 "O protivodeystvii corrupcii" (in acc.to changes 26.07.2019). Thereat, Russian Federation Presidental Decree from 13.05.2017 # 208 "O strategii ekonomicheskoy bezopasnosti RF na period do 2030 goda" is not sufficient to solve social and economic issues [2; 21];

- 27.06.2018 # 167 "O vnesenii izmeneniy v otdel'nyey zakonodatelnye akty Rossiyskoy Federacii v Chasti protivodeystvia chicheniyu denezhnykh sredstv" [3];

- 31.05.2002 # 62 "O grazhdanstve Rossiyskoy Federacii" (26.07.2019) [4].

So that, Rosavtodor data tell us that a fifth of 41 800 bridges are in poor status. The main reasons include obsoletion of buildings, maintenance neglecting and over-stress events. By nature, it is not correct under market conditions that owner (when multi-billion

frauds in transport fields take place) alleges the reasons of bridge break down. Therefore, having privatized the state property, the owners seem to allocate means for consequent upkeep and maintenance of the bridges aimed for any goals. The Federal Law to be adopted should establish an uniform registry for Russian bridges (the particular chapter should provide a technology to operate the bridges) which would offer not merely suitable safety providing but also the proper maintenance and the building of additional bridges. In fact, the owners do not allocate financial means as separate cost point from their incomings for they consider the bridges from consumer's point of view only. Now, the bridge accidents are put down to decay and earlier construction.

Another important problem is now bridge life sustaining. Therefore, there are 2.5 million rivers in Russia although no bridges in such amount. We are second (after Brazil) in line of soft water provision per capita. Road building is carried out in conditions where the rivers, brooks, lakes often crop up along designer's way and too expensive costs (due to the money-laundering) take place. These facts lack e.g. in China. This means that transport tasks resolving is impossible without building of new bridges. As more such there are only 2300-2500 bridges in Germany, there are more than 5 thousands rivers and 300 000 bridges in China so that no words about quick pace of Russian bridge policy. Hereby, increasing of bridge accidents and break down is typical. So only during 2018, approximately 100 bridges broke down.

Using of law-making principles system can be performed in the following manner. Firstly, corresponding law principles subordinating the law-making activity is found. Our case contains the principle of environment safety. Then corresponding ruling principles is used. Our case contains constitutionalism and rightness. The nature of ruling principles and law principles can across. Then one from authority principles is used, communications with practice and feasibility in our case. Based on this, not only qualitative and effective legal act regulating the building and maintenance of bridges, but bridges registry depending on bridge functional use and technical condition shall be adopted. The ruling principle of sovereignty can use as the hurdle for double citizenship persons to get corrupted and to launder. The authority principles also play their role in adoption of by-laws concerning bridge maintenance. In our case, planning should be firstly used. Thus, using of the system can promote more flexible bridge policy and resolve some theoretical and practical problems.

4. CONCLUSION

1. The principles of law-making basement constitute two elements of the process: objective and subjective. The objective element is expressed by inner public relationships need and characterized that social valuables and public ideals inherent to the society form due to the natural history. These ideals are universally received and become the guiding ideas and so attain a secular status of the principles which are at the forefront of the legal regulation; this kind of principles is called ruling principles. The subjective element constitutes that maker of law's activity to issue legal acts regulating public relationships are determined by law-making principles; this kind of principles is called authority principles.

2. The law-making principles are the parameters of social, economic, political, and spiritual maturity of state and society, when interacting with law principles, they form reliable criteria to issue the qualitative and effective legal acts and whole state legal system based on them.

3. The law-making principles system should be formed with allowance for functional use of given principle because this method offers to make clear the regulative role any one of them plays. The value of such classification lies in the fact that it offers to indicate, on one hand, the principles intended to regulate directly the public relationships, on the other hand, the principles regulating the maker of law's procedures at all adoption stages.

4. The meaning of law-making principles for legal confirmation of suitable public regulation model is that they determine its content, form and the process of maker's activity itself resulting output of the model.

5. CONFLICT OF INTEREST

The authors confirm that the information provided in the article does not contain a conflict of interest.

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