

Scientific and applied approach to the functions of civil law in the regulation of related subjects of legal protection

Kutenkov Alexander Alexandrovich

Undergraduate

Academy of Management and Production, Moscow

Kulikova Olesya Nikolaevna

Candidate of Juridical Sciences, Associate Professor

Saratov State Academy of Law

Abstract. In the lawmaking activity, which is the basis of Russian legislation, key functions are laid that determine the types of protective legal relations. The latter are provided through their legislative consolidation and, thereby, the regulatory function of law is carried out. General legal and intersectoral areas of regulation and protection are reflected in the material and procedural legislation of the Russian Federation. Our work is based on understanding the scientific and research nature of the legal regulation of related legal relations, protected by the norms of civil law and the criminal law cycle. The purpose of our study is to determine the specific types of functions of civil law in the regulation of related subjects of legal protection, to outline the scientific, applied and conceptual components.

Keywords: functions of law, civil law, convicts, penal law, legal regulation.

The theoretical significance of the institution of functions of civil law of the Russian Federation at the present stage is traced in its universality as a means of increasing the efficiency of legal regulation of related subjects of legal protection. Accordingly, the applied value of the study is determined on the basis of generalization of the functions of the civil law industry in Russia, the limits of correlation with the subject of legal protection of other goods regulated by criminal law. In particular, the criminal-executive legislation of the Russian Federation provides a significant range of personal property and non-property relations of persons who are isolated from society.

In the lawmaking activity, which is the basis of Russian legislation, key functions are laid that determine the types of protective legal relations. The latter are provided through their legislative consolidation and, thereby, the regulatory function of law is carried out. General legal and intersectoral areas of regulation and protection are reflected in the material and procedural

legislation of the Russian Federation. Our work is based on understanding the scientific and research nature of the legal regulation of related legal relations, protected by the norms of civil law and the criminal law cycle.

The issues of process management within the definition of the sphere that is subject to legal protection, the presence of problems of its law enforcement and gaps in legislative regulation is an actual scientific research. This is primarily due to the fact that, according to the authors, it is necessary to define the role of civil law as the regulation of normal relations in modern society. Secondly, modern approaches to considering the functions of civil law as an integral part of a unified legal system, including, reflect other related subjects of legal protection.

The classical approach to the differentiation of basic functions includes their division into regulatory, protective, preventive and educational, preventive and stimulating. Summarizing the scientific material in this area, the opinions of scientists, practical implementers of civil law norms, we highlight the key aspects of the institution of functions of civil law in the Russian Federation at this stage of the development of the Russian state. So, the main functions of Russian civil law are such as regulatory, economic, protective, human rights, political, cultural, historical, socio-educational, compensatory and legal restorative. Note that the scientific and cognitive directions in the field of recent decades on the classification of the functions of law are associated with the statements of various views by such scientists as S.S. Alekseev, I.E. Farber, T.N. Radko, V.G. Smirnov, etc. And the problems of legal integration were touched upon in the works of prominent legal scholars of the late XIX - early XX centuries G.F. Shershenevich and A. Yashchenko. It seems necessary to at least briefly generalize this problem, taking into account the current level of development of legal science.

It seems to us that along with the indicated functions of civil law, which directly follow from the provisions of the domestic civil legislation of the Russian Federation or from its dogmatic and other interpretation, another function should be noted - integration. In its legal essence and legal content, such a function reflects the simultaneous legal regulation, legal protection of the same good by several branches of Russian law. Accordingly, a single subject of legal regulation is covered simultaneously by at least two laws. At the same time, this subject of legal protection is not in all of them the highest, in fact the only, interest of legal relations regulation by the norms of law.

Consider an example from the criminal executive branch that regulates the rights, freedoms and other general civil benefits and interests of persons isolated from society in connection with the commission of a crime. So, Civil law regulates public relations on the basis of discretion, equality and mutual assessment of participants in civil turnover, inviolability of property, freedom of contract and the inadmissibility of arbitrary interference by anyone in

private affairs. Convicted citizens serving sentences in places of isolation from society are participants in civil turnover and other relations arising from domestic legislation. This, in fact, is due to the fact that they are citizens of Russia and enjoy the corresponding rights, and a number of legal restrictions provided for by Russian laws for convicts, for the most part, are not related to the civil law of the Russian Federation. Confirmation of this is the provisions of the norms of chapters 2, 13 and 23 of the current criminal-executive legislation of the Russian Federation. In the first case, the law determines the legal status of convicts, where in Art. 12 of the Penal Code lists the rights of convicted citizens. In the second situation, the legislator reflects the conditions for serving the sentence in correctional institutions, along with which, in Art. 102 of Chapter 13, the limits of the material liability of persons serving imprisonment and the types of Russian legislation regulating these provisions are determined. Chapter 23 of the Criminal Executive Code of the Russian Federation reflects the procedure and conditions, other requirements and procedures for the execution of the death penalty.

Historical background regarding the death penalty. It is one-act and the most severe type of criminal punishment in the Russian Federation for committing a crime with increased public danger. Since 1997, the courts have not prescribed this measure as an exceptional measure that deprives a convicted person of life, but at the same time it is not excluded from the criminal legislation. It is currently a type of criminal punishment included in the system of measures of state coercion for a crime. Accordingly, the current criminal-executive legislation regulates the issues of the death penalty, such as the procedure for its execution and the legal status of a person sentenced to death. The latter is reflected in the current civil law of Russia.

Note that the functions of the Russian penal law are considered in the context of two groups. One of them is the main functions, which include regulatory and protective, and the second function is an additional one, that is, its clarification can be traced through a logical, comparative legal interpretation of the norms of legislation regulating the execution of criminal punishments. Additional functions include: corrective, educational, social, incentive. It is the corrective function that is of applied importance for the implementation of criminal law norms, due to the fact that the domestic legislation in force in the sphere of exercising the rights of convicts is focused on the execution of criminal punishment imposed on a person by a court for a committed criminal act. If the imposed punishment isolates the convicted person from society, then the correction of the person becomes an important task and function for the bodies ensuring isolation from society. According to Art. 9 of the Criminal Executive Code of the Russian Federation, the means of correcting him are applied to the convicted person, which are determined by the administration of the correctional institution.

The unambiguous conclusion of our study reflects the provision that the functions of civil law are implemented not only in the emergence of civil law relations, but in the implementation of other social relations that have arisen, protected by other types of Russian legislation. In the situation under consideration, it is relevant to talk about the allocation of such an independent function of law as integration.

The integration function is considered by us as the direction of legal impact in the form of legal methods and means, taking into account the peculiarities of the most significant social and legal relations regulated by other branches of Russian legislation.

Its direct meaning, which we put in the basis of our proposal - the allocation of an independent integration function of civil domestic law - is included in the scientific and applied rationale. First of all, the theoretical basis is determined by the explanatory and explanatory content of the function in question. So, in the opinion of the authors of the scientific editorial council of the publishing house "Soviet Encyclopedia": "Integration is the process of convergence and connection of sciences, which occurs along with the processes of their differentiation"¹. Integration (from Lat. Integratio - "connection") - the process of combining parts into a whole². Social integration is the process of establishing optimal connections between relatively independent social objects³. Along with this, in his dissertation research, E. G. Potapenko notes: "The complexity and increased social significance of economic, political, cultural integration predetermines the need to formalize and coordinate these processes using various legal means..."⁴. The author defines that integration in law is a kind of intrasystem legal integration and is defined as the integration of elements of the legal system into a structurally ordered integral unity, which has relative independence, stability and autonomy of functioning, which maintains the integrity and unity of law, the consistency and interconnection of its structural parts. These judgments confirm the integration legal function we are considering.

The foregoing confirms the possibility of separating an independent integration function of the civilian industry for the regulation of protected goods. Secondly, one should turn to the applied meaning of the function under consideration, which makes it possible to make it relevant for modern domestic law and legal implementation. It is understood that the integration function of civil law, reflected in the current Civil Code of the Russian Federation, is reflected in the implementation of other Russian legislation. In particular, civil legal relations are the subject of

¹ Soviet encyclopedic dictionary / Ch. ed. A.M. Prokhorov. – 4th ed. - M.: Sov. Encyclopedia, 1986. P. 495. – 1600 P., ill.

² Dictionary of the Russian language: In 4 volumes / RAS, Institute of Linguistic Research; Ed. A.P. Evgenieva. - 4th ed., Ster. - M.: Rus. lang.; Polygraph resources, 1999. P. 303. - 791 P.

³ Social integration. [Electronic resource] – Access <https://ru.wikipedia.org/wiki/%D0%A1%D0>. (Appeal date 26.08. 2021).

⁴ Potapenko E.G. Theoretical foundations of legal integration: diss. ... Cand. Jur. sci: 12.00.01/Potapenko Evgeny Georgievich. – Saratov, 2010. P. 9. – 225 P.

ensuring the civil benefits of convicts serving sentences in correctional institutions. Thus, the indicated interests of persons serving a sentence are regulated by the norms of substantive law and have significant applied significance. Especially when ensuring the personal constitutional rights of citizens of the Russian state.

Taking into account the foregoing, we note the integral component of the functions of civil law in the regulation of related subjects of legal protection through a scientific explanation of the meaningful meaning and applied confirmation by applying certain provisions of Russian legislation.

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