

## PHENOMENON OF LEGAL ATTITUDE: QUESTIONS OF THE THEORY

## ФЕНОМЕН ПРАВОВОЇ УСТАНОВКИ: ПИТАННЯ ТЕОРІЇ

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In scientific clause the phenomenon of legal attitude as element of legal consciousness and legal culture of the person is investigated. The interrelation and interaction of legal attitude with other components legal consciousness is analyzed. The role of legal attitude in legal culture of the person is defined. The conclusions concerning necessity of change of a place and role of legal attitude as by a component of legal consciousness in the theory of the state and law, and also expediency of realization of separate research of legal attitude, ways and methods of their formation are formulated during legal education of the person.

**Key words:** legal attitude, legal consciousness, legal culture, individual legal culture, lawful behaviour, legal education, theory of the state and law, formation, positive installation.

У науковій статті досліджується феномен правової установки як елементу правосвідомості і правової культури особи. Аналізується взаємозв'язок та взаємодія правових установок з іншими складовими правосвідомості. Визначається роль правових установок у правовій культурі особи. Формулюються висновки щодо необхідності переосмислення місця та ролі феномену правової установки як складової правосвідомості в теорії держави та права, а також доцільності проведення окремого дослідження правових установок, способів та методів їх формування в процесі правового виховання особи.

**Ключові слова:** правова установка, правосвідомість, правова культура, індивідуальна правова культура, правомірна поведінка, правове виховання, теорія держави і права, формування, позитивна установка.

В научной статье исследуется феномен правовой установки как элемента правосознания и правовой культуры личности. Анализируется взаимосвязь и взаимодействие правовых установок с другими составляющими правосознания. Определяется роль правовых установок в правовой культуре личности. Формулируются выводы относительно необходимости переосмысления места и роли правовой установки как составляющей правосознания в теории государства и права, а также целесообразности проведения отдельного исследования правовых установок, способов и методов их формирования в процессе правового воспитания личности.

**Ключевые слова:** правовая установка, правосознание, правовая культура, индивидуальная правовая культура, правомерное поведение, правовое воспитание, теория государства и права, формирование, позитивная установка.

**Background.** Legal Culture Ukrainian society is in the process of intensive formation, laid the first foundation of its elements: the codification made law by judicial reform, work is underway to harmonize national law and European Union law and so on. However, it should be noted that the individual legal culture is low, as evidenced by the low activity of legal citizens and low public confidence in the state as a whole, some public authorities, the judiciary, in particular. This necessitates finding optimum ways, ways of forming the legal culture of the individual. Within the legal awareness and legal culture of individual stands an important element – the legal power plants that actually determine the content and direction of legal behavior of individuals. Therefore, the study of the phenomenon of legal settings in the context of the theory of state and law is seen as relevant and has theoretical and practical value.

**The aim of this research paper** is to study the phenomenon of legal settings and its place and role in the legal culture of the people. To achieve this goal it is necessary to solve the following tasks: to investigate the nature of the legal unit, which is a psychological phenomenon and also an element of justice, to determine the place and role of the legal settings in justice and legal culture of the person to formulate proposals for redefining the phenomenon of legal settings and feasibility of individual legal research facilities in the context of the theory of state and law.

The subject of this article is to study the phenomenon of legal settings in the context of the theory of state and law.

Scientific and theoretical basis for writing served as the study of legal culture and consciousness, which performed Ukrainian and Russian scientists: O. Agranovskii, S. Alexeyev, V. Babkin, K. Belsky, V. Burmistrova, V. Golovchenko, A. Zaychuk, V. Zenina, D. Kerimov, M. Kozyubroyu, V. Kopeychikov, V. Kotyuk, V. Kudryavtsev, A. Lukashev, M. Matuzova, G. Markov, G. Ant, E. Nazarenko, V. Velvet, P. Rabinovich, R. Rusinov, V. Stuffing, A. Semitko, S. Slivka, S. Stanik, O. Tatoryntsevoyu, E. Fedyk.

Particular attention in the context of the subject of the article was given to monographic works on the problems of psychological and legal settings, F. Basin, M. Dyachenko, L. Kandybovycha, D. Uznadze, N. Shcherbakov.

The phenomenon was discovered setup German psychologist L. Lange in 1888 while studying errors of perception. The use of the term «unit» in the social sciences associated with the names of American sociologists UI Thomas and F. Znanetsko that describe how to install tendency («predrazpolozhenye» – n.) Mind of the individual in relation to social values (money, fame, human, etc.). Thomas and Znanetsky defined social psychology as the scientific study of plants.

Theoretical development problems installing belongs G. Allport (1935). It is generally its wording: «Installation is a state of psychological readiness, formed through experience and makes steering and dynamic influence on the reaction of the individual with regard to all objects or situations with which it is associated.»

Later, the concept of installing supplemented or clarified by various researchers and was determined or as «ready to positive or negative reaction towards corresponding objects» (Sarnofor, 1966), or as «socially significant unconscious reaction» (Eub, 1947), or as «state of readiness of thoughts, feelings and actions of the person in relation to any social objects» (V. Apolkor, 1962). All the information about the history of the phenomenon installs systematized scientists M. Dyachenko and L. Kandybovychem [1, p. 119].

Discuss the installation of the special symposia (Bordeaux, 1959, Moscow, 1966) found that «in spite of the diversity of connotations that are used to express ideas settings unchanged for them is an indication of the tendency of the subject to focus their activities in any specified direction» [2, p. 14-15].

General-psychological theory developed by Soviet psychologist installation D. Uznadze which is experimentally proved the existence of general psychological readiness of the individual to the needs activated in a given situation (current

setting) and established laws of securing such commitment during the repeated recurrence of a situation that can satisfy this need (fixed installation). Thus, the science unit was defined as a state of readiness, inclination (tilt) of the subject to a certain activity in a specific situation [3, p. 708].

Under the current areas of social and individual consciousness may provide political, economic, religious, moral, legal, and other settings. It should be noted that in the mind of the individual this division is somewhat arbitrary. Power plants in the minds of individuals is a complex mix, which dominate are those settings that are directly related to the way of life of the subject, its educational and cultural level.

However, legal settings can be identified in a separate unit, guided by the criterion of their relationship with the legal system of the society. That is all attitudes that reflect the willingness of individuals to express activity (or inactivity) in the field of law, be called legal.

Legal installations are classified according to the kind of behavior they cause: legitimate or illegal [4, p. 28-34].

Positive law is setting willingness to lawful behavior, which is based on a positive assessment of the person relevant legal provisions. In this case, the content of social attitude that lies in the rule of law (i.e., behavior that establishes and expects the individual state), coincides with the personality of an individual unit (i.e., behavior that matches the personal interests and objectives of the person matters to her). Positive legal system can be provided as the threat of legal liability (for the deviation from the «installed» state law behaviors) or adaptive lifestyle (person behaves «like everyone else» under the influence of their environment).

The concept of legal settings highlighted in the writings of many domestic scholars. By the definition of the legal setup different authors no major differences. This is because the concept was borrowed lawyers installation of psychology. Representatives of the latter thoroughly and comprehensively developed definition of the concept of psychological settings.

At the same time, legal scholars have developed their own, expanded the definition of legal settings, and examined its relationship to the point of law. Thus, AF Racehorse notes that the legal unit is the individual willingness to be active in the field of knowledge and the right. It is a specific program behavior in certain circumstances, which is formed from all appropriate legal entity (lawful and unlawful) knowledge, assessments, judgments, attitudes, habits, skills, aspirations, attitudes towards anyone or anything that move in the interests and aspirations. The emergence of legal settings include: (1) awareness of the rule of law, (2) understanding of its essence, and (3) evaluation, ie the degree of approval of the law, (4) attitudes towards the rights of others, (5) emotional distress on the functioning of the rule of law; (6) commitment to action [5, p. 464-465].

Thus, this element of justice depends on the degree of qualitative state (good behavior, legal activity, etc.). Thus, the legal unit occupies an important place in contemporary legal theory and is equally important theoretical and practical significance than such legal thing as «rule of law», «legal relationship» and so on. The importance of rethinking the place and role of the phenomenon of legal settings in the theory of law and can confirm these theoretical propositions.

The first, we know that the right has three forms of life: the rule of law, legal and justice related. We emphasize the fact that all three of these types of legal matter are equal, equally important to the science of law – a requirement dialectical, rational approach. Thus, the components of justice as necessary to investigate the theory, as well as elements of the law, the legal relationship.

The second, all three forms of being right is just different aspects of a single legal reality, interrelated and interacting categories. The rule of law establishes, implements, applies a specific group or person. Adoption of a legal act, its implementation and application of prior mental activity, the work of

justice, the end result of which is a legal setting – a willingness to accept, implement, apply the rule of law. Moreover, such a commitment cannot contain information about the law, programs, and activities under it. Installation, in general, is a kind of program that is ready implemented in the circumstances.

Rule of law is formally defined in the rules of conduct established or sanctioned by the state, is provided and protected her. A rule of conduct is in fact a program of actions (or inaction).

Thus, the rule of law and, above all, the Constitution is in fact formally define settings for all the people of Ukraine (which is guided by the will of Parliament), willingness to act in a certain way (or not act) on a given legal form.

For example, the MP who represents the will of the voters of a certain territorial unit or vote against the adoption of a legal act. In it there is a psychological condition orientation justice to the positive or negative vote. This condition is called and installation. So will the bill (as a set of rational information about the actions or inaction of law) by the law (formally defined unit) depend on the number of positive attitudes of parliamentarians within the representative body.

The right living units, same a complex installations and, in turn, gives rise to new settings.

The above is not a mere postponement of psychology in law. Thus, the installation monitored and studied psychology, but she was, is and will be the objective reality of consciousness, and hence justice (i.e., the law itself).

The very etymology of the term «installation» closer and introduces him to the field of law. Maxim – a «set» of action (or inaction). Public authority «decides» to take certain decisions.

Furthermore, strong-willed character setup even more closely to matching the rule of law concepts and attitudes. Indeed, the rate of positive law is a norm willy-installed law and therefore cannot be the nature of the installation.

The need for an understanding of the Constitution formally defined settings (and not just the rules of behavior) we thought suggests M. Koziubra: «As the world, and especially our own experience, even the most democratic constitutional provisions may remain a fiction if they diverge from real life not be implemented in practice. Thus, the nature of the constitution of the country, including our own, cannot be judged based solely on the fact that it is fixed, that is based on the dissemination of its text. Any evaluation of the Constitution should be based also on how its provisions are implemented in public relations. That is the extent of their implementation in practical daily activities of state bodies, public associations, officials and citizens is a key indicator of reality, the authenticity of the Constitution. In this sense we can say that the implementation of the Constitution is the way of actual existence, real life «[6, p. 11-13.]»

So M. Koziubra emphasizes that the actual existence of the Constitution – in practical day to day activities of law under the provisions of the Constitution. This is the real, actual, live right, if we take as a basis for a legal matter, as a relationship. In turn, the compliance practices specific individuals to the Constitution possible only if legal facilities to comply with the Basic Law. Mainly because the legal unit always contains appropriate provisions and contents, information on their rights and responsibilities, and procedures that is defined in the law, and above all – a crucial readiness to act (or omission display) according to «application» of the law. So can briefly describe the relationship of all three forms of life right kinds of legal matter and make a conclusion: if the basis is personal (person-dimensional, anthropological) approach to the study of legal phenomena (because man is the measure of all) the legal unit person synthesizes in itself all three forms of legal matter is the main and decisive unit of justice and law in general. There are, relatively speaking, a molecule legal matter consisting of atoms such as rule of law, relationship (the program), legal evaluations, attitudes, traditions and more. Privacy setting is not preceded by a specific behavior of individuals, determin-

ing its nature and direction, but continues to operate during the conduct of the law.

All the above justifies the need for a broader use of the term «legal unit» in the theory of law and providing a place commensurate with its importance. In general, most legal scholars have paid due attention to the phenomenon of legal settings, and new editions of legal textbooks indicate this fact [7-12].

So, as a result of the practical implementation of value treatment with freedom, which serves as a power engine, there is a new education – intellectual, emotional and volitional or legal setting. When the installation is meant the tendency or predisposition of the individual in some way perceive and evaluate information, processes, events, etc., and the willingness to act against them in accordance with this assessment. Taken together, the settings are organized into a system of values based on a belief system. Dominant settings define the orientation of the individual, his stance and describing the content side values. Accordingly, the legal focus – a set of legal settings, individual or community (group, collective) that directly form the internal plan, program activities legally significant cases [13, p. 383-384].

Corporate culture is the same person is actually positive legal orientation (positive part of the orientation in the field of law), so there will be a mistake to assume that the individual legal culture is a set of positive legal systems. Summary of all mental elements of legal culture to the complex legal person units are not simplistic. Because the human mind (and world as a form of identity) of a person – a single unit, and only theo-

retically possible to divide it into separate elements. Anyway, all the elements of the psyche that determine behavior transformed or part of the installation which immediately precedes behavior (every act) persons. Established that justice is the focal point, which accumulates all mental processes, properties and conditions that occur in a particular legal behavior is as a result of legal attitudes and values [14, p. 327-328].

Thus, we can say that a person is active legal culture is a set of positive legal settings based on the settings defining respect for rights and freedoms, honor and dignity. From the above we can draw two conclusions.

The first, there is a real possibility of legal education relevant settings on the inadmissibility of encroachment on the rights and liberties of another person, that is, respect for the rights and liberties of another person.

The second, legal education should begin from childhood, covering all aspects of social life in certain humanistic ideology. This in turn requires rethinking existing legal values: cocked at the top of the hierarchy of legal values such as human rights and freedoms of another person, creating undeniable axiom of higher value areas of freedom of another person and directing all legal means at its maintenance and protection.

In summary, we can conclude about the need to rethink the place and role of the phenomenon of legal settings as a component of justice in the theory of state and law as well as the feasibility of a separate study of legal systems, methods and techniques of their formation in the face of legal education.

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