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LEGAL REGULATION OF ETHICAL STANDARDS OF PROFESSIONAL ACTIVITY

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The article contains an analysis of the essence of ethical standards of professional activity. The author substantiates the expediency of applying an existential approach to understanding ethical standards. The creation of ethical codes in post-industrial society is a factor in the consolidation of professional social groups. The author argues that the transformation of ethical standards in the legal norm is possible, subject to the addition of a certain sanction. The article contains description of the features of the synthesis of ethical and legal components of the social norm.

Key words: ethical codes, social norms, legal norms, ethical norms, management.

Introduction. The implementation of professional activities in many areas of public activity in certain cases is associated with the need to ensure that personal qualities and behavior of employees meet certain criteria. Such criteria, conditions and methods of their observance are reflected in ethical codes, which combine moral and legal norms. However, the legal nature of ethical codes is only beginning to attract the attention of scientists and practitioners, which serves as confirmation of our chosen research topic.

Ethical social requirements as a part of norms of administrative law were reflected in the researches of the following scientists: V. Averyanov, A. Bandurka, V. Boyko, A. Borko, V. Bryntsev, I. Golosnichenko,

V. Malyarenko, L. Moskvich, A. Selivanov, V. Serdyuk and others. At the same time a detailed analysis of the essence of ethical codes has not been studied enough in the legal aspect, so it proves the relevance and the novelty of this article.

Aim of the paper. The aim of the paper is to study the essence of ethical standards of professional activity in the aspect of their legal regulation.

Main findings. The social life, its sustainable development is associated with many factors, both dependent on a person and not having a direct relationship to him. One of the most important aspects of the well-being of each of us is the ethical actions of a particular individual. That is why, at all stages of development, human society deals with a unique set of moral values and norms [1, p. 55].

At the same time, value system is constantly changing. It should be noted that the era of the information society is represented by this period of paradigm shift, in which ethical criteria are modified in a certain way that in its turn directly affects the requirements for certain professions in their moral forms.

On the one hand, one can agree with the opinion of V. Nazarov and E. Meleshko that transitional periods are characterized by a weakening of ethical regulation, a rejection of traditional notions of honor and morality. At the present, traditional ethics is often unable to keep a person from immoral actions. It must be remembered that "one of the symptoms of the moral crisis in modern society is the weakening and level reduction of fundamental ethical motivation" [2, p. 58].

At the same time a person cannot be in ethical vacuum. Ethics is not just a scientific discipline; it is a kind of protection that keeps society from increasing social tension and the transition from development to self-destruction. There is no doubt that "morality characterizes a person from

the prospective of his ability to live in human society” [3, p. 20]. That is why traditional moral values should be replaced with the new ones, for instance – concepts of professional ethics [1, p. 56]. There is no doubt that the legal interpretation of these concepts is carried out within the administrative law system. However, the methodological basis for ethical systems may be fundamentally different.

The first way is co-called psychological-egalitarian. It is most clearly traced at the level of ethical values of the business environment. For example, researches of the ethical attitudes of entrepreneurs says that there are three levels of decision-making ethics: egocentric, characterized by obtaining personal short-term profit through the violation of moral norms; conformist, demonstrated as rejection to violate the moral norms for fear of consequences, for the sake of preserving reputation or gain in the future; moral-centric, aimed at favorable social consequences and the refusal to obtain short-term benefits from moral considerations.

Most of the business owners are at the conformist level of decision-making. The research study concluded that the structure of ethical attitudes of business owners can be of two types: balanced and unbalanced. The unbalanced type of egocentric and conformist level is manifested in the fact that the cognitive regulator indicates an unethical desire for material wealth, and a behavioral one indicates a desire for material wealth. The balanced type of moral-centric level is determined by a single direction of the cognitive and behavioral components; the goal of the activity of business owners of this level is socially-oriented entrepreneurship in the interests of the whole society, in which the material component is not dominant [4, p. 104].

A similar structure of understanding ethical requirements to the profession is proposed by R. Povalko. His set of indicators includes: First, “professional competence must be consistent with the central values of

society”. Second, “professionals should be oriented towards serving the community,” in other words, the motivation for service ethics should be above the motivation for personal gain. The third indicator: “professionals are guided in their actions by an ethical code”. Fourth: “professional community is a significant criterion for the formation of professional identity” [5, p. 50].

As it can be seen from the analysis of these classifications, the criteria by which the separation between different types of ethical attitudes is carried out are conventionally reduced to two main vectors: focus on meeting their personal needs, as well as focus on meeting the needs of society. However, these criteria are based on the Soviet model. The moral code of communism: conscientious work for the benefit of society; everyone’s concern for the public domain; high awareness of public duty, intolerance of violations of public interests; collectivism and comradesly mutual assistance [6].

These mentioned statements are unacceptable in real conditions. The main disadvantage of the psychological-egalitarian model is refusal of people desire to ensure their financial security as one of the properties of a mature personality. If ethical qualities are taken into account for a certain profession, and the content of qualities in an ideal model is interpreted as a rejection of material benefits in favor of spiritual ones, can a manager with negative attitude to material values accomplish managerial functions towards his subordinates? It is obvious that such a form of management will be ineffective due to the development of the so-called “double morality” system, typical of the socialist model with its corruption components.

Does this mean that social welfare as part of an ethical model is impossible? Not at all. It’s just about that the Soviet single-line model is replaced by a new multidimensional model. The main vector today should be recognized as existential. Existentialism is not just a philosophical trend,

but rather a cultural movement that captures the deep emotional and spiritual dimension of a modern person, which depicts the psychological situation of oneself, as well as an expression of the unique psychological difficulties that one faces [7].

Existential psychology is the psychology of an adult one who is responsible for himself and finds a solution to the problems to compare the impulsive and short-sighted child. Infantilism is largely supported by mass and leads to the fact that a huge number of people do not want to think about the meaning, about the future, about relationships with other people. Existential psychology reveals an alternative where a person can independently act, not focusing on external sources and internal impulses, but using the resources of his mature consciousness and recognizing the uncertainty and unpredictability of the future [8].

It is necessary to add that infantilism was actively formed in the Soviet era, when a person delegated his responsibility for meeting his basic needs to the state in exchange for the opportunity to put in place his political and information rights and freedoms. Does infantilism still exist in developed states? Of course, there is a huge amount of informational influences on a personality as a parent, customer and voter. The factor that causes the increased vulnerability of members of post-industrial society to external influences is the tough competition between their broadcasters.

The average member of society feels the impact on his behavior model from several dozen subjects, including representatives of the highest state bodies; international organizations; representatives of manufacturers and distributors of goods and services; professional groups, which specific activity implies the presence of certain informational messages with the purpose to form desired behavior of both their members and other participants in public relations; etc. [9, p. 135].

However, the remaining problem requires to be addressed the essence of legal thinking. The abovementioned statement may determine the place of ethical standards in the social norms system. As we remember, both legal and moral (ethical) norms are types of social norms. Depending on the choice of the concept of positive or natural law, the question of the possibility of their synthetic combination is resolved.

Good solution of this problem is given by K. Safonov. The author writes: “The Code of Ethics contains information about principles and values that are important only for representatives of a particular profession. At the same time, special emphasis is placed on the meaning of these provisions for the professional to fulfill their social role. The Code of Professional Ethics is a document that defines the goals and objectives of the activities of representatives of the profession, its fundamental moral values. Only with the help of the ethical code common moral goals become certain and, therefore, easily achievable. Not every person is able to realize that one represents a part of common good, but one can understand how one’s work can contribute to the moral renewal of society ” [1, p. 55–56]. In other words, the tendencies of isolationism and the priority of the infantilism formation have merged in a very concentrated way. This contradicts the understanding of the essence of law in the concept of positive law, in which, unlike the natural, emphasis is placed on the subject of law, its interests and needs. This right is a set of existing legal acts.

This interpretation of law also goes back to ancient Chinese culture, when in the kingdom of Zhen in the 6th century BC the statement “The path of human is nearby and the path of Heaven (“Dao”) is far and does not reach him” appears. Such an interpretation indicates the need to abandon the metaphysical understanding of the nature of law and to adopt law in the social life. By that time in China the tradition of “judgment of conscience” was replaced by criminal laws [10].

Certainly, there are certain followers of natural law, who assert that the value of a law must be recognized by a citizen consciously and independently, and not in unconscious passivity, when a person is forced to submit by external violence. The natural law comprises basic ideas and principles of law, which can be only adequately recognized by a person with a high level of legal conscience, with the ability to see not only the shortcomings of the existing legal system, but also ways to eliminate them.

Positive law of any society can also contain rules that have wrong and unfair grounds. This might have negative affects to results of legal socialization. Nevertheless, as history shows, positive law can receive a fair content that corresponds to universal spiritual and moral values. The natural law sets the intentions of professional sense of justice, which allow the legislator to develop positive law norms [11]. However, the big variety of options for legal socialization inevitably generates a multiplicity of options for understanding ethical norms. And, as a result, it prevents the creation of common ethical standards, and also creates chaos in the application of law due to the diversity of its understanding

Conclusions.

Based on the mentioned above, it is possible to draw the following conclusions. First, the creation of ethical codes in a post-industrial society is a key factor of the consolidation of social groups united by professional characteristics. Second, the transformation of an ethical norm into a legal one is possible with additional sanction to the ethical norm, as well as the subject who can apply this sanction. Thirdly, the synthesis of ethical and legal components of a social norm cannot be considered within the framework of the concept of natural law. This is contrary to the principles of humanism and legal certainty, since the application of legal sanctions on the basis of multi-vector and diverse moral imperatives leads to the simultaneous punishment of other subjects for committing similar acts.

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