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Systems Approach Conception of Legal Regulation

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The article is devoted to the problem of the formation of systems approach conception of legal regulation in the context of integrative jurisprudence. Today the mechanistic approach to legal regulation retains its popularity. However, the mechanistic approach fails to take into account all the diversity interlinkages, relations and processes occurring in the legal reality, the socio-psychological and informational aspects of the interaction of subjects. The legal regulation does not completely match the legislative mechanism of purposeful state influence, law making and the application of the law of different government bodies and officials. The article points out that the systems approach conception of legal regulation allows to overcome diagrammatic mechanism design stages of state normative regulation and to consider the legal regulation as a complex system of interrelated norms (legal establishment) and legal relationships, legal consciousness and legal principles during information transmission in jural relations, solve the complicated scientific and practical problems of legal regulation.

Keywords: legal regulation, legal methodology, systems approach, mechanism of legal regulation, legislative regulation, integrative jurisprudence, legal norms, legal relationships.

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Introduction

Modern science in general and juridical science in particular pays a lot of attention to the area of regulating social relations and forms and means of regulating the behaviour of legal entities. Specifically, philosophical and practical legal studies have always focused on various issues related to legal regulation of various activities, creating conditions that encourage good behaviour in social

relationships, and applying legal instruments that restrict (do not allow) or repress antisocial behaviour. In modern studies of legal regulation emphasis is put on the formal and dogmatic analysis of current legislation. However, even special legal tools (“legal instrumentarium”) for the legal regulation of social relations should form a regulated system in the single legal space – the legal system.

In Russian legal studies, the mechanistic understanding of legal regulation to some extent stemmed from the Marxist-Leninist approach to state and law, which prevailed in science in the 20th century. It was based on such categories as “apparatus” and “machine”, and narrowed down legal regulation to the state (legislative) mechanism of the normative regulation of social relations.

According to law enforcement data, effective normative regulation (state-legal, legislative regulation) is problematic. The current concept of legal regulation implies that the legislator’s role and powers (limitations on such powers) in regulating social relations and behaviour should be considered in light of the fact that the Internet is the most frequent source of information that exerts real influence on legal entities. The motives, behavioural attitudes, and goals of legally relevant behaviour of legal entities take shape in their legal consciousness in a certain socio-cultural context. This context also encompasses human activity in the industrial (technogenic) sphere and in the area of anthropogenic environmental impact. In terms of philosophy and methodology, one of the problems associated with creating a modern legal regulation concept is the so-called “disappearance” of the subject of law.

From an epistemological point of view, the relevance of a systems approach to legal regulation stems from its methodological importance in modern legal theory. The systems approach serves as a methodological foundation for integrative jurisprudence, within the scope of which a logical and holistic (integrative) theory can be developed of the legal regulation of social relations in a single legal space.

1. Systems Approach in Legal Knowledge

The development of theoretical knowledge in jurisprudence is part of the common processes in the scientific field of human activity. Today, the science of law is a complex multilevel formation. On the one hand, law has become the subject of a wide spectrum of studies: sociological, politological, psychological, anthropological, linguistic, cybernetic, etc. The results of the studies are reflected in legal theory and are of a great importance to legal practice. On the other hand, the phenomena of legal reality occur in a particular socio-cultural context and they can be analytically allocated as an independent (autonomous) subject of scientific cognition. Originating simultaneously with legal activity, the ancient Roman legal knowledge focused on specific practical issues and was of a casuistic nature that made it impossible for legal theory to mould in that period. Nevertheless, to reason their judgments in concrete cases, the Roman jurists used logical techniques of analogy, classification and generalization¹. These had been formulated by the Greek philosophers, and are the techniques of the systems approach. The concept of “system” is inextricably bound with the notion of wholeness. In fact, it dates back to the times of the antique thesis that the whole is more than the sum of its parts.

¹ See: *Berman, H. J. The Formation of the Western Legal Tradition* (Rus. ed.: *Zapadnaya traditsiya prava: epokha formirovaniya*. Moscow, 1998, pp. 140–143); *Garcia Garrido, M. Derecho Privado Romano: casos, acciones, instituciones* (Rus. ed.: *Garcia Garrido, M. Rimskoye tsastnoye pravo: kazusy, iski, instituty*, pp. 110–112).

According to the Stoics, a system is the world order². The term “system” is of Greek origin. Eventually, the need formed for the theoretical development of the legal aspects of society, methodological (philosophical-methodological) justification, and systematization of legal knowledge.

Since the time of Plato and Aristotle to Kant, then Schelling and Hegel, the special features of the system of knowledge itself (wholeness, consistency) and cognition consistency have been paid considerable attention. The growth should be noticed in the number of publications on the legal theory methodology issues including the systems approach. In fact, the value of the systems approach to legal theory remains controversial. However, there is a large number of works on: general methodological issues of legal studies; and the systems approach as a method of the theory of legal validity cognition as a whole or its aspects. These aspects are the legal system of society, the system of law, and the legislation system. The reasons are, as follows: different definitions of the term “system” in socio-humanitarian knowledge and natural science; reconsideration of the role of the entity in cognitive activity; and, certainly, the theoretical and methodological issues of law comprehension as well as different models (types) of law comprehension. Nevertheless, in legal studies, the concept of “system” and its interpretations are quite often applied to social studies, law, and legal regulation.³

In legal theory, formal logic thinking techniques are considered as the universal methods of scientific cognition. The techniques include abstract thinking techniques: analysis, synthesis, induction, and deduction. The systems approach covers abstract thinking techniques in an expanded form. Therefore, the systems approach is often considered as a universal or general scientific approach (method) which is used in almost all fields of scientific knowledge. The systems approach, in its contemporary meaning, became widespread during the second half of the 20th century. It became an interdisciplinary complex approach (method) of cognition (description, explanation, exploration, designing) of various sophisticated objects (systems). Replacing the mechanistic approach of the 17th–19th centuries, the principles of the systems approach are used in biology, cybernetics, engineering, ecology, economics, management, psychology, jurisprudence and other disciplines. The analysis of the system of law, legislation system involves the terms and concepts of the systems approach.

In legal theory, the systems approach as the methodological basis of building various generalized system models⁴ is, in fact, a research conception of presentation (intellectual designing) of law as a system. Additionally, it is not only the law, which is presented as a system, but research activity is also considered as a complex purposive system. This is because scientific research by means of the systems approach must result in merging various models of the studied object into a whole. Moreover, in terms of the systems approach, the systems studied can and, in many cases, do influence the research process. The unilateral approaches, applied to the concepts of law and legal regulation, became insufficient in the early 20th century.

² See: *Frolov I. T.* (ed.). *Filosofsky slovar* [Dictionary of Philosophy]. Moscow, Politizdat, 1986, p. 427.

³ See, for example: *Van Hoেকে, M.* Law as communication. (Rus. ed.: *Pravo kak kommunikatsiya. Izvestiya vysshikh uchebnykh zavedeniy. Pravovedeniye*. [Proceedings of higher educational institutions. Jurisprudence]. 2006, No. 2.); *Alchuron, K. E., Bulygin, E. V.* *Normativnye sistemy* [Normative systems]. *Rossiyskiy ezhegodnik teorii prava* [Russian legal theory annual edition], 2010, No. 2, St. Petersburg, 2011, pp. 309–472.

⁴ The concept of “system”, which refers to integrity (holistic formation) consisting of interrelated elements, is the central concept in the systems approach.

However, in the holistic concept of law there is the intention to unite (synthesize) “views on the legal and the equitable, the relation between law and morality, the consistency of prevailing theoretical legal views, and the pressing needs of practice”.⁵ Throughout the period, the existence of legal thought can be traced since the earliest philosophical developments. Despite the fact that “the term “system” itself was not emphasized”, it has a long history in science.⁶ Today, the concept of “system” is widely used in different areas of human activity, in science and engineering/technology. Most systems are characterized by the processes of information transmission and control within the systems. The elements united into a social system are considered as a whole.⁷

In the science of law, the systems approach is applied in the light of the experience of its use in other areas of scientific knowledge and the information about the methods (ways) and results of systems research. Being an interdisciplinary approach of scientific cognition, the systems approach in legal theory is a methodological principle of systems research dedicated to legal phenomena and legal regulation. One of the principles of this approach is the methodological principle of the systemic relation of the general and special scientific methods (ways) of law cognition and, specifically, the legal method applied by researchers. This ensures the wholeness (integrity) of legal research and the systemic conception of legal regulation. Generally, in terms of the systems approach, the whole world is a systemic formation. In the social world, society is the metasystem (the main system); it is the society that determines the purpose of law, economics, politics, etc. Self-assembling complex systems can change their structure in the process of functioning. A social system appears as a complex system of relations and social entities' activity. It is created in the course of interaction and information sharing among its members. It is difficult to predict the result of the entities' interaction, including the legal sphere, because of its probabilistic nature. Specifically, the relations between legal entities are influenced not only by legal norms, but also by other social norms, functioning in other subsystems of society. Actually, the analysis of functional relations is one of the tasks of cybernetics. Therefore, the systems approach as a comprehensive method of scientific cognition is primarily aimed at identifying the backbone (integrative) relations between the elements of a system rather than its elements or establishing the main element of a system, in particular, a legal system. Herewith, in methodology, the relations take precedence over the elements of the system.

In legal theory, the systems approach characterizes the research conception. It encompasses a number of methodological principles, the use of which is determined by the researchers' law comprehension, particularly their attitude to the role and importance of the legal entity in legal regulation, in the processes of law establishing

⁵ *Grafsky, V. G. Integralnoye pravoponomaniye v istoriko-filosofskoy perspective* [Integral law comprehension in historical and philosophical perspective. Philosophy of law in Russia: history and recent times]. Moscow, 2009, p. 220.

⁶ See: *Von Bertalanffy, L. General System Theory: Challenges and Results Overview* (Rus. ed.: *Obshchaya teoriya sistem – obzor problem i rezultatov. Sistemnye issledovaniya. Ezhegodnik* [Systems research. Yearbook]. Moscow, 1969, pp. 34–35).

⁷ See: *Lukovskaya D. I., Kapustina M. A. Sistemnyi podkhod v teorii prava. Nauka teorii i istorii gosudarstva i prava v poiskakh novykh metodologicheskikh reshenii: kollektivnaya monografiya, otv. red. A. A. Dorskaya* [System approach to legal theory. Science of theory and history of state and law in search of new methodological solutions: Collective monograph. A. A. Dorskaya (ed.)], St. Petersburg, Asterion, 2012, p. 9.

(law-creating). The main principle of the systems approach to legal theory is the principle of a holistic (comprehensive) view of law. That means the representation (modelling) of law and legal regulation as an integrative (holistic, systemic) formation. This kind of research combines, firstly, the legal reality cognition methods, actualized in different types (models) of law comprehension (normativism, natural law theory, and sociological model); and secondly, a means of cognition developed in other (non-legal) areas of scientific knowledge. Interdisciplinary research results in a multiplying holistic concept of law. It ensures the unity of the methods used, and the connection of different models of law comprehension through the systems approach. Herewith, law is conceived as a socio-cultural whole. Its functioning is impossible without legal entities; hence, the research process is influenced by the legal system itself. The researcher of a legal system is a member of society, a citizen or a stateless person. The researcher is a participant of legal relations, i.e., to an extent that the researcher is a part of the system he/she explores (designs, models). Therefore, the result of the research, the model (mental, intellectual) of the legal system, is influenced by the researcher's "attitude" (the prior comprehension or pre-comprehension) towards law, the concept of legal regulation, legal norm.⁸ The researcher's law comprehension is a prerequisite for his/her view on the issue of the consistency of legal phenomena.

2. Law as a System: Mechanistic Framework vs. Methodology of the Systems Approach

The terms "system" and "structure" are widely used in jurisprudence, for example: legislation system, public authority system, the system of legal norms, judicial system, the system of legal relations, the structure of a legal norm, the structure of a subjective right, the structure of legal consciousness, the structure of legal relation, and the structure of the legal status of an individual. However, in the examples given, as well as in other cases, the concept of system and its structure is based on the mechanistic approach. This is characteristic of the classical scientific rationality and the corresponding law comprehension. In legal theory, the mechanistic approach leads to a certain kind of schematization (and, in this sense, simplification) of legal concepts and phenomena, although it uses the term "system".

Since the 1960s, in Russian legal science, legal regulation (impact) has been treated on the basis of the principles of the mechanistic approach. In this framework, legal regulation was reduced to normative regulation, and more precisely, to governmental legal (legislative) adjustment of social relations. However, assuming that the state is the central body of law making, the legal system is to be understood as organized by the government system and practically equal to the political system, whose central body is also the government. Thus, the legal system is the result of focused governmental legislative regulation of social relations. Based on this approach, legal regulation aims to ensure that activities of organizations, governmental bodies, civil servants and citizens embody the norms of effective legislation.⁹ S. S. Alekseev laid the foundations of Russian legal regulation theory in

⁸ For example, see: *Stråth, B.* (ed.), *Myth and Memory in the Construction of Community, Historical Patterns in Europe and Beyond, Multiple Europes*. No. 9, P.I.E. Peter Lang, Brussels, 2000.

⁹ *Kapustina, M. A.* *Pravoustanovlenie, zakonotvorchestvo i pravovaya politika: sistemnyj podhod k pravovomu regulirovaniyu*. *Eurasian Law Journal*, 1(92), 2016, p. 373.

the 1960s–1980s.¹⁰ In terms of mechanistic framework, he views legal regulation as a certain “arrangement” of legal instruments (legal “instrumentarium”), and legal stimuli and restrictions, by means of which the state exercises purposeful legal (state-legal) regulation of social relations and individual behaviour. Undoubtedly, both Alekseev’s legal regulation structuring and his analyses of the interconnection of legal instruments (means, instrumentarium) were a pioneering approach at the time. However, this theoretical and methodological standpoint underwent substantial changes in the 1990s.¹¹ Despite this, the mechanistic approach to legal regulation and, hence, to law as a social-regulatory instrument is still common in Russian legal studies.

Generally, legal regulation is analyzed as an authoritative form of purposeful legal leverage executed by government and aimed at regulating a certain sphere of social relations. Some aspects of social regulation in general and legal (constitutional) regulation in particular are analyzed in the works by such modern theorists as J. Raz, R. Alexy, J. Rawls, E. Bodenheimer, M. Luts-Sotak, P. Varul, R. Müllerson, W. Krawietz, M. Van Hoecke, N. Rouland, C. Varga, C. Peterson, M. Sandström, M. Lyles, H.-P. Haferkamp, J. Rückert, T. Repgen, P. Szymaniec, and R. Narits.

It should be noted that specialized literature and legal language in both Russian and English interpret regulation, first and foremost, as a form of imperative legal influence (impact). Regulation is defined as an aggregate of obligatory statutory orders issued by an agency of a state power or regulatory body, whose aim is to coordinate a particular domain of social relations. In the documents *regulation* has the meaning of *standard regulation*, *by-law*, *governmental regulation*. *Regulation* might stand for by-law; a point in case is Regulation of the European Union¹². This by-law is obligatory for all members of the European Union. Research articles published in English refer to *regulation* as governmental regulation based on law, which is enforced by means of legal liability. In this sense, *regulation* (as an authoritative form of influencing social relations) is opposed to *liberalization* seen as the process of autonomous regulation (self-regulation). This process is connected with reduction (mitigation) of governmental influence on certain areas of daily life activities. A case in point is the economy (*economic liberalization*, *price liberalization*, *trade liberalization*, *liberalization of imports*, etc.).

The mechanistic approach to legal regulation is unilateral. It does not reflect: the complexity of relationships between the agencies; the imperative and autonomous adjustment of social relations; and the behaviour of the parties to the legal relationship. Schematization of the mechanism (process) of legal regulation, particularly governmental legal regulation, prevents us from analyzing the whole complex of focused (rational) and spontaneous (natural) processes of legal

¹⁰ The first research in this field. *Alekseev*, S. S. *Mekhanizm pravovogo regulirovania v sotsialisticheskom gosudarstve* [The mechanism of legal regulation in socialist state]. Moscow, 1966.

¹¹ See, for example, *Alekseev*, S. S. *Pravo: azbuka – teoria – filosofija: Opyt kompleksnogo issledovania*. [Law: Basics – Theory – Philosophy. The Effort of Complex Research]. Moscow, 1999, p. 47; *Alekseev*, A. A. *Gosudarstvo i pravo. Nachalny kurs* [State and Law. Introductory course]. Moscow, 1999, p. 300; *Alekseev*, S. S. *Voskhozhdenie k pravu. Poiski i reshenia* [The Ascent to Law. Study and Solution]. 2nd ed., revised and enlarged. Moscow, 2002, pp. 260–287.

¹² Technical Regulations of the European Commission, or the European Parliament and the Council of Europe establish compulsory requirements to the objects of technical regulation (while in Russia the standards are voluntary), which include manufacturing, exploitation, storage, transportation, realization and utilization of produce, the produce itself, as well as buildings and other constructions.

influence occurring in the legal system. The diversity of complex dynamic links between interacting legal entities is not reflected by an understanding of legal regulation as mathematically precise, built upon a mechanism of rationally pre-designed geometrical scheme. An analogy between legal regulation and a technical mechanism excludes from the study pragmatic and cultural aspects of legal influence. It also does not explain the role of legal consciousness in the regulation of social relations and formation of the legal system. In Russian jurisprudence (theoretically and practically oriented), the legal system is still seen as the result of the performance of a purely rational mechanism of governmental legal regulation. Consequently, the legal system that is given to the state is represented by its legislative (norm creating) bodies. Generally, people are seen as objects under legal influence (impact), i.e. they are the target of governmental legal (in effect legislative) regulation, which is realized by means of different prohibitions, permissibility, obligations, incentives (juridical stimuli) and limitations. The individual, seen as the object of influence, is not a party to legal relationships.

Nowadays, the systems approach focuses on legal research in the mode of a dialogue between the legal entity and the object (system) of cognition. Therefore, it helps to overcome reductionism (schematization) of legal concepts and studies in the legal sphere. It introduces (models, designs) the concepts of law, legal regulation, state authority, etc. as open complex systems interacting with the environment and affecting the research process. The results of the legal studies, based on the systems approach, reflect the researcher's position in terms of theoretical and practical questions (issues) of the study. The scientific hypotheses generated by the author in the socio-cultural context is determined ("programmed") by the researchers' law comprehension, by the legal tradition in which they work, and by their surroundings, particularly the scientific school, where they were trained as scientists. The methodology of the systems approach focuses on the legal entity as a party of legal life of society, hence the unreflective and interactive nature of legal research. The methodological principle of ontological and epistemological pluralism is reflected, in particular, in the recognition of the multiplicity of sources of law. It recognizes that positive law gives privileges, although they inherently contradict the law, the legal regulation between different (but equal to each other in the legal sense) legal entities.

The research concept of legal regulation, based on the systems approach, is a complex purposive research system. It is influenced by the studied system of the relations between legal entities and their interaction with each other. Unlike the natural sciences that study nature which is not man-made, the socio-humanitarian disciplines, including legal theory, explore the existing things created by people. Humanity creates legal institutions, changes them, "participates" in them¹³ and explores (cognizes) them. The involvement of legal entities in legal and other social institutions, their participation in law-creating, interpretation and application of legal norms (institutions) may cause some scepticism regarding the feasibility of presenting modern social relations as managed. It may also challenge the possibility of purposeful and centralized organization (normalization) of legal entities' conduct (especially in the information space of the Internet), as well as forecasting the effectiveness of legislative norms.

¹³ For example, see: *Rulan, N. Yuridicheskaya antropologiya [Legal anthropology]*, M.: Norma, 1999, pp. 31–50.

The systems approach obliges researchers to take into account the processes of self-assembling (self-regulation) in the legal sphere. The contemporary research directions in legal theory, such as synergism, semiotics, the theory of legal cultures, actualize the linguistic aspect of law. Language is part of law; the law strives to textual expression and appears as a sign system. In this case, from the perspective of legal hermeneutics, an interpreter of a legal norm, a legal entity, that applies a norm, acts as a co-author of the legislator.

On the one hand, the methodology of the systems approach in relation to the study of legal regulation helps to overcome the scepticism about the possibility of legal regulation under the contemporary conditions, for example, in the Internet. On the other hand, it overcomes a mechanical designing of the stages of legal regulation mechanism (state legislative regulation). The systems approach implies: characterizing and explaining typical relations; constructing generalized models of different kinds of relations between legal entities and their interactions with each other; forecasting the development of interaction and relationship between the legal system and other subsystems of society; and forecasting possible changes in elemental composition of legal regulation. The systems approach to legal theory is aimed at building a scientific integrative model of law as a complex open social system.

3. Formation of Systems Approach Conception of Legal Regulation: Integrative Principle of Research Approaches in Modern Jurisprudence

The systems approach to legal theory enables solving the complex scientific and practical problem of legal regulation system formation. It displays the variety of links, relations and processes in legal reality. It is underpinned by critical analysis and coherent integration of the major known factors in the legal studies models of the legal system proposed by normativism, natural law theory, and sociological law comprehension. The systems approach ensures the scientific and theoretical generalization of the results of system research of law from the point of view of different models of law comprehension. It connects different models of the system of law (law as a system of norms, law as a system of legal relations, etc.) into a single theoretical picture; and designs an integrative jurisprudence and the systemic conception of legal regulation.

In terms of normative law comprehension, the legal system is a mentally built logical structure formed by different groups of norms. The legal system is, in a sense, a result of research activities aimed at systematizing legal norms. In Russia, in jurisprudence and practice of legal regulation, legal groups of norms in private and public law, and in material and procedural law are the main (largest) structural elements of the legal system. In addition, the legal system is represented by a branch and institutional structure. On the one hand, it corresponds with the structure of social relations, which should be legally regulated. On the other hand, the system of branches and institutions of law is reflected in the legislation system, as well as in the systematization of normative acts and the legal regulation mechanism.

Law as a system (network, order) of legal relations is discussed by sociological jurisprudence. Legal norms, as well as other social rules of conduct (norms of morality, religion, canons of fashion or etiquette, etc.) are formed when the

participants of social relations mutually recognize them.¹⁴ The focus on the functions of a legal system has led to a review of the correlation between the norm of statute and legal relation. The legal efficacy of a norm, its actual impact (functioning) determines the legal validity of the norm, i.e. the involvement of the norm into the legal system. A norm is formed in the process of its recognition by legal entities, not by individuals but by society as a whole. Norm validity relates to the legal entities' awareness of the mutual (connecting them) rights and responsibilities in terms of a certain social context. The idea of rights and responsibilities, connecting legal entities, is determined by legal tradition and principles, expected decisions of judges, the reaction of other people, i.e. the socio-psychological context.

The post-classical natural law conceptions of the 20th century did not base the definition of law on the contradiction of natural law and positive law, but instead on the integrated features of law as a system of norms (legislation) and actual legal relations realized in a socio-cultural context in accordance with legal entities' views on values historically emerging in their consciousness. The concept of law, combining its evaluative component and its regulatory and coercive nature, historical variability of the content of legal establishments, the social efficiency of legal regulation, presents law as a system of norms, legal relations and legal consciousness. The validity of a norm of statute cannot only be determined by formal-juridical or sociological criteria. Legal norms are a part of the culture of society and their effectiveness is directly connected with those values that are important to legal entities.¹⁵ The evaluative component of law is expressed in the legal consciousness of legal entities. Therefore, besides norms and actually existing legal relations, a legal system includes legal consciousness of legal entities.

In the 20th century, in jurisprudence, the supporters of different approaches to law comprehension tended to be comprehensive (integrative, multilateral) regarding law as a complex social and humanitarian phenomenon.¹⁶ The contemporary legal studies in Russia discuss a new model for the definition of law, constitutional law comprehension, which should be attributed to the synthetic (integrative) approach.¹⁷ The constitutional law comprehension emerging today, differs (is of priority) from other variants of integrative jurisprudence by actualizing the systems approach to legal regulation to ensure actual implementation of legal principles (properties) in law-making and law application (primarily, judicial) activities. Thus, the valid Constitution is the juridical (constitutional-legal) basis for the formation of the systemic (integrative, holistic) conception of legal regulation in the Russian Federation. The systems approach ensures an integral (holistic) law comprehension and integrative nature of jurisprudence. Integrative jurisprudence allows combining

¹⁴ See more: *Ehrlich, E.* Grundlegung der Soziologie des Rechts (Rus. ed.: *Osnovopolozheniye sotsiologii prava*. Transl. from German by *Antonova, M. V.; Grafsky, V. G., Grevtsov, Y. I.* (eds.)) St. Petersburg, University Publishing Consortium, 2011, pp. 97–100.

¹⁵ See, for example, *Finnis, J.* Natural Law and Natural Rights. 2nd ed., USA: Oxford University Press, 2011.

¹⁶ See: *Rättslig integration och pluralism. Nordisk Rättskultur I Omvandling.* Stockholm: Institutet för Rätthistorisk Forskning, 2001; *Baker, J. H.* An Introduction to English legal history. 3rd ed., Butterworths, 1990.

¹⁷ See in particular: *Lazarev, V. V. Nersesyants, V. S.* – predstavitel integratsionnoi (sinteticheskoi) obshchei teorii prava [*Nersesyants, V. S.* as a representative of integrative (synthetic) general legal theory]. *Filosofiya prava v Rossii: istoriya i sovremennost* [Philosophy of law in Russia: history and present] Moscow, 2009, pp. 263–264.

and linking the individual elements of the legal system and, accordingly, submitting a systemic (single, integrative) conception of legal regulation.

Governmental legal regulation is integrated into the legal regulation produced by different phenomena. Specificity of governmental influence lies in its organized, professional, purposeful and focused character. However, aims, organization (structure), content of governmental legal regulation (in the form of law making and law enforcement) are formed as a result of mutual influence (interaction) of factors of governmental regulation and various rational and irrational, purposeful and spontaneous, regular and occasional, anthropogenic, environmental, cultural and psychological factors of legal significance. Accordingly, even organized functioning of the mechanism of governmental legal regulation is not reduced to normalization of social relations by means of specific juridical instruments (juridical norms, law-enforcement acts, legal responsibility, etc.). It is performed by influencing the person's consciousness, applying state legislative policy and principles that are not fixed in by-laws but in different governmental programs (doctrines, projects, etc.). Governmental legal regulation is a part of the integrated legal impact made on an individual's behaviour by rational (laws, court decisions, contracts) and irrational (legal traditions, ideas, myths) juridical phenomena. Thus, the modern conception of legal regulation is a part of the project of integrative jurisprudence.

Legal principles, legal consciousness, values of legal culture do not directly regulate (control) social relations. However, they determine numerous other aspects: the scope of law making and law enforcement; the character of normative legal regulation and its effectiveness; and the practical realization and implementation of all components of the system (mechanism) of legal regulation in any form (autonomous or authoritative, normative or individual).¹⁸ Consequently, legal regulation integrating different methods of legal influence, combining subordinative (political) and coordinative (self-organizational, social and psychological, economic) interrelations between people, results in formation of a new legal framework and its structure. Integrative links ensure coherence of a legal system under the conditions of interaction (mutual influence) between the subjects of legal regulation and impact of external factors such as political and economic influence.

The norms of law, formed during interaction of the parties to legal relations, constitute the normative element of the system of legal regulation, namely, effective (positive) law and juridical sources for law. Then systems approach the conception of legal regulation should coordinate actionable (dynamic) and informational aspects of legal system's functioning. Performance of the parties to legal relations clarifies the issues concerning application of positive law norms to specific questions of juridical practice, i.e. the role and actual (factual) meaning of legal principles and juridical acts in the mechanism of legal regulation are specified. In fact, the legal principles define juridical content, meaning and aim of legal regulation and sustain its integrity, consistency and cultural-historic continuity. Through their operation, the parties to legal relations perform legal regulation, formation of norms of law, interpretation of these norms, information transfer. Despite the crucial role of the

¹⁸ See: *Zweigert, K., Kötz, H. An Introduction to Comparative Law*, 3rd ed., Oxford University Press, 1998. Translated by *Tony Weir*, p. 400. *Rawls, J. Teoriya spravedlivosti. [A Theory of Justice]*. Novosibirsk: Novosibirsk University Press, 1995, pp. 13–15; *Bodenheimer, E. Sovremennaya analiticheskaya yurisprudentsiya i granitsy ee poleznosti [Contemporary analytical jurisprudence and the degree of its practicality]*. Proceedings of Higher education institutions. *Pravovedenie*, 2013, 4(309), pp.148–155; *Lazdins, J. Clashes of Opinion at the Time of Drafting the Satversme of the Republic of Latvia. Journal of the University of Latvia*, No. 10, 2017, pp. 93–103.

parties to legal relations and their contribution to legal regulation, law establishing and law enforcement, subjective “human” measurement of legal regulation is not identical to juridical practice and legal regulation, neither in the aspects of theory and methodology, nor in the aspect of practical realization. The activity and information component of the legal system is built upon the actions of legal people (bearers of rights and responsibilities): performing the actions related to their rights and responsibilities they perceive, create and transmit cultural values in the sphere of law. In this context, actions can be expressed in specific organizational forms, or realized by the parties to legal relations outside the aforementioned forms (accidentally, spontaneously). Operation of the parties to legal relations is mediated by their legal consciousness, and integrated by public legal consciousness.

Legal regulation assumes mutual recognition and respect for freedom by people. Thus, legal regulation relies upon legal consciousness as the psychic fundament of law, for mutual acceptance and respect of freedom by the parties to legal relations. In some cases, this implies the necessity for self-restraint so that the other party could realize their rights. This type of self-limiting and self-restrain, which support legal freedom (not transgression) and following legal principles, should emerge from the legal consciousness of an individual as a party to legal relations.¹⁹ Legal consciousness of an individual combines subjective (individual) and objective (necessary) grounds for legal freedom. Formation of the conception of legal regulation in the context of integrative jurisprudence is timely,²⁰ because legal regulation is necessary to unite people, and reconcile conflicts and contradictions between the parties to legal relations.²¹ Nowadays, legal communication involves representatives of diverse legal cultures. Integrative jurisprudence makes it possible to view legal regulation as: a system of interconnected principles; a system of norms of positive law and the parties of legal relations practice; and factual legal relations in the coherent legal framework. In the context of systems approach, values and norms (standards) acquired by individuals in the process of socialization are included in the structure of legal consciousness and become intrinsic motives of an individuals’ behaviour, which determine its character (essence), coordinate actions of the parties to legal relations, and ensure that they fulfil their social roles. However, in the current situation, establishing criteria for commonly accepted standards of conduct is problematic. This problem can be resolved in the context of integrative jurisprudence, which supports the formation of systemic conception of legal regulation. The leading role in integration, happening not only in the legal framework but also in social relations in general, belongs to legal consciousness and legal culture.

Conclusions

The systems approach describes legal regulation as a complex multifaceted dynamic systemic-active integrative formation (system), which evolves in the

¹⁹ See: *Nevolin, K. A.* Enciklopediya zakonovedeniya. Istoriya filosofii zakonodatel'stva [Encyclopedia of legislation]/Vstupitel'naja stat'ya *Lukovskoj, D. I., Grechishkina, S. S., Jachmeneva, Ju. V.* Podgotovka teksta *Grechishkina, S. S.* St. Petersburg: St. Petersburg University Press, 1997, pp. 43–44, 372–373 (in Russian).

²⁰ See: *Rättslig integration och pluralism. Nordisk Rättskultur I Omvandling.* Stockholm: Institutet för Rätthistorisk Forskning, 2001; *Baker, J. H.* An Introduction to English legal history. 3rd ed., Butterworths, 1990.

²¹ See: *Berman, H. J.* Vera i zakon: primirenje prava i religii [Faith and Order: The Reconciliation of Law and Religion] Moscow, 1999, pp. 22–27, 87–90.

process of interaction between legal entities in a single legal space. This approach enables forming a systems concept of legal regulation, to detect and solve relevant systemic problems of law making and applying the law in a single legal space. The purpose is to provide the balanced and stable functioning of a legal system in modern conditions. The legal regulation occurs through interaction of legal entities (legal system entities) mediated by legal consciousness. It cannot be narrowed down only to the state-legal (legislative) mechanism of regulation of social relations. State-legal regulation is integrated into legal leverage exercised by other phenomena, its goals, organization (structure), content are formed as a result of mutual interference (interaction) of state regulation factors and rational and irrational, purposeful and spontaneous, as well as regular and accidental leverage factors that have legal bearing. They include technogenic, natural, cultural, and psychological factors. The systems concept of legal regulation, which develops in the context of integrative jurisprudence, on the one hand, takes into consideration the impact of self-management processes of social relations on the functioning of state legal regulation, and, on the other hand, provides for the unity of the political, economic, territorial and language space (environment) of legal regulation.

1. Legal studies are part of modern scientific knowledge. It is a complex multilayered structure developing under the conditions of mutual dependence and interaction of two scientific groups of disciplines traditionally distinguished as humanities and social sciences on the one hand and natural sciences on the other. Legal regulation has become the subject of scientific enquiry: sociological, cultural, political, psychological, anthropological, hermeneutical, linguistic, cybernetic, etc. The results of these studies are included into the theoretical legal scope of studies in the area of regulating social relations, and are of importance for law enforcement and the application of the law. At the same, in the future, this tendency can lead to the situation when legal science “will dissolve” in one of the philosophical schools of thought. The conservation of jurisprudence as a separate scientific discipline become possible on the basis of a systems approach that provides the synthesis (integration) of various methods of cognition.
2. The terms “system” and “structure” are widely used in jurisprudence. However, the concept of system and its structure is based on the mechanistic approach, which is unilateral. This is characteristic of the classical scientific rationality and the corresponding law comprehension. In jurisprudence, the mechanistic framework leads to a certain kind of schematization (and, in this sense, simplification) of legal concepts and phenomena, although the term “system” is applied. The diversity of complex dynamic links between the interacting legal entities is not reflected by an understanding of legal regulation as mathematically precise, built upon a rationally pre-designed geometrical scheme mechanism. The individual, seen as the object of influence is not a party to legal relationships. Nowadays, the systems approach helps to overcome schematization of legal concepts and studies in the legal sphere. The methodology of the systems approach focuses on the legal entity as a party of legal life of society, hence the unreflective and interactive nature of legal research; jurisprudence uses a systems approach principle as the methodological principle of systemic interconnection of research methods; it provides unity (integrity) of legal studies in the area of legal regulation under modern conditions.

3. The methodology of the systems approach presupposes the synthesis of methods of obtaining knowledge founded by different concepts (models) of law comprehension: normativism, legal naturalism, social jurisprudence. The modern concept of legal regulation is a part of the project of integrative jurisprudence in general. Legal regulation is determined by the system of norms of positive law, legal consciousness and relations between legal entities interacting in the legal space. The system connections of legal regulation, characterizing its integrative and dynamic properties are a part of legal entities' activity. Legal integration covers a holistic system of legal regulation elements from standardization of legal rules and procedures to unifying of jurisdictional activity. Another manifestation of legal integration is the tendency of harmonizing legal regulation in national legal systems of cooperating states to provide legal equilibrium (balance).

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