SOCIAL AND LEGAL NORMATIVISM CODING REQUIREMENTS

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Abstract

The most striking expression of the social fact is the social norm. Man's social existence cannot be conceived without norms, mainly moral, religious and legal, that regulate and even determine the behavior of the human person in the social environment. The existence of any individual as a social being presupposes a series of obligations exercised throughout his life cycle, materialized in a series of norms, some of which complement each other, others appear contradictory to others, being specific to different interest groups.

This system of rules is a condition for the existence of society's life, a mechanism that requires good management of human relations and removes the imminent danger of chaos. Social norms are imposed, promoted and perpetuated by several methods that we will analyze in our study Regardless of the field they regulate, social norms contain rules addressed to individuals, describing and detailing the ways in which values must be translated into legitimate behaviors and accepted by society.

As social relations are extremely varied, a diversity of social norms that regulate these relations is also outlined. Thus, the system of social norms consists of the following groups: ethical norms, ordinary norms (customs), corporate norms, religious norms and legal norms.

There are also technical norms that are not part of social determinism because they do not regulate social relations.

Regarding the complex relationship between the normative legal system and, on the other hand, society, it can be seen that currently the legal system tends to have its own functional autonomy, apart from the objective or subjective determinations that society transmits. The autonomy of the judiciary tries to transform itself from a secondary, phenomenological and ideational structure, into one with its own reality, with the power to impose its order on the social and natural order. In this study we also analyze aspects of the work of normative codification.

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1. Introduction

Man is a social being because his own living environment, as opposed to the natural environment is society, the community. Isolation, a state that is not to be confused with loneliness and loneliness, is contrary to human nature because it involves removing the human person from his natural environment, the social one. Therefore, isolation applied as a criminal sanction, or more recently for an alleged prevention of the contagious disease that has haunted the world for two years can only be temporary and cannot destroy the social dimension of human existence.

The doctrine of social determinism, endorsed by both Marxists and the current politicians and rulers of capitalist democracy, supports the hypothesis of the primacy of society over individual behavior. Determinists say that social interactions determine individual human behavior. As a result, the individual does not choose his own action, but is forced to do so under the pressure of society; he is not really free to act as he wishes. Emile Durkheim, considered the father of modern sociology, uses the concept of social fact to explain the primacy of society over the human person. The social fact is characterized, among other things, by its exteriority and especially by its coercive power, i.e., it is imposed on individuals. In this capacity, it is the paradigm that justifies the primacy of society over individual behavior and thus validates social determinism.

The most striking expression of the social fact is the social norm. Man's social existence cannot be conceived without norms, mainly moral, religious and legal, which regulate and even determine the behavior of the human person in the social environment. Moreover, social norms represent the structure of the social system, orienting its dynamics, change and becoming.

The determinism and social normativism are at least in contradiction in a relationship contrary to human freedom. Freedom is constitutive for the human person. Man was created by God as a free being and aware of his freedom.

The essence of social determinism and social normativism is formed by the causal necessity and the normative imperative. Human social freedom can thus be conditioned, restricted or sometimes even abolished.

The relationship between determinism, social normativism and on the other hand the person's freedom in the social environment is particularly complex, requires a broad analysis and involves establishing the priority between social and human as well as between the social normative system and freedom.

2. Legal normativism

"Order", whatever its nature, expresses necessity, limit and even coercion, but which cannot be contrary to human freedom as existential data.

The relationship between freedom and necessity, between freedom and law, moral or legal, is recessive. Necessity as order, regardless of its nature and configuration, is the dominant term and freedom the recessive one. Of course, freedom does not flow from necessity, be it spiritual order, it is not determined by such a necessity as in the materialist conception. As existing, freedom is different from necessity, but in relation to the order whose expression is necessary, freedom is always recessive and unfulfilled.

In relation to the need for an existential order, as a recessive term, freedom is never complete, it is not fulfilled, but it is always in precariousness.

The approach to the issue of freedom that we encounter in the legal sciences has multiple conceptual features and, we would say, many times more important than philosophical conceptions of freedom, because the legal is a state of human existence, a characteristic of social status, distinct from the state natural, material. It is a contemporary state of human existence, respectively the "legal state", which includes an existential order based on two realities: the legal norm and freedom.

Law cannot be conceived outside the idea of freedom. The normative system, the most important aspect of law, has its meanings and legitimacy in human existence, the latter being based on freedom.

But what kind of freedom can we talk about in legal norms and in the categories and concepts of law? Inevitably, it is a freedom of the legal norm, a constructed freedom, and not an existential fact. We must emphasize that the legal norm also involves coercion, as well as any existential order applied to human phenomenology. There is an important paradox pointed out by some authors in the field of Christian metaphysics, namely the coexistence of legal constraints, and on the other hand of human freedom, both being essential for the specific order of the legal state in which contemporary man is.

Another aspect is interesting, namely that the legal norm does not show what freedom is, does not define it, does not show its meanings, but only the situations in which freedom is guaranteed or restricted. Moreover, it is good to note that, unlike metaphysics and ethics, the legal norm does not express or conceptualize freedom as such, but only freedoms or rights, i.e., the phenomenal aspects of human manifestations in the social environment, by its nature a relational environment. It is obvious that the legal normative system could not even define freedom as such, because it remains only with the phenomenological and social aspect of existence. Likewise, legal doctrine postulates human freedom and highlights the content of legal freedoms, but does not define freedom as a reality, as an essential feature of man as a person, including in the social environment.

The most important expression of social determinism is the social normative system. The standardization of social life is necessary and has an imperative character, but it is also a restriction of the exercise of man's natural freedom.

The existence of any individual as a social being presupposes a series of obligations exercised throughout his life cycle, materialized in a series of norms, some of which complement each other, others appear contradictory to others, being specific to different interest groups. Sorin M. Rădulescu considers that "the diversity of these norms, as well as their specific way of functioning in various life contexts, creates the so-called normative order of a society, based on which the rational development of social life is regulated".

The term "nomos" meaning from the Greek language natural law, norm, which implies the observance of the order established by the gods, has its counterpart in Asian spirituality, through "Dao", in several forms: Dao of heaven; Dao of man. Genoveva Vrabie defines the social norm as "a general pattern of behavior that regulates certain social actions of people, their conduct and activity, and thus the relationships between people. There is no kind of social activity to which no rules of development or exercise should be imposed or recommended". The social norm is a rule that determines the behavior of the individual in a concrete situation. Moreover, society as a complex set of structures imposes a developed and dynamic system of social norms.

This system of rules is a condition for the existence of society, a mechanism that requires good management of human relations and removes the imminent danger of chaos. Social norms are imposed, promoted and perpetuated by several methods, namely: those behaviors or conducts that are detrimental to the values of society or the social group are prohibited; those behaviors or conducts that preserve the order of that society are mandatory and those behaviors or conducts that help the integration of the individual as a member of the society are recommended, approved.

As emanations of the collective consciousness of society, social norms, in their entirety, represent the conditions for the rational organization of human behavior, directly contributing to ensuring the continuity of social life, by establishing patterns of behavior for certain conditions. Thus, social norms presuppose the organization of human actions in accordance with the rules, the values positively appreciated by the respective society. Through them, society, as a coherent set of social relations and actions, develops a normative reference system that allows members to behave intelligibly and normally.

As we have mentioned, social norms impose patterns of behavior on individuals, creating optimal conditions for achieving life in the social framework that determines their existence. The various fields of social activity, which are constantly developing, involve the continuous modernization of the system of social norms.

Regardless of the field they regulate, social norms contain rules addressed to individuals, describing and detailing the ways in which values must be translated into legitimate behaviors and accepted by society.

As social relations are extremely varied, a variety of social norms governing these relations are also outlined. Thus, the system of social norms consists of the following groups of norms: ethical norms, ordinary norms (customs), corporate norms, religious norms and legal norms.

There are also technical norms that are not part of social determinism because they do not regulate social relations.

Adherents of social contract theory argue that the transition of man from the natural state to the social state determines the need for social norms, especially moral and legal ones.

The social norm is imperative, obligatory, even if in law theorists also speak of the existence of supplementary norms and recommendations. Being an expression of social determinism, the norms condition and determine the social conduct of man. In relation to these rules, the responsibility and, as the case may be, the social responsibility of the persons are established. Failure to do so may result in moral, religious or legal sanctions.

Their imperative character is not a constitutive one but derives either from a social recognition or from a manifestation of will of a center of power, most of the times the state.

Where does the need for social norms come from? It is a question that theorists, including philosophers and sociologists, answer by referring to the characteristics of the state-organized society. We believe that this explanation is not enough. Proponents of the utopian Marxist view of man and society believed that a time would come when the state would disappear, that society would exist in itself without a state and without legal norms. This moment was marked by the complete victory of communism all over the world, the achievement of a general welfare and the removal of any social differentiation and the formation of the new man with a perfect social consciousness, fully integrated into the social environment whose conduct is harmonized with the requirements of good social coexistence. Therefore, there is no need for normative coercion.

This conception is a utopia because Marxists believed that in this world and form of existence the only possible happiness and full freedom can be achieved, but without God and for a man reduced to the stage of socially integrated individual without personality and without individual consciousness and freedom.

The very freedom and fundamental rights to be guaranteed and respected must be included in normative systems, but which are based on coercion often incompatible with the ontological freedom of man in the social environment.

It is a freedom that unites. In contrast, the social and implicitly legal state of man is based on the distinction between mine and yours that Kant mentioned, which divides, divides and limits. This is how the philosophical and legal concept of coexistence of freedoms and legal norms arose.

The limits of social normativism, especially the legal one, are obvious especially in relation to human freedom. Social normative determinism cannot

comprehend or constrain the freedom of man as a person. The existential freedom of man in the social environment is manifested in its phenomenal forms, determined, guaranteed but also controlled by the power of the state, the creator of the social order through laws. It is therefore a freedom whose content is expressed through the forms of culture and civilization, a creative freedom, but a limited, conditioned freedom, possible to be subject to the restrictions imposed by the state. It is a freedom of the legal norm.

The constitutions enshrine the possibility of restricting the exercise of legal rights and freedoms. But also, in the legal sphere there is the principle that any restriction of a fundamental right cannot affect its very substance, cannot abolish it, which means that the origin and basis of legal freedoms are outside the law, is the existential freedom of man as a gift of God. Moreover, the doctrine, but also the judicial practice enshrines and recognizes natural rights, essential for the social existence of man whose exercise cannot be restricted or conditioned. We consider, among other things, the right to life or freedom of conscience.

Regarding the complex relationship between the normative legal system and, on the other hand, society, it can be seen that at the same time the legal system tends to have its own functional autonomy, apart from the objective or subjective determinations that society transmits. The autonomy of the judiciary tries to transform itself from a secondary, phenomenological and ideational structure, into one with its own reality, with the power to impose its order on the social and natural order. In this context, the legally established legal freedoms try to determine the existential freedom of man, explaining it, ordering it and conditioning it. It is a situation contrary to the natural reality; the phenomenology of the legal must be conditioned, determined, by the existence of man, as a person, and by the particularities of social existence and not vice versa. It is an expression of the dictatorship by law even in democratic societies, because the legitimacy of the legal norm is, in such a situation contrary to nature, only in the will and interests of the rulers who express themselves, paradoxically, on behalf of the people.

The reality described above, specific to contemporary society, has negative consequences, in the sense that man, as a person, the only holder of existential freedom, is no longer aware of his own freedom and expects the normative order, the state or even justice to give him freedom. he needs. It can be said that in such a situation, not realizing his own freedom, contemporary man does not exist authentically, but lives by delegation, his existence being determined externally by state and legal normativism, abstract, impersonal and often, meaningless.

The jus naturalistic conceptions consider freedom as an ontological data of the human being and try to realize the transition from freedom as an ontological essence to liberties as a social phenomenon, specific to the legal state of man and determined by the norm. We say that none of the forms of jus naturalistic conceptions succeeds in making such a transition fully, and the attempt to

preserve within the legal liberties the immutability and prestige of liberty is often unsuccessful.

We note, in this ideological context, that legal freedoms, as a structural element of the legal state of man, have as a metaphysical basis the principle of coexistence of freedoms, postulated by jus naturalism, but also by the French Declaration of Human Rights of 1789. It is an expression natural of human social existence, understood by the limits and not by the absolute of existential freedom. In other words, in this phenomenal legal plan, man's freedom is up to the limit of his neighbor's freedom. It is about the specific distinction of the right between "mine" and "yours", through which legal freedom is not constituted as a spiritual opening, but as a closing within the limits of the individual. We believe that the legal norm, in this way, cannot be addressed to the person, focused on the ontological idea of freedom, but only to man as an individual, included in the multiple structures of the social scaffolding.

Obviously, such a reality is not in itself negative, because the dimension of human social phenomenality is a reality through which the human essence is manifested and the affirmation, recognition, normative consecration and guarantee of fundamental human rights and freedoms, a fact realized relatively late in history, it is a remarkable act of culture and civilization, which places the man in his social individuality in an equal relationship with the power of the state and places limits on the absolute and discretionary power of those who exercise state power. The constitutional statement of human freedoms and rights is the most important fact in the contemporary history of mankind, a re-establishment of the relationship between state and man, in the sense that man is not for the state, but the state for man. But this is also a gift from God. Unfortunately, in contemporary society this fundamental reality of the legal is altered and distorted by abusive manifestations of power, which cannot always be effectively controlled and eliminated by legal means.

The starting point that marks the legal and implicitly normative consecration of human rights is the "Declaration of the Rights of Man and of the Citizen" adopted on August 26, 1789. It is the starting point of Enlightenment rationalism in the field of law, rationalism that now culminates in human beings are unlimited, that man is the result of natural evolution, and legal rights and freedoms have their origin and basis in the legal norm and form what has been called "a new religion". This exacerbated rationalism excludes God and man's connection with God, believing erroneously, but with disastrous consequences for man and humanity, that existence has its cause and meaning in itself.

Article IV of the Declaration expresses the famous legal principle of the coexistence of freedoms: "Freedom is to do everything that does not harm others: thus, the right of every human being has no limits, except those that ensure the other members of society exercise the same rights. These limits can only be determined by law". In other words, my freedom extends to the beginning of

another's freedom. Of course, this principle is valuable because it enshrines the legal rule that the exercise of my freedom cannot affect the similar freedom of others. In essence, the coexistence of freedoms, as conceived in legal doctrine, is a principle that divides and does not unite, because it is the expression of the same fundamental dichotomy for law and the legal status of man that I mentioned. It is a rational principle.

We believe that the principle of the coexistence of liberties, in order to overcome the mentioned legal dichotomy, to include in itself the fundamental truth that freedom is an invaluable gift from God, and God's gifts are offered to man from His boundless love, which unites and does not divide, should be stated differently: I am free only if the other is also free; the exercise of my freedom is conditioned by the exercise of freedom by other people. Such an approach, in our opinion, would change the way of consecration and legal guarantee of fundamental human rights and freedoms, because it would take into account the existential freedom as a gift of God and any legal interpretation would be directly or indirectly related to God. For now, this legal perspective is a mere ideal, but by God's will could become a reality.

The legal norm, especially in the conditions of the will of "legal normalization" that the contemporary society knows, is moving further and further away from human values. It is an abstract, general and impersonal structure whose legitimacy is not a value one, but of a formal recognition within the normative system considered. The abandonment of values, including Christian ones, results in normative relativism based almost exclusively on the pure will of the legislator.

The doctrine of legal normativism recognized and applied in almost all states is a concretization of those shown above.

The normative theory, as a current of legal positivism, is reflected in the main work of the American jurist Hans Kelsen "Pure Theory of Law". In this doctrine, the author aims to study law only in the context of its existence. According to Kelsen, the science of law must be limited to the study of law only in its pure state, apart from its links with politics, morality. Otherwise, it will lose its objective character and turn into an ideology.

Kelsen examines the rules of law in terms of validity, and then effectiveness, in a way that can be called "pure" because it leaves out any other extrinsic elements that are not strictly legal (for example, politics).

The theory of law aims to eliminate dualism subjective – objective law, arguing that the objective law is the legal normative framework through which subjective law is exercised. Kelsen also relativizes through his theory the dualism of private law - public law, stating that this dichotomy should not be seen as separating two branches of law in opposition. The noticeable difference between the two branches, Kelsen believes, can be analyzed ideologically, not theoretically.

The central place in the pure theory of law is occupied by the legal norm which, formally, has a pure character, as opposed to the moral norm, which has a content. Through his system of rules, Kelsen supports the theory of the creation of the right in cascade. Thus, the authority of a court decision originates in a presidential decree; this, in turn, in a law adopted by parliament, and this being claimed by the constitution. All legal norms belong to a given legal order; they justify their validity by referring to a fundamental norm.

In case of non-compliance with the higher legal norm, the legal regulation does not achieve its purpose. The theory of law has the task of deciphering the relationship between the fundamental norm and the inferior norms. It is not the science of law that has to assess whether the fundamental norm is good or bad, political science, ethics or religion rule in this regard.

Kelsen's normative theory purifies the right of all its foreign elements: psychology, ethics, sociology, theology. Thus, he determines the content of the law as totally normative. It can be deduced only from legal norms and not from social facts. The norms are broken by social life, by the relations between people.

One of the most controversial and important legal issues is the relationship between stability and innovation in law.

This issue can be addressed in two ways. From a historical perspective, legal norms as well as social and state organization are not immutable but constantly changing. The evolution of the legal normative system is marked by historical moments of progress but also by important involutions and contradictions. The evolutionary nature of norms and law is part of social determinism and is explained by the fact that they are an expression of the will of those who govern are created by the state and determined by multiple economic, social, cultural factors, the interests of the rulers. There are, however, fundamental principles of law with a special value and moral load, essential for the rational configuration of a legal system and whose stability is historically demonstrated. Most, such as the principles of justice, fairness, truth, human dignity, are external to law, in the sense that they are not a normative construction, an expression of the will of the legislator, but the rule of law only enshrines them. The evolutionary change, the becoming of the society and of the social normative system correspond to the nature of the human being, of the consciousness and of the thinking, unstable and always in change.

The relationship between stability and change in law can be analyzed in relation to a specific historical moment and the current state of a legal regulatory system and a company.

The stability of legal norms is an indisputable necessity for the predictability of the conduct of subjects of law, for the security and proper functioning of economic and legal relations as well as for giving substance to the principles of the rule of law and the Constitution.

On the other hand, it is necessary to adapt the legal norm and in general the right to the social and economic phenomena that follow one another so quickly. It is necessary for the legislator to be constantly concerned with eliminating everything that is "obsolete in law", of what does not correspond to reality. The relationship between stability and innovation in law is a complex and difficult issue that needs to be addressed carefully, taking into account a wide range of factors, which can lead to a favorable or unfavorable position for legislative change.

One of the criteria that helps to solve this problem is the principle of proportionality. Between the legal norm, the work of interpretation and its application, and on the other hand the social reality in all its phenomenal complexity, an adequate relationship must be made, in other words the right to be a factor of stability and dynamism of the state and society, to satisfy as best as possible the requirements of the public interest, but also to allow and guarantee the person the possibility of a free and predictable behavior, to realize himself in a social context. Therefore, the right, including in its normative dimension, to be viable and to represent a factor of stability but also of progress must be adequate to the social realities but also to the purposes for which the legal norm is adopted or, as the case may be, interpreted and applied. This is not a new finding. Centuries ago, Solon, being called upon to draw up a constitution, asked the leaders of his city the question, "Tell me for what time and for which people", for the same great sage would later say that he did not give the city a perfect constitution but only one appropriate to the time and place.

The relationship between stability and innovation in law is of particular importance when it comes to maintaining or amending a constitution because the constitution is the political and legal establishment of a state on which the entire scaffolding of the state and society is structured.

Essential for a constitution is its stability over time because only in this way can the stability of the entire normative system of a state, the certainty and predictability of the conduct of subjects of law, but also to ensure the legal, political and economic stability of the social system as a whole. Stability is a requirement for guaranteeing the principle of the supremacy of the constitution and its implications. In this sense, Prof Ioan Muraru stated that the supremacy of the constitution is not only a strictly legal category, but a politico-legal one, pointing out that the fundamental law is the result of economic, political, social and legal realities. "It marks (defines, outlines) a historical stage in the life of a country, it enshrines victories and gives expression, political and legal stability to the realities and perspectives of the historical stage in which it was adopted" (Muraru, Tănăsescu, 2004: 18).

We do not intend to analyze in this study all the components of the social normative system that we have identified and listed above. We stop by evoking some aspects of what we have called ethical norms. Many authors, philosophers,

sociologists, jurists speak of moral norms as a component part of the social normative system. We believe that we must distinguish the ethical normative system from the moral one. Only ethics can be normalized and not moral. There are many codes of ethics applicable to different professions, organizations, activities or social and professional statutes. These ethical imperatives regarding the conduct of different social subjects in different situations also form a legal normative system because they are established by laws adopted by the state, more precisely those who exercise governance at a given time and are abstract impersonal and imperative like any legal norm and are subject to change.

Morality does not contain norms but only values that can become constitutive of man's existence and conduct as a conscious, free and responsible person both in relation to himself and to other members of society. Relevant in this respect is the conception of the great German philosopher Kant.

His moral system is based on the belief that reason is the highest instance of morality. From this point of view, there are two ways of making a decision dictated by the will: a conditioned or hypothetical imperative, which arises from a subjective inclination and pursues a certain individual purpose, and a "categorical imperative", which is subject to an objective law, universally valid and necessary. Kant thus formulates the principle of the "categorical imperative" considered the foundation of morality: "Act in such a way that the maxim of your actions can be imposed as a universal law". The philosopher's assertion that "duty is the necessity of performing an act of respect for the law" is a plea for the moral law and for the "epicenter" of the whole Kantian construction, that is, the concept of debt. The author operates with the distinction between debt-compliant actions and debt-related actions (Kant, 2013: 96).

In this context, moral values are necessary, universal and stable. Ethical norms expressed in law can contain perceptions and social values, which become phenomenal and applicable to social relations but without losing the character of moral values, independent of the ethical legislative norm.

3. Constitutional rules

The constitutional norms are provisions containing the formulation of the general principles of law or constitutional law. These norms legitimate the power of state, bases and organizing of the power, define some of the institutions or consecrate principles applicable to the fundamental rights. In this context we emphasize that the constitutional regulations containing the formulation of some law principles cannot be excluded from the sphere of the concept on judicial norm because here we find all features specific to them. (Burdeu, 1966: 71-90; Muraru, Tănăsescu, 2004: 20)

The compliance of entire law with the fundamental Law is an important consequence of supremacy of the Constitution, and it should be understood not

only through the correspondence in content and form of the lower norms as legal force with the constitutional ones, but also through the need to translate the constitutional regulations and rules (within their spirit and letter) in other judicial regulations.

To note as an important feature of the constitutional norms that arises from the principle of supremacy of fundamental law, the possibility and even the necessity to be translated, concretized through normative regulations, in other branches of the unified system of law. In relation to this element of specificity of the constitutional law norms, is necessary for the constituent legislator to establish a synthetic content, generalizing these norms' content, and not an analytical, procedural one. In the event that, when in the normative content of a constitution would prevail the descriptive, procedural character of the norms, this would lose too much of its constitutionalism finality, the one of being an essence, generalizing factor, for the whole law system. However, the generality of the constitutional law norm's formulation, would not exclude its clarity and precision. Therefore, any codifying work in the matter of constitutional law, is difficult as it should combine dialectically the generality specific to some norms containing law principles, and on the other side the clarity and precision, the last one absolutely necessary to ensure their correct application and to avoid thus, the arbitrariness or possibility for asserting in the name of some constitutional values, of any partisan political interests. This requirement's fulfilling, can be verified in the practice for transposing and interpretation of the constitutional norms met in all state authorities.

One of the most important problems to elucidate the specific of the constitutional norms' aims the answer to the question if all constitutional provisions contain legal norms. The constitutional provisions that aim the economical, social or financial system are norms of constitutional law with the value of a principle, and not mere political goals, as they regulate the conduct of the law subjects taking part in specific social relations. Likewise, the constitutional norms in question establish genuine legal rights and obligations for the law subjects. For example, the constitutional obligation for the derived legislator (Parliament or Govern) like in the process of law making to comply these constitutional regulations, otherwise may intervene the sanction of unconstitutionality of the normative acts in question. We note in conclusion that all constitutional provisions contain legal norms because they have the essential features of a norm of law: prescribe the conduct of the subjects to whom they address and generate legal obligations, and such obligations' breaching may attract legal sanctions specific to constitutional law.

The logical-formal structure of the constitutional law needs to contain all three elements: hypothesis-provision-sanction. The main feature of these norms lies in the way the sanction is being expressed. Thus, for several provisions a single sanction may be present. Also, there are specific sanctions in the

constitutional law, for instance declaring as unconstitutional a legislative act or revocation of a state body. Given the structuring role of constitutional law for the entire law system, the logical-formal appreciation of the constitutional norms must also be made by reference to other categories of legal regulations. For the regulations of principle or of maximum generality contained in the fundamental law, some sanctions are included in the norms of other branches of law (civil law, criminal law, administrative law). In this regard, the solution of principle was correctly mentioned into the doctrine: "I think that sanctions are to be found even in the constitutional norms for the violation of any provision provided that the obligation or entitlement is exactly identified, in other words the conduct of the subjects of law." (Muraru, Tănăsescu, 2004: 21)

Another element of particularity for the principles with legislative value of the constitutional law refers to the regulation subject. Without going into detail, we retain the idea contained in the contemporary doctrine, according to which the common element and proper only to social relations that form the regulation subject of the constitutional law norms, is that they appear in the process for establishing, maintaining and exercising of state power. (Muraru, Tănăsescu, 2004: 14)

All norms contained in the constitution are norms of constitutional law, and also principles of law, even if some of these regulate also the social relations specific to other law branches. Having into consideration that the constitutional law, in particular the constitution, contains norms with value of principle, referring not only to the organizing and functioning of state authorities but also referring to the social and economical system. In consequence, the subject for regulation of the constitutional law is formed by the social relations that appear during the process for the establishing, maintaining and exercising of state power, but also those referring to the bases of the power and bases for power organizing. These categories refer to the sovereignty of the people, characters attributed to the state, to the territory of population, included those referring to the fundamental features of social economical system.

From the technical, juridical point of view, the regulation object of the norms with principle value of the constitutional law and implicitly of a constitution, can be split into two categories of social relationships: a) specific relations of constitutional law that relate to the organizing and exercising of state power and cannot be a regulatory object for other juridical branches; b) double legal natured relationships, governed both by the constitutional law norms and by the norms of other law branches (Muraru, Tănăsescu, 2004: 16-18; Iancu, 2010: 12-15). The existence of such legal relationships justifies by because between the branches of the law there is no rigid demarcation. One needs to consider also the superior legal force of the constitutional law norms, the criterion differentiating them from other norms of law, which confers a structuring value for entire law system.

Constitution is a law, but at the same time through its juridical force and content distinguishes from all other laws. At the same time, the fundamental law supremacy confers to it the quality of a primary formal source for all other branches of law.

In a comparative analysis of the regulations contained in the contemporary constitutions is noticed that the historical, political, national, cultural, religious etc. diversity of the states, does not directly result in a diversity of the legislative content for the fundamental laws. The content of the modern states' constitutions presents many resemblances and sometimes wordings almost identical with some of the institutions regulated (Ionescu, 2008: 208-209). This resemblance is determined mainly by the identity of the regulatory object of the constitutional norms.

On the other side, the diversity in the normative content removes the idea of uniform standards generally valid for the contemporary constitutions. The diversity of normative content is a consequence of the fact that the fundamental law of the state is determined in terms of the content of social, political and economical realities, on the characters and attributes of the respective state, historically expressed and at the same time on the will of the constituting legislator, essentially a political will, at a certain historical moment.

Along with other authors, we believe that the scientific definition of constitution is the main criterion for identifying the normative content. Such a criterion ensures the generality necessary to give a scientific character to the scientific elaborations in the matter and it explains at the same time the regulatory unit but also the constitutional normative diversity.

For the purpose of this scientific approach, we retain the essence of every attempt to define the fundamental law namely: "The Constitution is a political and legal fundamental establishment of a state" (Deleanu, 2008: 88). In the legal acceptance, the fundamental law is the act through which it is determined the power statute and therewith all legal rules, having as object the regulation of the bases of power and bases for power organizing.

The legal concept of constitution can be expressed in two different meanings, respectively in a substantial and a formal meaning. Analyzed separately, the formal and material acceptation cannot be a sufficient criterion for identifying the normative content of the fundamental law. Accepting the formal criterion has as a consequence that the fundamental law could regulate any social relationship, regardless of their importance or object of regulation. The material criterion is also unilateral as it excludes the procedural elements, required for a scientific characterization of the fundamental law. The scientific approach regarding the identification of the normative content of the constitution must consider cumulatively both the formal and the material acceptation to which the political dimension referred above, is added. Therefore, we consider one may identify three criteria in order to establish the normative content of a constitution:

The establishing of the normative content of constitution is made according to the specific, importance and value of the social relation regulated. We share the view expressed in the literature that, unlike other categories of legislative acts, the norms contained in the constitution should regulate the fundamental social relations that are essential for the establishing, maintaining and exercising of power, but also those referring to the bases for the power, respectively the bases for power organizing. Therefore, the constitutional norms are always principles of law having a decisive role in establishing and functioning of the government bodies and in determining the form of the state, namely its character and attributes.

The normative expression of the constitutional principles, themselves simple as a normative form, but complex in nature and in the content determined by the object of regulation, constitutes a source and the normative-value ground of the unity and simplicity of entire legislative system of the state. The reporting of legislator to the constitutional principles, not only for guaranteeing the simple formal correspondence between the judicial norm and the fundamental law, but mainly to legislate in respect to these principles and having as a finality their content, is a prerequisite to eliminate the diversity of norms, a natural consequence of the governors' excess of power in legislative matters. There are therefore two ways through which the power can legislate: the first that is disregarding the teleological reporting to the constitutional principles and in general to the principles of law, aiming only the formal correspondence with the constitutional norms, and the second one teleological oriented to the content, meaning and limits imposed by the principles of law. In the first case, the result is the normative diversity, lacking a rational, unifying factor; in the second hypothesis there is at least the possibility of achieving the simplicity and unity of the normative system within the content's complexity.

It is important to underline the constitutional dynamism. The fundamental law is a dynamic, opened act, and in a continuous crystallization process. The constitutional status is achieved through a continuous and complex process of interpretation and application of the texts contained in the body of the constitution by state authorities. Furthermore, the constitutional norms cannot and must not provide definitions. For instance also in Romania's constitution exist such concepts, definable by way of interpretation and forming an object of analysis for the Constitutional Court: "spirit of tolerance and mutual respect" (article 29, paragraph 3); "identity" (article 30, paragraph 6); "private life" (article 30, paragraph 6); "lawful state principles" (article 48, paragraph 2); "public interest" (article 44, paragraph 3); "proportionality and public moral" (article 53) or "extraordinary situations" (article 115, paragraph 4).

The normative content of constitution needs to be understood and determined by having into consideration the teleological criterion highlighted in the above stated definition. Namely, the fundamental law's structuring role for entire social, political and state system, guarantor of fundamental rights and

liberties. The fundamental law must achieve the social dynamic balance but also the stability and institutional harmony, the efficient guaranteeing of the fundamental rights, essentially the real constitutional democracy requirements based on the values of the lawful state, on institutional and social balance and on proportionality (Andreescu, 2007: 267-298).

Conclusions

Law is a normative rule, a system of rules governing human conduct. This human conduct can have a legal content only on the basis of a legal norm. The law, unlike the moral, religious norms, has a constraining character, in case the subject refuses to comply with the normative provisions.

Public power imposes on individuals a normative conduct of law, because law is a reflection of the common interests of society. Law cannot be conceived without power.

The state, in Kelsen's view, identifies with law. It represents the legal order, and its reality is the content of positive law. The state and the law are two sides of the same phenomenon. In creating the law, the state must be subordinated to the law, and this, in turn, regulates its building process. Identifying the rule of law, according to Kelsen, any state is a rule of law, which obviously does not correspond to the current reality.

We appreciate that the "pure doctrine of law" as a theory is not convincing, as law cannot be broken by social reality, seen as objective reality and especially cannot be deprived of moral values by its foundation which is justice. The normative system cannot subordinate the individual.

Applying the principles of abstract and impersonal legal normativism in all democratic constitutions is enshrined the principle No one is above the law. It is valid only in man's formal relations with the law and in accordance with the social determinism in which freedom is a given of the law and conditioned by it. Law has many political, historical, economic and sociological implications that are intrinsic to it, arising naturally from interpersonal relations and the citizen-state relationship. Although the status of law as an autonomous science cannot be denied, a rule of law cannot be analyzed without being placed in a historical context, without being correlated with the political and economic factors that led to its promulgation, and without assessing the social impact. which it has produced among the population by its application.

We believe that Immanuel Kant's words are applicable to both social normativism: "Only the law of becoming really explains the permanence of existence, making it intelligible according to empirical laws".

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