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GUARANTEES OF LAW AND PROBLEMS OF SECURITY IN THE DEMOCRATIC STATE

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The article examines different approaches to the definition of "guarantees of the rule of law". Also the most relevant classification guarantees the rule of law are presented in the article.

The legal concept of "legality" for many decades is the subject of theoretical studies of many legal scholars. Virtually all textbooks and manuals on the theory of state and law are separate chapters on the legality or on the legality and the rule of law.

Despite its complexity and diversity, the rule of law requirements are not carried out automatically, spontaneously. It may be noted that there is no single approach to the phenomenon of the rule of law. None of the legal act does not give its definition, a full and complete explanation of what is meant by these phenomena. To the legal provisions did not remain on paper, in fact, not to be violated, appropriate conditions and a specific set of organizational, ideological, political and legal measures to ensure the implementation, namely the guarantee of the rule of law.

We believe that not only to proclaim the rule of law and its principles, not only to come up with good laws and issue – it is necessary that there were certain guarantee these values, their reality, affordability, efficiency.

The results of long-term experimental studies have shown that the guarantees of legality are commonly understood as the objective and subjective conditions (factors), organizational measures, as well as special (legal) ways and means to ensure the legality of its aggregate mode [1, p. 383].

There exists a view that under the safeguards taken to mean a set of conditions and ways to implement the law freely, enjoy the subjective rights and to fulfill legal obligations.

Traditionally, most scholars divide legal guarantees into two groups: general and special. It was also found that a common safeguards include: economic, political, ideological, social, organizational ones. Among the special guarantees allocate public prosecutor's supervision, justice, control the activity of bodies of power and administration, legal liability, the institution of complaints and appeals of citizens and others. Undoubtedly, general guarantees are necessary, but not the only conditions and measures to ensure the rule of law. Their influence on the legitimacy mediated by special means, to what are proper legal guarantees. Meanwhile also different material, political, legal and moral guarantee of law and order.

At the same time, for the sake of fairness, we note that V.S.Nersesyants classified guarantees based on the aspect of the rule of law, depending on the degree of influence on the process of establishing and implementing legal legitimacy. It follows that the legality of the guarantee is divided into legal and non-legal. For non-legal safeguards are those objectively existing in the society social, economic, political and ideological conditions, attitudes and factors that have a significant, albeit indirect, impact on the entire process of the formation, establishment and implementation of the law. For legal safeguards are the conditions and legal factors that have a direct impact on the process of establishing, strengthening and the real functioning of the legal regime of law and order [2, p. 267].

The foregoing does not mean that the legal guarantees are certain conditions and special tools to ensure accurate and strict observance of the legal requirements established by the ruling authority.

In our opinion, the rule of law must be safeguarded to understand the totality of objective and subektivnih conditions and special funds (measures) aimed at ensuring security and (protection of) the regime of law and order.

As already noted, the question of the structure of the legal guarantees has not been solved clearly in legal literature. Some authors define them as certain kinds of legal norms, the other - the activity of state bodies (and in some cases, non-governmental organizations), and others – both. Fourth here include law enforcement and individual legal acts.

It is interesting to note that some authors focus at the development of law system of legal guarantees of legality. Such safeguards include:

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- a) strengthening the foundations of social and political system, the most important rights and duties of citizens and the principles of the legal system in the country's constitution;
- b) compliance with the current legislation norms of the constitution, the rule of law with respect to all other acts of state bodies;
- c) high legal technique lawmaking and codification of the law of incorporation, the clarity and accessibility of the regulatory material;
- g) for the general prosecutor's centralized law enforcement supervision, the unity of their understanding and application throughout the country;
- d) independence of the Court and its submission only to the law, justice as the highest legal guarantee of the rights of citizens under the law and administrative activities;
- e) the unconditional right of citizens to appeal, the possibility of applying for protection to the court in case of violation of constitutional civil rights, publicity of legal proceedings;
- g) developed legal consciousness of the population, the legal culture of the government apparatus, institutions and organizations, legal awareness of citizens.

Successful and concise classification suggested Suntsova. She binds special (legal) guarantees to their purpose and objective. In his opinion, this kind of guarantees can only exist in a state based on legal principles emanating from the principles of the rule of law the law, separation of powers functions ensure mutual responsibility of the state and the individual. As mentioned above, the legal guarantee of the author shares in the legal and organizational.

Legal guarantees are reflected directly in the very rule of law and, as such, can be considered the requirements for legal norms, the main of which the author considers the degree of compliance with legal norms of public relations. Institutional guarantees are realized in specific forms of legal activities aimed at ensuring the rule of law. They learned include:

1. The activities of the Constitutional Court to ensure the constitutional legality.
2. Ensuring an independent court of justice and the subordination of the law alone.
3. The action of other law enforcement agencies to ensure the inevitability of responsibility and respect for the presumption of innocence, to ensure fairness and justice of punishment.
4. The activities of state bodies and public organizations to ensure the rule of law in the sphere of its activity.
5. Activities for the protection of citizens of their rights by legal means, and the performance of their legal duties [3, p. 56].

In our opinion, one of the most important special-legal guarantees of legality is - improving the legislation as a normative framework of legality. Developed and scientifically based system of normative legal acts led to the Constitution of the Republic of Belarus - an essential prerequisite to the original elements of the law regime.

To the right effectively fulfill its role of the regulator of social relations, the whole system of legislation should be coordinated with the realities of the life of society, to the new, higher requirements in accordance with the purpose of building the rule of law. However, the need for a rapid response to emerging new phenomena, facts and events in the life of society over time leads to disruption of the outer and inner harmony, unity existing system of normative legal acts.

Speaking of high-quality legislation, i mean such features as the consistency, integrity and unity, orderliness and consistency, and consistency of the hierarchical relationship of elements, boundlessness, visibility, stability and dynamism, rational industry structure of the legislation. And it was the quality of the law has a huge impact on the state of the rule of law in the country. Legislation may be deemed to be committed if it has the appropriate level of quality in terms of technical and legal the pretreatment as the entire system is officially published normative acts and individual acts.

It should be recognized that not all laws conform to these requirements, with the publication of new or repeal of outdated regulations are not always complied with the rules of legislative technique. Consequently, in the current legislation there are gaps and inconsistent, not harmonized with each other regulations; in some legal acts are unnecessary repetition is not enough clear, imprecise wording, terms, etc., hampering their proper understanding and application.

Thus, the challenge is to bring the legislation into full conformity with the needs of the progressive development of social and public life, eliminate, existing in the current right gaps and contradictions, a qualitative revision of the legislation.

This task may serve to further systematization of legislation, which aims to bring the regulations in a specific internally coherent system, to reduce their number, release the system from obsolete and inoperative standards, updating legislation. For this purpose such forms of systematization of normative legal acts, as the codification, incorporation, consolidation and systematization mixed with elements of all the previously mentioned forms.

In conclusion, it should be emphasized that guarantees the rule of law - it is a certain set of organizational, economic, political, ideological and other factors and legal measures to ensure compliance with the law, the rights of citizens and the interests of society and the state.

They are complex, are associated with many phenomena and processes of social life, and can only be effective in their totality, in close interweaving of objective and subjective conditions and presuppositions of social life with the special legal and organizational means aimed at ensuring the legitimacy of the regime. Analysing the literature and the documentation, it may be noted that most of the lawyers of legal guarantees are divided into general and specific (legal).

Improvement and strengthening of the legal guarantees of legality is inseparably linked with the development and improvement of law. Completeness and consistency of legislation, its stability, a high level of culture of law-making, legal technique are the necessary conditions for the effectiveness of legal guarantees.

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