

2.4. ПОНЯТИЕ ПРАВОВОГО СТАТУСА: ФОРМАЛЬНО-ПРАВОВОЙ КОНТЕКСТ

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Аннотация: в статье рассматриваются теоретические подходы к определению понятия «правовой статус» и выделяются наиболее общие признаки исследуемого явления. Автор формулирует общетеоретическое понятие правового статуса, а так же делает вывод о необходимости исследования рассматриваемой категории на макро- и микро- уровне.

Ключевые слова: правовой статус, правовая система общества, субъекты права, права и обязанности.

THE CONCEPT OF LEGAL STATUS: FORMAL LEGAL CONTEXT

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Annotation: the article discusses theoretical approaches to the concept of legal status and describes general characteristics of this phenomenon. The author gives a general theoretical definition of legal status and makes a conclusion about the necessity of studying the aforementioned phenomenon on both macro- and micro- levels.

Keywords: legal status, public legal system, subjects of law, rights and duties.

Понятие «статус» является многоаспектным. В целях правильного понимания смысла понятия используемого одновременно несколькими науками, необходимо уяснить этимологию используемого термина.

Лингвистический анализ термина «статус» не представляется сложным. Слово «статус» означает сложившееся состояние, положение (жизни).¹ В свою очередь положение понимается как место, роль, когнитивность в общественной жизни, в коллективе, в семье.² С помощью этого понятия описываются многие научные категории, что свидетельствует о его важности в научном описании бытия.

Науки общественного цикла используют термин «статус» исключительно для описания характеристик субъектов, вовлеченных в исследуемое явление. С позиции социологии исследуемый термин рассматривается как «положение личности в системе социальных отношений». Социологи подчеркивают, что статус «представляет собой фактор, достаточно часто решающим образом определяющий характер взаимоотношений и личностного видения друг друга людьми как на уровне внутригруппового, так и на уровне межгруппового взаимодействия».³

В правовой науке термин «статус» используется для характеристики разнообразных правовых категорий. При этом следует отметить, что само это понятие является слабо исследованным с точки зрения понимания присущих ему признаков и его юридической констатации. Между тем, данная категория используется правоведами при исследовании правовой системы, законности, сущности права и государства, правовых

состояний, правовой культуры и т.д. Изучение права начинается с определения места и роли занимаемой в нем человеком. Категория субъекта, является центральной в правовой науке. При этом, нельзя исследовать место и роль человека и других субъектов в правовой системе, не определив их статус по отношению друг к другу.

Правовой статус является разновидностью социального статуса, а, следовательно, ему присущи все существенные характеристики последнего:

- а) исследование статуса происходит через призму личности, - его носителями могут быть исключительно субъекты социальных отношений;
- б) описание статуса применительно к системе социальных отношений происходит посредством раскрытия его сути через взаимовосприятие субъектами их прав и обязанностей.

С точки зрения нормативного подхода к пониманию права, правила поведения, устанавливаются с целью упорядочения отношений и связей между субъектами (человеком, юридическими лицами, государственными органами и т.д.), то есть само понятие «правила поведения» означает существование определенных связей между субъектами. Вступая между собой в юридические связи, субъекты права подчиняются правилам поведения, санкционированным государством. Необходимо отметить, что правоотношения и юридические связи всегда существуют относительно субъектов права. Упрощенно, понимание правового статуса сводится к положению субъекта в юридических связях, в соответствии с правилами поведения установленными государством, по отношению к другим субъектам, участвующим в этих связях.

Правовой статус представляет собой самостоятельный элемент правовой системы. Н.И. Матузов, в предлагаемом им перечне элементов правовой системы, в качестве самостоятельного элемента выделяет «правовой статус». Указание на статус, как на самостоятельный элемент правовой системы общества, является весьма существенным фактором в изучении данного правового явления. Действительно, рассмотрение правовой системы с точки зрения «единства закономерно расположенных и находящихся во взаимосвязи частей»⁴ невозможно без уяснения статусов носителей правовых предписаний, делающих эту систему «живой».

В выделении правового статуса в качестве самостоятельного элемента правовой системы солидарен С.А. Комаров. Автор указывает на статус как на «специфический феномен», который в числе других образует оросл функционирования системы».

Субъекты права, находятся в постоянной динамике, - изменяются их характеристики, они вступают в различные правоотношения, изменяется содержание их прав и обязанностей. Право существует для того, чтобы упорядочить систему отношений субъектов, а не остановить их правовую реализацию. В этой связи достаточно сложно выделить общие и особенные характеристики субъектов правоотношений и юридических связей. По этой причине, необходимо выделить наиболее устойчивых характеристик состояний субъектов, позволяющих охарактеризовать их не только в

¹ Ожегов С.И., Шведова Н.Ю. Толковый словарь русского языка – 4-е изд. Доп. – М.: Азбуковник, 1999. С.740.

² Там же. - С. 545.

³ Кондратьев М. Ю., Ильин В. А. Азбука социального психофизиологии. М., 2007. С. 364.

⁴ Матузов Н.И. Правовая система и личность. Саратов, 1987. С. 23.

⁵ Ожегов С.И., Шведова Н.Ю. Толковый словарь русского языка – 4-е изд. Доп. М.: Азбуковник, 1999. С.717.

⁶ Комаров С.А. Общая теория государства и права: Курс лекций. М.: Манускрипт, 1998. С. 111-112.

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