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HUMAN RIGHTS AND FREEDOMS: ENSURING A BALANCE OF PUBLIC INTERESTS

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Abstract: The article considers human rights and freedoms in the context of ensuring the balance of public interests. The nature of law, its goals, functions, and mechanisms for implementing and influencing the actors of public life have been topical issues of the theory and practice of regulating public relations and ensuring the stability of a state-organized society. Law is not a natural but rather a social phenomenon. It reflects socio-economic conditions of society and its spiritual culture. It is transformed into a legal reality through the worldview of social actors and its acceptance as a social value that realizes the goals of life. The stability and balance of social relations include the consolidated interests of society members, their culture, and the well-being of the people. Ensuring the balance of public interests requires observance of the principles of law. Administrative-legal relations arise in a special sphere of public life in connection with the implementation of executive and administrative activities by management bodies and officials. Under these conditions, the main features of administrative-legal relations that distinguish them from other public relations are the administrative powers of official administrative bodies and the imperative method which implies the inequality of participants in public relations.

Keywords: rights, freedoms, inequality, powers, relations, feature, principle, activity.

Introduction

Human life is a complex and multidimensional system, whose significant part complies with the principles of law. Thus, it is relevant to understand its nature, origins, essence, mechanisms of

influencing a person, and interpretation as a natural duty, an external force, or a manifestation of the human art of goodness and justice.

Therefore, the nature, goal, legal function, and impact on a person as a party to social relations are urgent problems of philosophical, theoretical,

and practical understanding of human existence in society throughout the history of civilization. The foundations of this process are laid in myths that remain productive forms of understanding legal reality, determining social progress, and implementing human rights. However, their nature is extremely contradictory.

If we begin with the assumption that interest is the driving force behind human life and its subsequent expression in society, then it's impossible for these expressions to exist without it in social interactions. Interest is intrinsic to all facets of human life. As human life is a source of various contradictions, these contradictions can also be considered as drivers for societal progress.

From this viewpoint, legal law aims at balancing such contradictions to the possible level and ensuring at least an elementary harmony of social relations, their ordered and stable functioning of society at all levels of its life activity (Kellman, 2021).

The complexity of this problem lies in the contradictory nature of a person as a social being. The thinkers of ancient Greece explain this phenomenon by the impossibility of most members of society knowing the divine Logos that provides for the harmony of social life. These ideas also underlie the classical theological theories (Augustine of Hippo, Thomas Aquinas). These philosophers explained the sinfulness of human behavior by the deformation of the free will granted by the Creator and the imperfect nature of human beings.

Therefore, the increasing complexity of social interactions is an inevitable part of the evolution of civilization and deepening disagreements at various levels, such as interpersonal, group, corporate, regional, and international. The source of these complexities is twofold. On one side, it's the diverse interests that individuals or groups have. On the other side, it's the differing ideas on how to achieve these interests and objectives in social life.

At first glance, law appears as a sufficient and effective tool for resolving these contradictions. However, F. Bustreo and other scholars (2021) noted that law is an expression of equality and equal opportunities for social actors. This is an objective result of both the natural factors of a person and social factors derived from them. This can also explain the impossibility of realiz-

ing the immaculate principle of communism: from each according to his ability, to each according to his needs.

In our opinion, this has led to the complete collapse of the utopian ideal of the communist theory of the Kingdom of God on Earth. Considering the above-mentioned considerations, it is quite difficult to implement this idea in the earthly life. L.O. Gostin et al. (2022) emphasized that the need was explained by the nature of law, the evolution of ideas about its nature, forms, and methods of manifestation and correlation with positive (human) law. T. Jafarov (2021) rightly pointed out that the phenomenon of law in public life was one of the key myths that have been comprehended over various eras in political and legal history.

The ideal balance of public interests expresses the initial understanding of law as “the divine principle of maintaining balance in nature and society” (Mantelero & Esposito, 2021, p. 23). For atheists, this formula can replace the “divine” principle with “natural” and interpret these concepts as identical. Such an approach to understanding law concludes that there is no need for “positive” law. Unfortunately, social life shows that this principle is not valid.

Methods

The methodological basis of the study included general and special methods of scientific cognition: formal-logical, theoretical-prognostic, philosophical-legal, historical-comparative, comparative-legal, philological criticism, structuralism, analytical and synthetic jurisprudence, as well as the principle of “double recognition” (Ilkevich et al., 2022; Potekhina et al., 2022). In combination with analytical jurisprudence, the formal-logical method was the basis for the dogmatic interpretation of the problem stated, i.e. the basis for analyzing the current legislation in the Russian Federation on the rights and freedoms of citizens.

The theoretical and prognostic method allowed for making proposals for improving the current legislation in the field of the rights and freedoms of citizens. We used philosophical, legal, and synthetic jurisprudence for teleological, cause-and-effect, and systemic interpretations of the free will concept within the conflict of laws.

The historical-comparative method was used to study the emergence and formation of the rights and freedoms of citizens.

The comparative-legal method was used in the study of the mechanisms of legal regulation and the relevant legislation of foreign countries and international agreements, summarizing their experience and examining the possibilities of borrowing specific norms and institutions to implement them in the legislation of the Russian Federation.

The normative base of the study is the Constitution of the Russian Federation, the decisions (legal positions) of the Constitutional Court of the Russian Federation and the European Constitutional Courts, the constitutions of European countries, the decisions of the European Court of Human Rights, the Resolutions of the Plenum of the Supreme Court of the Russian Federation, the legislation of certain foreign states, as well as other legal acts regulating the constitutional rights and freedoms of citizens.

Among other research methods, we used formalization to structurally substantiate the components of the system regulating rights and freedoms in the context of ensuring a balance of public interests. The procedure also included the formalization of the main provisions of human rights and freedoms, which allows formulating a clear plan and creating a foundation for developing measures to achieve public consensus.

Results

At the mythical stage, there were no contradictions in understanding the nature of law. Such written monuments of ancient Egypt as The Instructions of Ptahhotep (the 27th century BC), The Book of the Dead (the 27th century BC), The Sixth Heracleopolitan King Merikare Khety (the 22nd century BC), and The Code of Hammurabi (the 18th century BC) confirm the divine source and essence of power and law.

Visiting Egypt in the 5th century BC, the ancient Greek historian Herodotus described the beliefs of the Egyptians that pharaohs had been ruling the country for only 11,340 years. Before that, Gods had ruled Egypt. They lived among people, and when they taught their earthly protégés the art of government, they ascended to heaven and transmitted their will to the Egyp-

tians through pharaohs. Therefore, the laws of pharaohs are the will of the Gods that must be obeyed implicitly. This idea also underlies the power of the emperors of China, i.e. the subjects of earthly power, through which heaven broadcasts its will to the inhabitants of the Celestial Empire.

The above-mentioned opinion conditions the divine essence of laws and power, their conformity to the will of the Gods, and the requirement of their unconditional execution. In this construction, the will of heaven (natural law) and positive (human) law are identical. The ruling circles were interested in establishing such a worldview in the mass public consciousness.

On its basis, they asserted an understanding of the balance of public interests and the eternity and justice of the legal orders existing on Earth as divine. This approach is also shared by the prominent philosophers of ancient Greece and Rome who could not overcome the dominant worldview of their era and interpreted slavery as a natural and even useful phenomenon.

The search for ways and mechanisms to achieve balance and overcome permanent contradictions between people was considered by Greek philosophers. They saw their reasons in the inability to recognize the primary source of law, i.e. Logos (divine law). In this context, Logos can be regarded as the divine principle of maintaining balance in nature and society.

On this basis, a prominent representative of the political and legal philosophy of ancient Greece, Heraclitus (approximately 544 or 540-483 BC) analyzed the essence of law and the state and argued that life in the city-state and its laws should correspond to Logos (Douch et al., 2022).

Heraclitus sneezed at his fellow citizens, most of whom were incapable of comprehending Logos pervading all. Therefore, the democratic procedure for approving the laws of the city-state became unacceptable. Because of inequality, only some of them could be free and virtuous. Those managed to objectively cognize the laws of the Universe and the corresponding laws of society, and behave according to their prescriptions. Heraclitus held the view that what is beneficial for most people lies beyond their individual liberties. It consisted in their subordination to the artificial instructions of people, i.e. the laws of the city-state.

The same idea was developed by the ancient Greek philosopher Democritus (460-370 BC). He was the first thinker of antiquity to deny the divine source of laws and considered them as a product of the human mind. Laws are derived from nature and proceed from the natural order of things, i.e. they are socially conditioned.

The philosopher regarded law obedience as a criterion for the charity of citizens and a guarantee of the well-being of the state. This means that only wise people (philosophers) who were able to comprehend the laws of nature and the highest justice were truly free and charitable. They should not follow the artificial laws of the city-state, as well as did not need the state and state guardianship.

In modern understanding, their characteristics can be defined by the term “decent people”. There is no objection that the key criterion of law is the idea of justice. Further developing the ideas of Heraclitus and Democritus about the nature and source of laws, Plato (427-347 BC) expressed the opinion that justice and justified laws (positive) were ideas of ideal entities realized in the life of the city-state.

The fundamental principle here is that each individual should perform their own tasks and not seize what belongs to others, ensuring they do not lose their own possessions in the process. Plato's viewpoint that ideal forms or entities are the sources of positive law could lead to a conceptual dead-end in understanding the primary source of law. On one side, Plato rejected Logos as the divine, fundamental origin of law. On the other, he proposed an ideal subject, which logically could be interpreted as a natural or legal entity.

Thus, the ideal entity was considered a dead end. We did not find its criteria either in Plato's or other philosophers' works. We proceed from

the fact that the ideal is a movement rather than a state, and there are no criteria for the ideal of an individual or legal entity.

This interpretation of the essence of power, law, and justice has been dominating human history for a really long time. The approach was partially adopted by Christianity. The Epistle to the Romans by the Apostle Paul expresses this concept in the following manner: “For there is no authority except from God, and those which exist are established by God!”. However, the social and legal reality was different. Obedience was accompanied by endless protests against social oppression and enslavement, including religious movements.

From the ontological viewpoint, the nature of law is transformed into a question about its “being” and “living law” in the external world or human experience, i.e. about its reality.

Practicing lawyers pretend that they know the reality of law they are dealing with, but only until they are asked to substantiate their views. The problem statement surprises them, and they have to turn to the theory of knowledge. As a result, they quickly lose the sense of the reality of their theoretical and practical knowledge. Subsequently, there is a dilemma of how to find a way out.

The lack of a single answer to the question “What is law?” can be explained by various methodological approaches of legal schools: psychological, analytical, sociological, normative, historical, solidary, etc. Each of them is based on its own logical model of the search for truth. It is extended to the entire legal reality, where approaches come into conflict with one another.

The main thing in the reality of law is the special manifestations of its influence on a person and their perception of legal reality (Fig. 1).

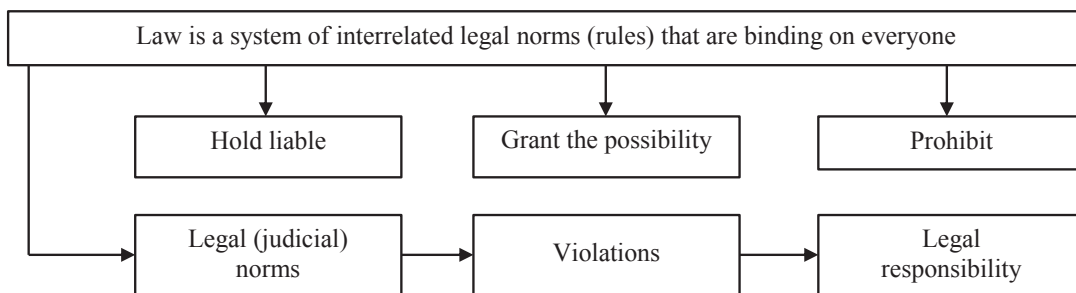


Figure 1. Essential Parameters of Legal Relations.

The sources of this action are inner urges rather than external causes. This is a special, moral logic, according to which empirical means of cognizing the world of law are combined with evaluative, which have a completely different nature.

Law is the ideal reality of relations between people as a special kind of their being that sets up a person. Law is expressed in one's mental attitudes, ideas, and theories, character-based symbolic norms and institutions, human actions and relationships, as well as various manifestations of legal reality. All this requires analyzing law from the standpoint of the protection of human rights, i.e. from the standpoint of what is due and not what is.

According to B. Custers (2021), the understanding of law often comes down to a real, positive, and artificially created manifestation of the imperious will of social actors, primarily the state. Therefore, it has a normative character and is intended to embody uniform norms for streamlining social relations. In this case, law does not lose its values-based character. However, the understanding of human values requires overcoming subjectivism on the basis of personal, group, and corporate interests.

To narrow down different understandings of the nature of law, it is possible to base the concept of legal reality on a means of understanding the existence of law. In this context, the legal reality is formed by the legal worldview and the current law that exists in legal consciousness, where theories of different levels (including philosophical), legal ideology, regulatory documents, and practical experience interact.

Legal reality serves as a framework for structuring and interpreting specific aspects of social life and human existence. Without it, the tangible human (social) world would be devoid of order and might seem to vanish. Legal reality doesn't just cover what exists, but also what is due or obligated. Therefore, we can view law as a unique realm – an autonomous aspect of human existence that follows its own logic and patterns. Ultimately, legal reality is a means through which the presence of law is actualized in an individual's existence.

The ontological basis of law and its origin have nothing to do with its positive reality. Since the basis of law is not of physical nature, it is built over the rules of the Universe. The exist-

ence of real law can only be based on the cognition of such rules, nature, and their use by a person in their own interests. The ancient ideas about the divine foundations of law live on today. There are many attempts to revive them. However, the reality and social practice of organizing legal life are not connected with this approach.

The science and practice of cognizing law are based on the realities of legal life. The following postulates form its basis: a) law is an extranatural phenomenon and there are no natural grounds for it; b) nature is the realm of natural objects, and its laws and patterns can only be learned and used by a person but not changed; c) law is the realm of social subjects since law creates the possibility of limiting subjective arbitrariness in their life and acts as a norm of communication.

The concept of human rights, as it evolves through generations, is grounded in these principles. These principles categorize rights based on various aspects of life - personal, political, economic, social, and cultural - and when they came into existence. The first generation of rights, for instance, includes civil (personal) and political rights, which are aimed at curbing the arbitrary use of state power, protecting personal freedom from state interference, and assuring a citizen's right to participate in the political life of their country. These are the rights to life, protection of dignity, freedom, personal integrity, inviolability of the home, equality before the law, freedom from arbitrary arrest, the right to use one's native language, etc.

These rights are derived from liberal values, which were the result of the evolution of capitalist relations and were enshrined in the Magna Carta (England, 1215), the Declaration of the Rights of Man and of the Citizen (France, 1789), the United States Bill of Rights (USA, 1791), etc. Under these conditions, the second generation comprises social, economic, and cultural rights that guarantee decent living conditions for a person, defining the state obligations to provide those in need with minimum means of subsistence, obligations for social security, the satisfaction of primary needs for physical and spiritual development: the rights to work, property, entrepreneurship, strikes, social security for elderly care and sickness benefits, loss of a breadwinner or disability; the right to education and participa-

tion in cultural life. These rights emerged in the early 20th century but were first internationally recognized in the Universal Declaration of Human Rights (United Nations, 1948).

The third generation covers collective rights: solidarity, i.e. the rights of peoples, nations, communities, and associations based on the solidarity of people. For the first time, the right to development, the right to a healthy environment, the right to use the economic and cultural potential of humankind, the right to peace, etc. were defined by documents adopted under the auspices of the UN in the 1980s.

In view of the foregoing, it is necessary to consider the issues of compliance with the principles of law in order to ensure a balance of public interests. Law enforcement agencies often neglect their consideration. The highest principles of law in Russia are declared in the Constitution of the Russian Federation. Paradoxically, court decisions almost never refer to the Constitution but they mention by-laws (sometimes directly or indirectly contradicting each other), constitutional principles, and legal traditions.

In recent years, a controversial phenomenon in the Russian Federation has become the issue of repaying a significant number of foreign currency loans. The growth of foreign exchange rates and inflation of the national currency have complicated the process of paying off debts. In these relations between creditors and borrowers, the interests of debtors who have become victims of force majeure circumstances are unjustifiably ignored.

The debtor's exemption from liability in case of force majeure was developed and enshrined in

ancient Roman law. However, creditor banks ignore this principle with the tacit consent and blessing of the state. Otherwise, the lawyers of creditor banks find such wordings in agreements, under which the borrower loses under any circumstances. This is possible only when the principles are ignored and the consequence is arbitrariness. Unfortunately, there is no effective mechanism for overcoming these contradictions. As a result, permanent imbalances in social relations destroy the state consolidation of society.

The problem of ensuring rights and freedoms in the field of public administration is always relevant for any democratic state. Public administration as the authoritative activity of public administration entities, namely executive authorities and local self-government bodies, determined by public needs in the interaction between the state and civil society and based on the existing regulations can both restrain and contribute to the development of rights and freedoms.

Several fundamental rights and freedoms in the sphere of managing state and local affairs are enshrined in the Constitution. However, the legal consolidation of even the most progressive constructs does not mean their automatic implementation in the sphere of public relations. If there is no implementation mechanism, the proclaimed rights and freedoms remain declarative and contribute more to the development of legal nihilism among the population than to the formation and strengthening of civil society. To study the mechanism of legal regulation, it is necessary to consider such elements as the rule of law, legal facts, etc. (Fig. 2).

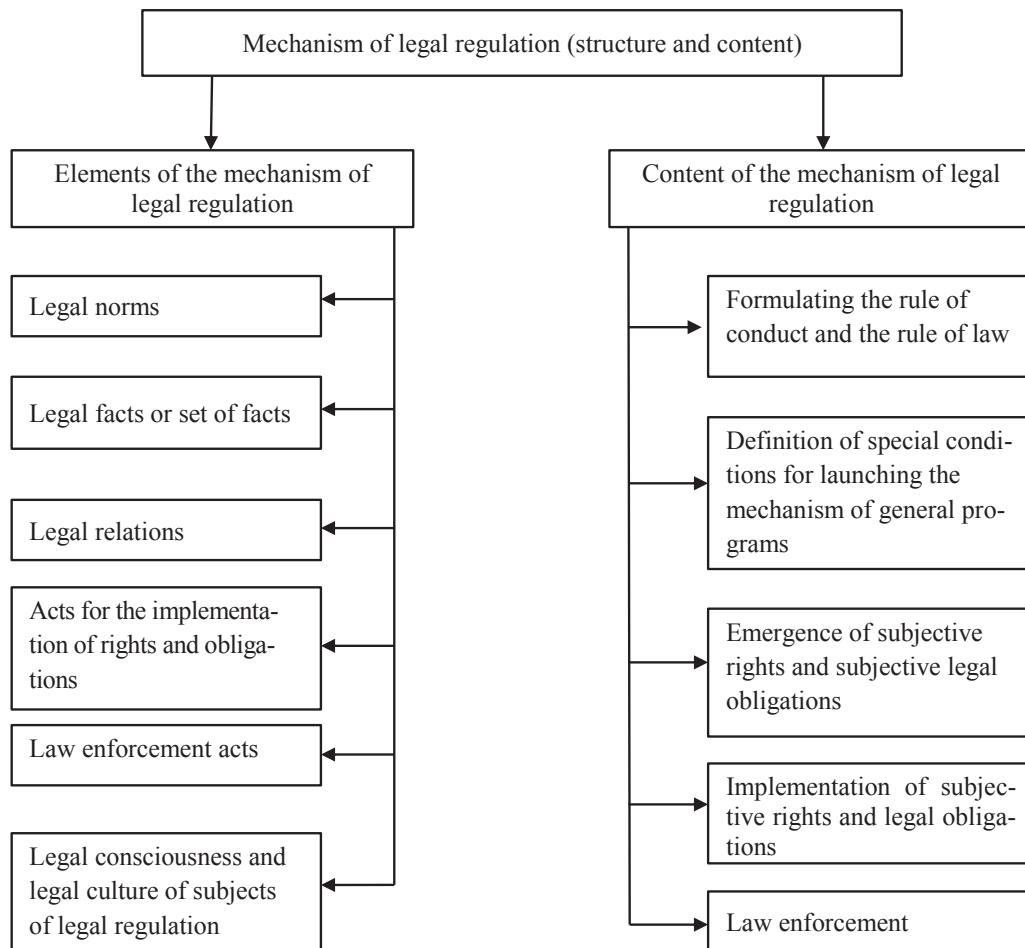


Figure 2. The Structure and Content of Legal Regulation.

To clarify the mechanism for ensuring rights and freedoms, it is necessary to determine the meaning of “ensuring” and its interpretation in the administrative and legal framework. In this case, the definition has a fairly broad meaning and is regarded as the creation of reliable conditions for implementation; guaranteeing something; the protection and defense of someone or something from danger (Agamirova et al., 2017; Skabeeva et al., 2022; Van Daalen et al., 2023).

In this regard, scientific literature uses various terms: to “ensure”, “implement”, “realize”, or “guarantee” human rights and civil freedoms. The term in question also means providing (supplying) something or someone in sufficient quantity, creating all the necessary conditions for the implementation of something, guaranteeing something.

To comprehend what exactly should be understood as a mechanism for ensuring the rights

and freedoms of citizens in the field of public administration, it is necessary to define legal support and the scope of its application. In this case, legal support is a targeted impact on people’s behavior and social relations with the help of legal means (Ahmed et al., 2023; Lebedev et al., 2020; Valea, 2012).

According to L. Kazanchian (2020), legal support is the impact of certain legal means, primarily the rule of law. Based on the above-mentioned statements, we can conclude that legal support is provided by the state with the help of legal norms, regulations, and a set of means for streamlining social relations, their legal consolidation, protection, implementation, and development.

Subsequently, the legal support of rights and freedoms in the field of public administration is carried out by the state with the help of administrative and legal norms and a set of administra-

tive and legal means of streamlining public relations. All this is done in order to legally consolidate, protect, exercise, and develop such rights and freedoms in the activity of public authorities and local self-government bodies.

Since public relations are regulated by administrative law, the legal provision of rights and freedoms in the field of public administration is an administrative and legal task. The sphere of legal support is a set of rights and freedoms that can and should be streamlined with the rule of law and legal means. In addition, this area includes only relations that are subject to legal regulation. There are also various classifications of areas of legal support.

M. F. Moll and other scholars suggested the following classification of areas of legal support: 1) the sphere of economic, mainly property, relations: production, exchange, and distribution; 2) the sphere of political, mainly managerial, relations within the country and in the international arena; 3) the sphere of socio-cultural, including personal non-property relations, covers the sectors of health protection, education, culture, science, and social security; 4) the sphere of judicial and law enforcement relations, i.e. relations related to the protection (distracted and suppression of violations) of public order (Moll et al., 2022; Nesterov et al., 2022; Zavalko et al., 2017).

The provision of human rights and civil freedoms is among the most important features of the rule of law and developing democracy. Unfortunately, the mechanism for ensuring such rights and freedoms in the Russian Federation is still under development, and their feasibility and security remain at a considerably low level.

In addition, the desire to build a democratic and socially oriented state in the Russian Federation and form structures for civil society presupposes finding effective mechanisms for ensuring fundamental human rights and freedoms. Therefore, the administrative and legal provision of rights and freedoms in the field of public administration is realized through the functioning of the administrative and legal mechanisms for ensuring these rights and freedoms.

In general, the mechanism for ensuring the rights and freedoms of citizens in public administration has many common features with the mechanism of legal regulation, implementation, and provision of constitutional rights, freedoms,

and duties. In the relevant scientific literature, mechanisms are defined as an internal structure, a set of states and processes combined in a certain phenomenon (Lukiyanchuk et al., 2020; Szegda & Tylec, 2022).

In addition, we can consider the internal construction of such phenomena as a) a mechanism for ensuring the rights and freedoms of citizens; b) the main features of this mechanism; c) its elements and stages. Having studied these issues, we can formulate the concept and determine the structure of the mechanism for ensuring such rights and freedoms in public administration.

In science, there are many approaches to ensuring the rights and freedoms of citizens. Thus, M. N. Tag claimed that the mechanism for ensuring human rights and freedoms is the activity of state and local self-government bodies, public associations, and citizens to create conditions (guarantees) for their lawful and permanent implementation and protection (Tag & Degirmen, 2022).

In turn, A.S. Voskovskaya et al. (2022) stated that the protection of human rights and freedoms was the mechanism for ensuring subjective rights by the competent authorities or the subject of these rights. "The mechanism for ensuring human rights and freedoms is a process of purposeful activity of the competent authorities to promote the realization of human rights and freedoms, their security and protection," A. Mihr (2022, p. 70) highlights.

Based on these concepts, the administrative and legal mechanism for ensuring human rights and civil freedoms in the field of public administration is an activity of state bodies and local self-government bodies to create conditions for the implementation and protection of such rights and freedoms from any illegal actions by using material and procedural legal means and methods.

In legal practice, there are a small number of well-founded theoretical views regarding the structure, forms, and functions of the mechanism for ensuring human rights and freedoms in the field of public administration: some scientific studies put forward only certain aspects. These works describe the means and methods of ensuring human rights and civil freedoms. Some authors argue that rights and freedoms need only protection, and the mechanism for ensuring these rights and freedoms is not considered at all.

All mechanisms are ordered and well-organized systems, and each system has its own structure. Generally, a structure is the internal construction of something. This is a certain composition of the elements (components) of the object. A. Montelero and others believed that the mechanism for ensuring human rights and freedoms in the field of public administration was represented by legal principles and norms (legal guarantees), as well as conditions and requirements regarding the activities of public administration bodies and their officials (Mantelero & Esposito, 2021).

A system of interrelated legal norms establishes the fundamental rights and freedoms of citizens and guarantees their implementation. A system of public administration bodies and its mechanism ensures and protects the fundamental rights and freedoms of people. In this case, the mechanism for ensuring such rights and freedoms includes the following elements: a) the rule of law; b) legal relations; c) acts of the direct realization of rights and obligations; d) acts of application of the rule of law.

The mechanism of administrative and legal support of human rights and freedoms consists of functional components that significantly affect its effectiveness (optional components). In other words, the functional components have the ability to qualitatively change the mechanism of administrative and legal support. They also influence its reliability (for example, the higher the level of legal consciousness of parties to administrative and legal relations, the more reliable this mechanism is).

However, the structures for safeguarding rights and freedoms can operate autonomously. They include the following:

1. A legal fact is a specific life circumstance associated with the emergence, change, and termination of administrative judicial-legal relations. The norms of administrative law do not work by themselves, they are launched by certain circumstances.
2. The legal consciousness of the subjects of administrative and legal support is a system reflecting legal reality in the views, feelings, and ideas of citizens. Legal consciousness consists of a) legal ideology; b) legal psychology; c) legal behavior.
3. Legality is the legal regime of public life characterized by the strict observance of the

rule of law by all subjects of legal relations. As a functional component of the mechanism of administrative and legal support of rights and freedoms, lawfulness is required by the social environment, the state, and citizens. Legality contributes to the quality of public administration. For a person, legality is a means by which they are protected from violation of rights, freedoms, and legitimate interests.

4. Acts of interpreting the rule of law ensure a process that aims to establish its content with a view to its correct implementation. The importance of interpreting the rule of law as a functional component of the mechanism of legal support is difficult to overestimate. The need for interpreting the rule of law often arises due to gaps in lawmaking.

Both the official (carried out by authorized state bodies) and the unofficial interpretation of the rule of law (carried out by any person) affect the mechanism for ensuring rights and freedoms since the correct interpretation is one of the conditions for the correct provision of the rule of law, which regulates the relevant social relations.

5. Acts of applying the rule of law are a manifestation of the authoritative instruction of public administration aimed at providing conditions for the exercise of subjective rights, freedoms, and obligations of parties to legal relations. The application can be perceived as one of the options for ensuring the rule of law but only the competent authorities have the right to put it into practice. Its result (the act of applying a law) is the consideration of a particular legal case.

In turn, those elements that determine the essence of this phenomenon can be regarded as important components of the mechanism for ensuring the rights and freedoms of citizens in public administration. These components are as follows: 1) the rule of law; 2) acts of implementing the rule of law; 3) legal relations. Having analyzed the above-mentioned classifications of mechanisms for ensuring the rights and freedoms of citizens, we can formulate the following structure: a) the rule of law; b) legal relations; c) acts of implementing the rule of law; d) legal facts; e) acts of applying the rule of law; f) acts of interpreting the rule of law; g) legality; h) legal consciousness; c) legal culture.

The rule of law is the original element and the normative basis of the mechanism of legal support. The rule of law is a general mandatory model of behavior that arises as a possible (sub-

jective legal rights) and necessary variant of behavior (subjective legal obligations). At the same time, the rule of law has a certain structure (Fig. 3).

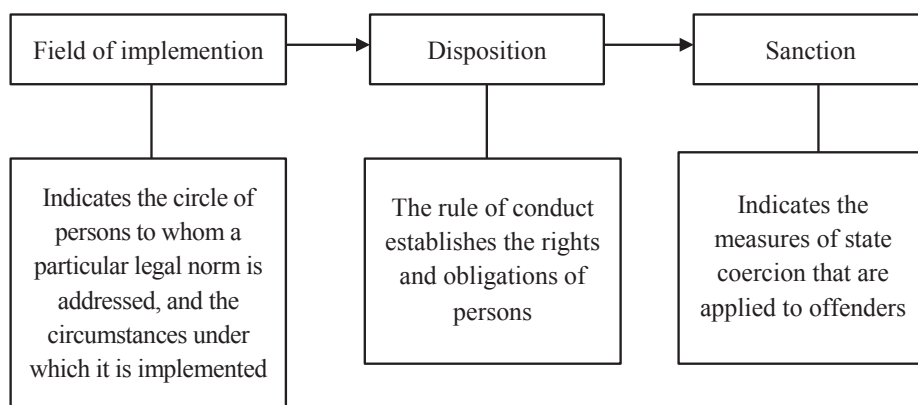


Figure 3. The Structure of the Rule of Law.

The rule of law in the mechanism of legal support aims to: a) determine the general circle of people to whom it applies; b) establish the content of social relations (the behavior of the subject), as well as the objects of legal relations; c) determine the circumstances under which a person should be guided by this rule of conduct; d) reveal the rule of conduct, an indication of the rights and obligations of parties to regulated relations, the nature of their relationship with each other, as well as the state-coercive measure that is applied to persons in case of failure to fulfill their legal obligations.

In addition, the rule of law is expressed in a normative legal act which ensures its effectiveness. Such legal acts serve as the normative basis of the mechanism of legal support. The clarity and effectiveness of legal support depend on the correct interpretation of the rules of law. Therefore, the mechanism for ensuring human rights and freedoms in the field of public administration predetermines the regulation of social relations with the rule of law.

Legal relations in the mechanism of legal support are a means of translating general legal norms into subjective rights and obligations for these subjects. The corresponding practice has shown that legal relations in the mechanism of legal support perform the following functions: a) determine persons who are subject to the rule of law at that moment; b) fix specific behavior that citizens should or can follow; c) condition the

possible activation of special legal means (by the prosecutor's office, court or police) in order to ensure subjective rights, duties, and responsibilities.

In relation to the force of law, legal principles as a whole play a crucial role. For the mechanism of legal support, they only realize law. When reflected in the mind of the law enforcer, they form various positions in a particular situation. For the mechanism of influence, the principles formulated by the legislator and enshrined in the rules of law are decisive. They do not belong to the latter unless they are part of its special legal entity.

The relevant studies demonstrate that structural components of the mechanism for ensuring rights and freedoms are guarantees of their implementation understood as the conditions, means, and methods that realize and protect such rights and freedoms. The concept of "guarantees" covers the whole set of objective and subjective facts aimed at the provision of rights and freedoms, and the elimination of possible obstacles to their full or proper implementation.

The mechanism for ensuring rights and freedoms is a process consisting of logically interrelated stages, including 1) the regulation of public relations, i.e. the development and adoption of legal norms that formulate rules of conduct for participants in relations in the field of public administration. At this stage, there is a law-making activity of government bodies to create legal

norms and regulatory legal acts; 2) during the emergence of subjective rights and legal obligations, there is a process of transition from the general to the particular, from general prescriptions of legal norms to a specific pattern of behavior of a particular actor in legal relations. The starting element is a legal fact (actual composition). At this stage, the rules of behavior are clarified; 3) the actual use of subjective rights and legal obligations.

Discussion

Drawing parallels between various stages of the mechanism for ensuring human rights and freedoms and its organic components, we can draw the following conclusions. Firstly, the rule of law establishes a certain rule of conduct, then the subject of law ensures the specified rule of law (through compliance, execution, use, or application), and, finally, the corresponding legal relations arise.

The mechanism of legal support should include relations with the following features: firstly, these are relations that reflect both the individual interests of members of society and general social interests; secondly, the mutual interests of participants are realized in these relations, with each of them going against their interests in order to satisfy the interests of the other; thirdly, these relations are based on an agreement to comply with certain rules and recognize the binding nature of these rules; fourthly, these relations require the observance of rules, whose binding nature is supported by effective powers.

In addition, the mechanism of legal support is characterized by certain methods and means. Overall, three groups can be distinguished. The first group includes means that ensure rights and freedoms in the field of public administration, which excludes the possibility of their violation. As a result, conditions are created for the comprehensive implementation of legal opportunities, prevention of offenses, and elimination of their causes.

Once we determine conditions for ensuring subjective rights in the field of public administration, we are able to see and highlight the creative and organizational role of national law. An emphasis is laid not on exceptions (for example, ensuring the procedural rights of persons held

accountable) but on the rule of law, i.e. positive law fixing those results that are achieved by all people in the system of legal support managing economic, socio-cultural, administrative, and political spheres.

The role of legal support is manifested in the actions aimed at ensuring the rights and interests of people. With the help of legal support, the system and structure of public administration are improved, work with personnel is carried out, and internal and external activities of public authorities and local self-government bodies are regulated.

To implement legal support, public authorities, and local self-government bodies consolidate official discipline, guarantee a normal psychological climate in relations with people, and control the performance of duties by officials and employees that correspond to the rights and freedoms of citizens.

All these actions are based on legal norms and directly relate to the provision of human rights and freedoms, as well as their protection from violations. In terms of volume, they are much wider than jurisdictional activity. They are associated with various positive management activities aimed at developing market relations in economic, organizational, and socio-cultural spheres, improving democracy, and ensuring human rights and freedoms.

The main goal is to identify the activity of all citizens in the field of public administration, create conditions for them to ensure these rights, and prevent their violation. Under this approach, attention is drawn to the object of protection and preventive properties of the analyzed means.

The second group of means is related to ensuring the rights and freedoms of citizens, i.e. mainly offenders who are subjected to coercive influence by public authorities and their officials and are, accordingly, subjects of procedural activity. The legal status of a person in the field of public administration can change at any given moment.

In a certain life situation, ensuring the rights and interests associated with one's legal position might acquire particular importance. Thus, it is necessary to determine the legal position in the status of a person, in which they become violators of legal norms. In such common cases, there is a need to ensure personal rights granted to the subject in accordance with the status of an of-

fender in the field of public administration on the basis of legal facts.

The relevant practice has shown that a democratic state is interested in streamlining and improving the procedural and jurisdictional activities of public authorities and their officials. In this sphere, clear rules are needed that will determine the procedure for applying appropriate measures of state influence and provide the necessary guarantees for the correct and justified exercise of legal jurisdiction and coercion. This study is consistent with the research of F. Bustreo et al., who noted that such activities should be regulated especially carefully since the protection of subjective human rights is crucial for the use of coercive measures (Bustreo et al., 2021; Moll et al., 2022; Szegda & Tylec, 2022).

Conclusion

Summing up, the nature of law, its goals, functions, and mechanisms for implementing and influencing the actors of public life have been topical issues of the theory and practice of regulating public relations and ensuring the stability of a state-organized society.

It has been established that law is not a natural but rather a social phenomenon. It reflects the socio-economic conditions of society and its spiritual culture. It is transformed into a legal reality through the worldview of social actors and its acceptance as a social value that realizes the goals of life. In addition, the stability and balance of social relations includes the consolidated interests of society members, their culture, and the well-being of the people. Ensuring the balance of public interests requires observance of the principles of law

Thus, administrative-legal relations arise in a special sphere of public life in connection with the implementation of executive and administrative activities by management bodies and officials. Under these conditions, the main features of administrative-legal relations that distinguish them from other public relations are: firstly, the administrative powers of official administrative bodies; secondly, the imperative method which implies the inequality of participants in public relations.

References

- Agamirova, Ek. V., Agamirova, El. V., Lebedeva, O. Ye., Lebedev, K. A., & Ilkevich, S. V. (2017). Methodology of estimation of quality of tourist product. *Quality – Access to Success*, 18(157), 82-84.
- Ahmed, S., Mushtaq, M., Fahlevi, M., Aljuaid, M., & Saniuk, S. (2023). Decomposed and composed effects of economic freedom on economic growth in south Asia. *Heliyon*, 9(2), e13478. <https://doi.org/10.1016/j.heliyon.2023.e13478>
- Bustreo, F., Germann, S., & Gilmore, K. (2021). Respecting, protecting, and fulfilling the health and human rights of youth in digital spaces. *The Lancet Child & Adolescent Health*, 6(2), 75-76. [https://doi.org/10.1016/s2352-4642\(21\)00372-2](https://doi.org/10.1016/s2352-4642(21)00372-2)
- Custers, B. (2021). New digital rights: Imagining additional fundamental rights for the digital era. *Computer Law & Security Review*, 44, 105636. <https://doi.org/10.1016/j.clsr.2021.105636>
- Douch, M., Edwards, H., Landman, T., & Mallick, S. (2022). Aid effectiveness: Human rights as a conditionality measure. *World Development*, 158, 105978. <https://doi.org/10.1016/j.worlddev.2022.105978>
- Gostin, L. O., Friedman, E. A., Hossain, S., Mukherjee, J., Zia-Zarifi, S., Clinton, C., Rugege, U., Buss, P., Were, M., & Dhali, A. (2022). Human rights and the COVID-19 pandemic: A retrospective and prospective analysis. *The Lancet*, 401(10371), 154-168. [https://doi.org/10.1016/S0140-6736\(22\)01278-8](https://doi.org/10.1016/S0140-6736(22)01278-8)
- Ilkevich, S. V., Listopad, E. Ye., Malinovskaya, N. V., Rostovtseva, P. P., Drobysheva, N. N., & Borisov, A. V. (2022). Financial risk and profitability management in Russian insurance companies in the context of digitalization. *Risks*, 10(11), 214. <https://doi.org/10.3390/risks1011-0214>
- Jafarov, T. (2021). Human rights. *Polish Journal of Science*, 37-1(37), 23-26.

- Kazanchian, L. (2020). Features of fundamental rights in the context of the philosophy of law. *WISDOM*, 14(1), 159-165. <https://doi.org/10.24234/wisdom.v14i1.323>
- Kellman, S. G. (2021). Omnilingual aspirations: The case of the universal declaration of human rights. *Polylinguality and Transcultural Practices*, 18(1), 6-19. <https://doi.org/10.22363/2618-897X-2021-18-1-6-19>
- Lebedev, K. A., Ogloblina, E. V., Seredina, M. I., Altunina, Yu. O., & Kodolov, V. A. (2020). Socio-economic consequences of digital development of the economy. *Revista Inclusiones*, 7(S3-5), 421-430.
- Lukiyanchuk, I. N., Panasenko, S. V., Kazantseva, S. Yu., Lebedev, K. A., & Lebedeva, O. Ye. (2020). Development of online retailing logistics flows in a globalized digital economy. *Revista Inclusiones*, 7(S2-1), 407-416.
- Mantelero, A., & Esposito, M. (2021). An evidence-based methodology for human rights impact assessment (HRIA) in the development of AI data-intensive systems. *Computer Law & Security Review*, 41, 105561. <https://doi.org/10.1016/j.clsr.2021.105561>
- Mihr, A. (2022). Global human rights. In R. Tierney, F. Rizvi, & K. Ercikan (Eds.), *International encyclopedia of education* (4th ed.) (pp. 70-78). Elsevier Science.
- Moll, M. F., De Brito, E. S., & Ventura, C. A. (2022). The rights to legal capacity, personal freedom, and safety during psychiatric hospitalizations at a general hospital. *International Journal of Law and Psychiatry*, 84, 101827. <https://doi.org/10.1016/j.ijlp.2022.101827>
- Nesterov, E. A., Borisov, A. V., Shadskaja, I. G., Shelygov, A. V., Sharonin, P. N., Frolov, A. L., & Lebedeva, O. Ye. (2022). Perfecting the system for assessment of the financial potential of a transport enterprise. *International Journal of Computer Science and Network Security*, 22(7), 109-116. <https://doi.org/10.22937/IJCSNS.2022.22.7.14>
- Potekhina, E., Konovalova, E., Kozlova, N., Shelygov, A., Rykhtikova, N., & Lebedev, K. (2022). The impact of employee education on for the development of the hotel services market in the conditions of digitalization. *Revista Conrado*, 18(89), 334-339.
- Skabeeva, L., Shaliapina, M., Panova, N., Nikolskaya, E., & Lebedeva, Ye. (2022). Improvement of foreign exchange risk management in tourism and hospitality industry enterprises. *Anais Brasileiros de Estudos Turísticos*, 12, 9. <https://doi.org/10.5281/zenodo.7402526>
- Szegda, J., & Tylec, G. (2022). The level of legal security of citizen journalists and social media users participating in public debate. Standards developed in the jurisprudence of the European Court of Human Rights (ECHR) and the European Court of Justice (ECJ). *Computer Law & Security Review*, 47, 105740. <https://doi.org/10.1016/j.clsr.2022.105740>
- Tag, M. N., & Degirmen, S. (2022). Economic freedom and foreign direct investment: Are they related? *Economic Analysis and Policy*, 73, 737-752. <https://doi.org/10.1016/j.eap.2021.12.020>
- United Nations. (1948). *Universal Declaration of Human Rights*. Retrieved from <https://www.un.org/en/universal-declaration-human-rights/index.html>
- Valea, D. C. (2012). The role of the Romanian Constitutional Court in protecting and promoting human fundamental rights and freedoms. *Procedia – Social and Behavioral Sciences*, 46, 5548-5552. <https://doi.org/10.1016/j.sbspro.2012.06.473>
- Van Daalen, O. L., Van Hoboken, J. V. J., & Rucz, M. (2023). Export control of cyber surveillance items in the new dual-use regulation: The challenges of applying human rights logic to export control. *Computer Law & Security Review*, 48, 105789. <https://doi.org/10.1016/j.clsr.2022.105789>
- Voskovskaya, A. S., Karpova, T. A., Tantsura, T. A., Shirokih, A. Yu., Lebedeva, O. Ye., & Lebedev, K. A. (2022). The risk management system as an enhancement factor for investment attractiveness of Russian enterprises. *Risks*, 10(9), 179. [https://doi.org/10.3390/ris-](https://doi.org/10.3390/ris-10(9), 179)

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Zavalko, N. A., Kozhina, V. O., Zhakevich, A.
G., Matyunina, O. E., & Lebedeva, O.
Ye. (2017). Methodical approaches to

rating the quality of financial control at
the enterprise. *Quality – Access to Suc-
cess*, 18(161), 69-72.